

C.A. No. 20-15456

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE  
SAFETY AND EMERGENCY RESPONSE BOND and TODD DAVID,

Plaintiffs-Appellants,

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant-Appellee.

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**PLAINTIFFS-APPELLANTS' EXCERPTS OF RECORD (VOL. I)**

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Appeal from the Judgment of the United States District Court  
for the Northern District of California  
D.C. No. 20-cv-00630-CRB  
(Honorable Charles R. Breyer)

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April 21, 2020

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

YES ON PROP B, COMMITTEE IN  
SUPPORT OF THE EARTHQUAKE  
SAFETY AND EMERGENCY RESPONSE  
BOND, et al.,  
  
                                Plaintiffs,  
  
                                v.  
  
CITY AND COUNTY OF SAN  
FRANCISCO,  
  
                                Defendant.

Case No. [20-cv-00630-CRB](#)

**ORDER GRANTING IN PART AND  
DENYING IN PART MOTION FOR  
PRELIMINARY INJUNCTION**

Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Board, contends that the City and County of San Francisco’s new disclaimer requirements create an unconstitutional burden on its First Amendment right to advocate for earthquake safety. The Court agrees that the disclaimer rules are unconstitutional as applied to some smaller or shorter types of advertising, because they leave effectively no room for pro-earthquake safety messaging. But the rules are not an unconstitutional burden on larger or longer advertising, and requiring the committee to disclose not only its own donors but also the individuals and organizations who give money to committees that in turn support Yes on Prop B is not an unconstitutional forced association or burden on campaign contributions.

**I. BACKGROUND**

Under California law, any person or group of people that raises at least \$2,000 or spends at least \$1,000 for political purposes in a given year must register as a committee. Cal. Gov’t Code § 82013. Political advertising by committees is subject to a plethora of disclaimer and disclosure

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1 requirements under California and San Francisco law. See, e.g. Cal. Gov’t Code §§ 84200,  
2 84200.5, 84202.3, 84203, 84502; see also, e.g. SF Code § 1.161.

3 This case concerns two new disclaimer requirements for committee advertising that went  
4 into effect in San Francisco last year. First, the San Francisco Board of Supervisors amended San  
5 Francisco’s Campaign and Governmental Conduct Code to require a spoken disclaimer at the  
6 beginning (rather than the end) of any audio or video advertisement. See SF Code § 1.161(a)(5);  
7 see also Yes on Prop B RJN<sup>1</sup> (dkt. 5-1) Ex. B.

8 Last November, San Francisco voters amended the City’s disclaimer laws by approving  
9 Proposition F. See generally Yes on Prop B RJN Ex. C at 112–13. Proposition F passed with  
10 76.89% of the vote. San Francisco RJN Ex. B at 6. Now, all ads paid for by “primarily formed”  
11 independent expenditure and ballot measure committees<sup>2</sup> must include a disclosure identifying the  
12 committee’s top three donors of \$5,000 or more. If one of those contributors is itself a committee,  
13 the ad must also disclose that committee’s top two donors of \$5,000 or more in the last five  
14 months. In all ads other than audio ads, the names of both primary and secondary contributors  
15 must be followed by the amount of money they contributed. Id.; SF Code § 1.161(a)(1), (5). On  
16 written ads, the disclosure must be in 14-point font (rather than 12-point font, which was the case  
17 before Proposition F). RJN Ex. C at 112; SF Code § 1.161(a)(3).

18 Yes on Prop B is a “primarily formed committee” which supports Proposition B.<sup>3</sup> David  
19 Decl. (dkt. 5-5) ¶ 6. Yes on Prop B has received \$5,000 in funding from each of three other  
20 committees: Yes on A, Affordable Housing for San Franciscans Now!, the Edwin M. Lee  
21 Democratic Club Political Action Committee, and the United Democratic Club of San Francisco.

22 \_\_\_\_\_  
23 <sup>1</sup> Yes on Prop B’s request for judicial notice is unopposed and asks for notice of three documents  
24 made publicly available by San Francisco or the State of California. Because these documents  
25 come from sources whose accuracy cannot reasonably be questioned, Yes on Prop B’s request is  
26 granted. See Daniels-Hall v. Nat’l Educ. Ass’n, 629 F.3d 992, 998–99 (9th Cir. 2010). San  
27 Francisco has also requested that the Court notice publicly available documents, plus a municipal  
28 ordinance. San Francisco RJN (dkt. 20). San Francisco’s request is also granted. See id.; see also  
Tollis, Inc. v. Cty. of San Diego, 505 F.3d 935, 938 n.1 (9th Cir. 2007). Finally, the unopposed  
motion to file an amicus curiae brief (dkt. 24) is granted. See also Statement of Non-Opposition  
(dkt. 26).

<sup>2</sup> A “primarily formed” committee is one created to support or oppose a single candidate or  
measure appearing on the ballot. Cal. Gov’t Code § 82047.5.

<sup>3</sup> Proposition B is an earthquake safety and emergency response bond. David Decl. ¶ 8.

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Id. ¶ 12. Yes on Prop B wishes to spend its modest budget on cost-effective forms of advertising, including six-, fifteen-, and thirty-second digital video advertisements, yard or window signs, and Chinese language newspaper ads. Id. ¶ 29, Mot. (dkt. 5) at 1.

Those ads will be subject to Proposition F’s new disclaimer requirements. Yes on Prop B’s video ads must include the following disclaimer, spoken at the beginning of the video:

Ad paid for by Yes on Prop B, Committee in support of the Earthquake Safety and Emergency Response Bond. Committee major funding from: 1. United Democratic Club of San Francisco – contributors include San Francisco Association of Realtors, Committee on Jobs Government Reform Fund; 2. Edwin M. Lee Democratic Club Political Action Committee – contributors include Committee on Jobs Government Reform Fund; 3. Yes on A, Affordable Homes for San Franciscans Now! – contributors include Salesforce.com, Inc., Chris Larsen. Financial disclosures are available at sfethics.org.

Muir Decl. (dkt. 5-3) ¶ 34. That disclaimer takes roughly twenty-eight seconds to read “in a clearly spoken manner and in a pitch and tone substantially similar to the rest of a typical television advertisement.” Id. ¶ 35.

Print ads must include the following disclosure:

Ad paid for by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. Committee major funding from: 1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000), 2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000), 3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000) Financial disclosures are available at sfethics.org.

Id. Ex. 1. That disclosure, when printed in size 14-point font, takes up 100% of the most common and economical ads printed in Chinese language newspapers (so-called “ear” ads), 75 to 80% of a 5” by 5” ad, and 31 to 33% of a 5” by 10” ad. Id. ¶¶ 66–67. It occupies approximately 35% of a typical 14” by 22” horizontal window sign, id. ¶¶ 58, 61, and approximately 35 to 38% of one side of a typical 5.5” by 8.5” palm card, id. ¶¶ 52–53.

Yes on Prop B seeks a preliminary injunction “prohibiting defendant the City and County of San Francisco and its officers, agents, divisions, commissions, and all persons acting under or

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in concert with it, from enforcing the spoken disclaimer rule in San Francisco Campaign & Governmental Conduct Code Section 1.161(a)(5) and amendments to Section 1.161 imposed by Proposition F.” Mot. at 1.

**II. LEGAL STANDARD**

A preliminary injunction is an “extraordinary remedy” that should only be awarded upon a clear showing that the plaintiff is entitled to such relief. See Winter v. Natural Res. Def. Council, Inc., 555 U.S. 7, 22 (2008). The party seeking a preliminary injunction must establish: (1) a likelihood of success on the merits; (2) a likelihood of irreparable harm absent preliminary relief; (3) that the balance of equities tips in the plaintiff’s favor; and (4) that an injunction is in the public interest. See id. at 20. Alternatively, the moving party must demonstrate that “serious questions going to the merits were raised and the balance of hardships tips sharply in the plaintiff’s favor,” and that the other two Winter elements are met. Alliance for Wild Rockies v. Cottrell, 632 F.3d 1127, 1134–35 (9th Cir. 2011). The “[l]ikelihood of success on the merits is the most important Winter factor.” Disney Enters., Inc. v. VidAngel, Inc., 869 F.3d 848, 856 (9th Cir. 2017) (internal quotation marks omitted). It is Yes on Prop B’s burden to establish each of the four Winter elements, but San Francisco’s burden to demonstrate Proposition F’s constitutionality. Klein v. City of San Clemente, 584 F.3d 1196, 1201 (9th Cir. 2009).

**III. DISCUSSION**

Yes on Prop B presents two theories of Proposition F’s constitutional infirmity: that the disclaimer requirements are so lengthy they impose an undue burden on political speech and that requiring Yes on Prop B to disclose its secondary contributors unconstitutionally forces it to associate with those entities and impermissibly chills political contributions. See Mot. at 1–2. This order evaluates the likelihood of success on each theory, before analyzing whether the standard for a facial challenge has been satisfied and discussing the other three Winter factors.

**A. Constitutional Standard**

As a preliminary matter, the parties dispute the appropriate standard for evaluating Proposition F’s constitutionality. Because “[d]isclaimer and disclosure requirements may burden

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1 the ability to speak, but . . . do not prevent anyone from speaking,” they are subject to “exacting  
 2 scrutiny.”<sup>4</sup> Citizens United v. FEC, 558 U.S. 310, 366 (2010). This standard “requires a  
 3 ‘substantial relation’ between the disclosure requirement and a ‘sufficiently important’  
 4 governmental interest.” Id. at 366–67. “[T]he strength of the governmental interest must reflect  
 5 the seriousness of the actual burden on First Amendment rights.” Davis v. FEC, 554 U.S. 724,  
 6 744 (2008).

7 Yes on Prop B nonetheless contends the Court should apply strict scrutiny, because “the  
 8 Supreme Court has avoided applying these standards in a mechanical manner, particularly when a  
 9 regulation appears on its face to fit within on[e] category, but has broader First Amendment  
 10 implications.” Mot. at 10. Neither of the cases Yes on Prop B cites for this proposition is on  
 11 point. Both involved laws that effectively penalized candidates who expended more than a  
 12 threshold amount of personal funds, by raising contribution limits or providing public funds for  
 13 their opponents. See Davis, 554 U.S. at 738–40; Ariz. Free Enter. Club’s Freedom Club PAC v.  
 14 Bennett, 564 U.S. 721, 736–37 (2011). The Court applied strict scrutiny to these schemes,  
 15 because they constituted an “unprecedented penalty” on campaign expenditures. Davis, 554 U.S.  
 16 at 739.

17 Yes on Prop B does not cite a case which employed this logic to subject disclosure or  
 18 disclaimer requirements to strict scrutiny. Even if the logic of Davis and Bennett could be  
 19 extended to the disclaimer and disclosure context, for the reasons explained below, most  
 20 applications of Proposition F do not impose such “a special and significant burden” on First  
 21 Amendment rights that strict scrutiny would apply. Cf. Davis, 554 U.S. at 739. The only possible  
 22 exception is its application to smaller or shorter advertisements that are completely occupied by  
 23 the required disclaimers. As explained below, that application of Proposition F is unconstitutional  
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25 <sup>4</sup> Before the Supreme Court clarified that disclaimer and disclosure requirements are subject to  
 26 exacting scrutiny, some courts subjected these laws to strict scrutiny. See, e.g. Cal. Republican  
 27 Party v. Fair Political Practices Comm’n, No. CIV-S-04-2144 FCD PAN, 2004 U.S. Dist. LEXIS  
 28 22160, at \*13 (E.D. Cal. Oct. 27, 2004). This approach is no longer good law. See Human Life of  
Wash., Inc. v. Brumsickle, 624 F.3d 990, 1013 (9th Cir. 2010) (“[T]he Supreme Court has made  
 clear that exacting scrutiny, not strict scrutiny, is applicable to campaign finance disclosure  
 requirements.”).

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regardless of the standard of review. For the reasons explained above, the Court will subject all other applications of the law to exacting scrutiny.

**B. Burden on Speech**

Yes on Prop B’s first theory of Proposition F’s constitutional infirmity is that the disclaimer requirements “are so long and cumbersome” that they leave no room for political advertising’s political message. Mot. at 13–17. The merits of this argument depend to some extent on the type of ad. The smaller or shorter the ad, the greater the burden. This section therefore proceeds by considering two categories of Yes on Prop B’s proposed advertisements: those in which the required disclaimers take up more than 40% of the ad and those in which the required disclaimers take up 40% or less of the ad.

**1. Yes on Prop B’s proposed 5” by 5” newspaper advertisements, smaller “ear” advertisements, and digital/audio advertisements of 30 seconds or less.**

San Francisco agrees that when Proposition F’s disclaimers take up more than 40% of the space or run time of a given ad they impose an unconstitutional burden on political speech. Opp’n (dkt. 18) at 4. Both parties have called for the Court to enjoin Proposition F’s application where its disclaimer requirements will occupy more than 40% of a given Yes on Prop B advertisement. Id. at 24; Mot. at 1. The Court agrees that such an injunction is necessary.

Yes on Prop B’s required disclaimers consume 75 to 100% of 5” by 5” newspaper advertisements, smaller “ear” advertisements, and digital/audio advertisements 30 seconds or less in length. Muir Decl. ¶¶ 36, 67. Proposition F virtually forecloses the use of these ads, because the mandated disclaimers leave little or no room for the political message. This is especially troubling because the burden is greatest for some of the most cost-effective types of advertising. David Decl. ¶¶ 28–30. Perversely, a law intended to reveal the influence of money in politics may have the unintended result of severely hampering the political speech of underfunded committees. The First Amendment cannot tolerate a law that, as a practical matter, forecloses certain forms of political speech and requires Yes on Prop B to expend precious funds on more expensive



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advertising or forgo its political expression altogether. Cf. Buckley v. Valeo, 424 U.S. 1, 17–19 (1976) (“substantial . . . restraints on the quantity and diversity of political speech” are unconstitutional). The burden Proposition F imposes on these forms of advertising is unconstitutional whether it is reviewed under strict or exacting scrutiny.

Because Yes on Prop B has shown a likelihood of success on the merits of this issue, it has also demonstrated that the other Winter factors weigh in favor of a preliminary injunction. First Amendment violations constitute irreparable harm and demonstrate that the balance of hardships tips in the plaintiff’s favor. Am. Beverage Ass’n v. City & Cty. of San Francisco, 916 F.3d 749, 758 (9th Cir. 2019). There is also a strong public interest in avoiding constitutional violations. Id.

**2. Yes on Prop B’s other proposed advertisements.**

Larger and longer advertisements present a different case, which the rest of this section evaluates under the exacting scrutiny framework.

**a. Governmental interest.**

The Ninth Circuit has recognized that in the referendum context, where “voters act as legislators, the government has a vital interest in providing the public with information about who is trying to sway its opinion.” Brumsickle, 624 F.3d at 1017 (internal alterations and citations omitted). “Given the complex detail involved in ballot initiatives, and the sheer volume of relevant information confronting voters, voters cannot be expected to make such a determination on their own.” Id. Disclaimer and disclosure requirements that help “voters . . . determine who is behind the advertisements seeking to shape their views” therefore serve a “sufficiently important” governmental interest. Id. at 1017–18.

Yes on Prop B argues that San Francisco has failed to offer any justification for the new formatting rules “[o]ther than boiler-plate statements about the need for more disclosure.” Mot. at 17. It contends that without more specific arguments or a “factual record” demonstrating “why it is now necessary for disclaimers to be spoken at the beginning of audio and digital ads, and why print disclaimers must be so much bigger,” San Francisco cannot demonstrate an important governmental interest. Id.; see also Reply (dkt. 22) at 6 (“The City has provided no evidence or

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rationale as to why disclaimers on print ads had to change from 12-point font to 14-point font, or why an entire disclaimer must be spoken for all audio and video ads instead of just identifying the sponsor.”). But “[t]he quantum of empirical evidence needed to satisfy heightened judicial scrutiny of legislative judgments will vary up or down with the novelty and plausibility of the justification raised.” Nixon v. Shrink Mo. Gov’t PAC, 528 U.S. 377, 391 (2000). It is hardly novel or implausible to suggest that the informational interest described above is better served by more noticeable, easier-to-read font or more obvious, difficult to ignore, and complete disclaimers.

**b. First Amendment burden.**

The next question is whether this interest “reflect[s] the seriousness of the actual burden on First Amendment rights.” Davis, 554 U.S. at 744. San Francisco argues it must, because the Supreme Court has upheld a four-second disclaimer requirement as applied to a ten-second advertisement. Opp’n at 8 (citing Citizens United, 558 U.S. at 368). San Francisco concludes that “the Supreme Court [has] recognized that disclaimers that take 40% of advertising space satisfy exacting scrutiny.” Id.

The Court declines the invitation to establish a bright-line rule that disclaimer requirements are not unduly burdensome so long as they consume no more than 40% of a political advertisement. The burden imposed by a given disclaimer will vary depending on the type of disclaimer, relevant advertisement, and various other case-specific factors. For instance, the four-second disclaimer in Citizens United had to be displayed, not spoken. 558 U.S. at 366. It was accompanied by a spoken disclaimer that was considerably shorter than the one required by Proposition F. Id. Yes on Prop B suggests this disclaimer format is less burdensome than a spoken disclaimer lasting for a comparable percentage of the ad. Reply at 2. That may be true for some ads, but not for others. In any event, the Court is convinced that the extent of the burden on First Amendment activity will depend on facts other than the percentage of ad forfeited to a disclaimer. A bright-line, 40% rule would lead to absurd results. Id. at 6.

That being said, Citizens United does establish that a disclaimer may commandeer a prominent position in a political ad without offending the First Amendment. That is the case here.

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1 With Proposition F’s application to the smaller ads enjoined, its disclaimers will not take up more  
 2 than approximately 35% of any of Yes on Prop B’s proposed ads. David Decl. ¶¶ 32–33. That  
 3 leaves almost two-thirds of the ad for Yes on Prop B’s pro-Prop-B messaging. The Court finds  
 4 that this space is sufficient to communicate Prop B’s political message. See, e.g. Muir Decl.  
 5 Ex. 1. While the burden imposed by the disclaimer requirements is not insignificant, it is not  
 6 inappropriate given the important governmental interest at stake. Brumsickle, 624 F.3d at 1017–  
 7 18. This is especially true because most of the disclaimer’s length is attributable to its content,  
 8 which is substantially related to San Francisco’s informational interest. See supra Section C.1.

9 Yes on Prop B offers a mathematical formula of its own. It argues the disclaimer  
 10 requirements must be unduly burdensome, because the Ninth Circuit has struck down a  
 11 requirement that warnings about the dangers of sugar occupy 20% of printed ads for sugar-  
 12 sweetened beverages. Mot. at 13–14 (citing Am. Beverage Assoc., 916 F.3d at 756). But  
 13 American Beverage Association is distinguishable, because it applied a different standard to a  
 14 different type of speech.

15 The Ninth Circuit evaluated the sugar warning under the Zauderer test, which applies to  
 16 “required warnings on commercial products,” and asks, inter alia, whether the mandatory  
 17 disclaimer is “unjustified or unduly burdensome.” Am. Beverage Assoc., 916 F.3d at 756.  
 18 American Beverage Association concluded San Francisco had failed to meet its burden of showing  
 19 that the sugar warning was not unjustified or unduly burdensome, because “the record here shows  
 20 that a smaller warning—half the size—would accomplish Defendant’s stated goals.” Id. at 757.  
 21 Specifically, a study in the record suggested that a smaller warning would still reduce  
 22 consumption of sugary beverages and improve consumers’ awareness of such beverages’ dangers.  
 23 Id. The Ninth Circuit acknowledged that in other circumstances, a more prominent disclaimer  
 24 might be warranted. Id. (“To be clear, we do not hold that a warning occupying 10% of product  
 25 labels or advertisements necessarily is valid, nor do we hold that a warning occupying more than  
 26 10% of product labels or advertisements necessarily is invalid.”). There is no similar empirical  
 27 evidence in the record here, and the fact that the content of the challenged disclaimer is a major  
 28 factor contributing to its length suggests a smaller disclaimer would not be equally effective.

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The applicable constitutional standard is another distinguishing factor. Exacting scrutiny, not the Zauderer test, applies in this case. Yes on Prop B oversimplifies when it argues that American Beverage Association necessarily controls the result here because political speech enjoys greater protection than commercial speech. Mot. at 14. It ignores the factual distinctions between these cases, and the fact that the political context raises concerns not present in a commercial speech case. The referendum context implicates the important governmental interest in informing voters about who is paying for political advertising. Brumsickle, 624 F.3d at 1017–18.

Finally, San Francisco has taken the position that Proposition F does not mandate disclaimers for live telephone calls. Opp’n at 2 n.2. Given that representation the Court need not decide whether the disclaimer requirements are constitutional when applied to this form of advertising.<sup>5</sup>

**C. Secondary Contributor Disclosure Requirements**

Yes on Prop B also argues that the secondary contributor disclosure requirements are unconstitutional, regardless of the format they appear in.

**1. Governmental interest.**

As explained above, the governmental interest in helping “voters . . . determine who is behind the advertisements seeking to shape their views” is “sufficiently important.” Brumsickle, 624 F.3d at 1017–18.

Yes on Prop B argues that “the relationship between the secondary contributor and the ultimate speaker is far too attenuated” to demonstrate a substantial relation between the disclosure requirement and the informational interest. Mot. at 22. But “individuals and entities interested in funding election-related speech often join together in ad hoc organizations with creative but

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<sup>5</sup> In any case, the Court agrees with San Francisco’s interpretation of the applicable requirements. Yes on Prop B argues Proposition F applies to live phone calls because “[t]he City ordinance cross-references the Political Reform Act which, in turn, defines ‘advertisement’ broadly as ‘any general or public communication that is authorized and paid for by a committee for the purpose of supporting or opposing . . . a ballot measure.’” Reply at 2 n.1 (citing Cal. Gov’t Code § 84501(a)(1)). A phone call from a live volunteer to a specific voter is not a “general or public communication.”

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1 misleading names.” ACLU v. Heller, 378 F.3d 979, 994 (9th Cir. 2004). As the Ninth Circuit has  
2 recognized, “reporting and disclosure requirements can expose the actual contributors to such  
3 groups and thereby provide useful information concerning the interests supporting or opposing a  
4 ballot proposition,” when “simply supplying the name . . . of the organization . . . does not provide  
5 useful information.” Id.

6 These observations explain the utility of the secondary contributor disclosures. If Yes on  
7 Prop B only revealed that it had received funding from the United Democratic Club of San  
8 Francisco, that would not be particularly revealing. The fact that the United Democratic Club of  
9 San Francisco received substantial funding from the San Francisco Association of Realtors and the  
10 Committee on Jobs Government Reform Fund is helpful to voters in understanding “the interests  
11 supporting” the Club, see id., and therefore “who is behind the advertisements seeking to shape  
12 their views.” Brumsickle, 624 F.3d at 1017–18. The secondary contributor disclosure  
13 requirements effectuate the interests served by the primary disclosure requirements, by helping  
14 voters understand who the primary contributors actually are.

15 The persuasive precedent Yes on Prop B cites in support of its position is distinguishable.  
16 Citizens Union of New York v. Attorney General of New York, 408 F. Supp. 3d 478 (S.D.N.Y.  
17 2019), struck down as unconstitutional a law that required 501(c)(3) non-profit organizations to  
18 disclose the identities of donors that gave more than \$2,500 if the non-profit itself gave more than  
19 \$2,500 to a 501(c)(4) organization engaged in lobbying. Id. at 504. The court concluded that  
20 “[t]he link between a 501(c)(3) donor and the content of lobbying communications by the  
21 501(c)(4) is too attenuated to effectively advance any informational interest.” Id. at 505. But this  
22 conclusion depended on the unique nature of a 501(c)(3), which “by definition cannot engage in  
23 substantial lobbying activity.” Id. It made little sense to tie donors to lobbying activities because  
24 they made a donation to an organization that could not, by law, engage in substantial lobbying  
25 activity. Id. That is not the case here—none of the relevant parties are 501(c)(3)s.

26 Yes on Prop B also argues that the secondary contributor disclaimers are unnecessary,  
27 because other disclosure laws require that most of this information be made publicly available  
28 online. Mot. at 20–21. This argument proves too much. If it were correct, no disclaimer would

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1 withstand constitutional muster if all it did was provide information that was already on the  
2 internet. But the Supreme Court has approved disclaimer requirements that were at least partially  
3 redundant of reporting requirements. Citizens United, 558 U.S. at 366.

4 True, the Ninth Circuit has suggested that because disclaimer requirements “affect the  
5 content of the communication itself” they are more constitutionally suspect than laws that  
6 “requir[e] the reporting of funds used to finance speech.” Heller, 378 F.3d at 987. But it has also  
7 upheld disclaimer requirements for political advertising as an appropriate means of furthering the  
8 government’s interest in informing voters “who or what entity is trying to persuade them to vote in  
9 a certain way.” Yamada v. Snipes, 786 F.3d 1182, 1203 n.14 (9th Cir. 2015). And it has  
10 recognized that the voting public “cannot be expected to explore the myriad pressures to which  
11 they are regularly subjected” and may “render a decision based upon a thirty-second sound bite  
12 they hear the day before the election.” Cal. Pro-Life Council, Inc. v. Getman, 328 F.3d 1088,  
13 1106 (9th Cir. 2003). The government may therefore constitutionally “provide[ ] its voters with a  
14 useful shorthand for evaluating the speaker behind the sound bite.” Id. The secondary contributor  
15 disclaimers provide voters with the necessary information at the time they hear (or see) the “sound  
16 bite” and without having to independently “explore the myriad pressures to which they are  
17 regularly subjected.” See id. That is why they further a sufficiently important governmental  
18 interest.

19 **2. First Amendment burden.**

20 Yes on Prop B offers two theories of the secondary contributor disclaimer requirement’s  
21 burden on First Amendment rights. First, that the requirement infringes on the committee’s  
22 associational rights, and second that it impermissibly chills political contributions.

23 **a. Associational rights.**

24 According to Yes on Prop B, the secondary contributor disclaimers are a form of  
25 unconstitutional forced association because they “requir[e] that plaintiffs display on the face of  
26 every political communication the names and contribution amounts of secondary contributors with  
27 whom they have not associated” and “force[ ] the Committee to credit these secondary  
28

United States District Court  
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1 contributors as endorsers of that message, regardless of whether that is actually true.” Mot. at 18.  
 2 In support of this argument, Yes on Prop B cites cases like Janus v. American Federation of State,  
 3 County, and Municipal Employees, 138 S. Ct. 2448 (2018), for the proposition that the First  
 4 Amendment guarantees the right not to associate. Mot. at 19. But Janus and its ilk are  
 5 distinguishable, because Yes on Prop B is not being forced to associate with anyone. It is not, for  
 6 example, being forced to fund speech it disagrees with. Cf. Janus, 138 S. Ct. at 2459–60. What it  
 7 is required to do is accurately report that it has chosen to associate, at least indirectly, with certain  
 8 organizations and individuals by taking money from groups they support financially.

9 Yes on Prop B’s argument reduces to a theory of forced association by way of confusion.  
 10 Yes on Prop B thinks it is being forced to associate with its secondary contributors because the  
 11 disclaimers will confuse voters into believing that Yes on Prop B is more closely associated with  
 12 its secondary contributors than it actually is. See Mot. at 17 (“Prop. F requires that the Committee  
 13 identify on the face of its political messages, individuals and entities that they have not associated  
 14 with, information that will ultimately confuse and misinform the electorate.”); see also id. at 21  
 15 (“[B]y requiring the names of secondary contributors to appear on the political communications of  
 16 a third-party to whom they have not contributed, Prop. F implies to the voting public that those  
 17 secondary contributors knew, approved, and directed their money to fund the third party’s  
 18 communication.”).

19 Yes on Prop B’s problem is that the Supreme Court has flatly rejected a virtually identical  
 20 voter confusion theory of association. Washington State Grange v. Washington State Republican  
 21 Party, 552 U.S. 442 (2008), upheld a Washington state law that dictated that elections for “partisan  
 22 offices” should occur “in two stages: a primary and a general election.” Id. at 447. Candidates  
 23 declared their “party preference, or independent status” in the primary. Id. Political parties could  
 24 not “prevent a candidate who [was] unaffiliated with, or even repugnant to, the party from  
 25 designating it as his party of preference.” Id. The top two vote-getters in the primary advanced to  
 26 the general election, maintaining the party preference they declared at the primary stage. Id. at  
 27 447–48.

28 Washington’s Republican Party challenged the law on the theory that it “burden[ed] their



United States District Court  
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1 associational rights because voters [would] assume that candidates on the general election ballot  
 2 [were] the nominees of their preferred parties.” Id. at 454. The Court held that relying “on the  
 3 possibility that voters will be confused as to the meaning of the party preference designation” was  
 4 “sheer speculation” and “the fatal flaw in [the Republican Party’s] argument.” Id. The Supreme  
 5 Court concluded that its case law “reflect[ed] a greater faith in the ability of individual voters to  
 6 inform themselves about campaign issues.” Id. There was “simply no basis to presume that”  
 7 voters would misunderstand the import of the party preference designation. Id. This was  
 8 “especially true” because “it was the voters of Washington themselves, rather than their elected  
 9 representatives, who enacted” the relevant law. Id. at 455.

10 So too here. There is simply no reason to presume San Francisco voters will  
 11 misunderstand the import of the very disclaimers they voted to require. The only evidence Yes on  
 12 Prop B posits to the contrary is a single sentence in Margaret Muir’s declaration that “recipients of  
 13 campaign communications perceive that a person listed as a funding source on that  
 14 communication is associated with the message sought to be conveyed.” Muir Decl. ¶ 18. Even  
 15 assuming this statement is accurate and admissible, it does not establish Yes on Prop B’s  
 16 contention that voters will mistakenly believe the secondary contributors are more closely  
 17 associated with the pro-Proposition B message than is true. Voters may accurately determine that  
 18 secondary contributors are associated with Yes on Prop B because they financially support  
 19 organizations that support Yes on Prop B. But, as the Supreme Court has recognized, there is  
 20 simply no reason to believe voters will be deceived into believing that a closer association exists  
 21 by the very disclaimers they voted to require.

22 Yes on Prop B relies on California Republican Party v. Fair Political Practices  
 23 Commission as support for its voter-confusion theory of forced association, but that unpublished  
 24 case is unpersuasive here for three reasons. First, the court in Fair Political Practices applied strict  
 25 scrutiny, 2004 U.S. Dist. LEXIS 22160, at \*13–14, which the Ninth Circuit has since determined  
 26 “set[s] the bar too high” in cases concerning disclaimer and disclosure requirements, Brumsickle,  
 27 624 F.3d at 1013.

28 Second, Fair Political Practices is distinguishable. It considered a law that “required that



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any committee paying for an advertisement supporting or opposing a ballot measure identify on the face of the advertisement the committee’s two largest contributors of \$50,000 or more.” Fair Pol. Practices Comm’n, 2004 U.S. Dist. LEXIS 22160, at \*3. The court enjoined application of that requirement to political party committees. Id. at \*23. But that result rested on the unique nature of political parties. The court reasoned that it was unnecessary to disclose a political party’s financial backers, because “[i]n the context of political parties, the true ‘speaker’ is the political party.” Id. at \*18. In contrast, the court recognized that “primarily formed committees” might be “ad hoc organizations with creative but misleading names.” Id. (citing Heller, 378 F.3d at 994). Disclosing the top financial contributors of primarily formed committees could, therefore, “prove useful at identifying the true ‘speaker,’” and thus further “a compelling interest in unveiling for the voters the true ‘speakers’ behind such an advertisement.” Id.

It is true that the result in Fair Political Practices also rested on a theory of association by voter confusion akin to Yes on Prop B’s. The court found it was “not difficult to imagine a situation in which the contributor will be identified as a major donor on an advertisement containing a political message with which the contributor does not agree.” Id. at \*19. But this logic also depended in part on the unique nature of political parties. The court noted that “[c]ontributions are made to political parties for many reasons, including agreement with a party’s general philosophy, support of certain platform positions, or simply opposition to the competing party.” Id. at \*18–19. And in any event, Fair Political Practices is an unreported decision of another court which predates the Supreme Court’s decision in Washington State Grange. To the extent Fair Political Practices and Washington State Grange conflict, the Supreme Court’s decision must control.

**b. Chilling effect on donations.**

Yes on Prop B also complains that the secondary contributor disclosure requirements chill political contributions. Mot. at 20. Its principal officer, Todd David, states that certain would-be contributors have declined to donate due to concerns about having their own contributor’s names listed on the committee’s advertising. See David Decl. ¶ 23–25. Even assuming this claim is true

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and admissible, the Ninth Circuit has held that the possibility that “individuals who would prefer to remain anonymous [will be deterred] from contributing to a ballot measure committee” establishes only a “modest burden” on First Amendment rights. Family PAC v. McKenna, 685 F.3d 800, 806 (9th Cir. 2012) (survey showing that contributors may “think twice” about donating if it would mean publicly disclosing their names and addresses did not show that the disclosure law “actually and meaningfully deter[ed] contributors” and thus established only a “modest burden”). At most, Yes on Prop B’s evidence establishes that the chilling effect on campaign contributions is a modest burden reasonably related to the important informational interest discussed above.

**D. Facial Challenge**

Yes on Prop B seeks a preliminary injunction blocking all enforcement of Proposition F. Mot. at 1. Because this relief would “reach beyond the particular circumstances of these plaintiffs,” Yes on Prop B must “satisfy [the] standards for a facial challenge.” John Doe No. 1 v. Reed, 561 U.S. 186, 194 (2010). To do this, it must at least show that a “substantial number of [Proposition F’s] applications are unconstitutional, judged in relation to the statute’s plainly legitimate sweep.” Wash. State Grange, 552 U.S. at 450 n.6 (internal quotation marks omitted). Yes on Prop B’s burden is heavy, because “[f]acial challenges are disfavored.” Id. at 450.

Yes on Prop B has failed to meet its heavy burden. As discussed above, it has not even shown that Proposition F is unconstitutional as applied to all of Yes on Prop B’s proposed advertising. It offers no evidence or argument that Proposition F is generally unconstitutional in its application to the numerous other advertising for and against ballot measures in San Francisco. Its arguments are tailored to its own disclosures (the content of which varies by committee) and advertising. See generally Mot. The injunction issued by this Order applies only to Proposition F’s enforcement against Yes on Prop B.

Rather than addressing the standard for a facial challenge, Yes on Prop B argues that enjoining the law only as applied to its own advertisements will confuse other committees, chill speech, and lead to needless repeat litigation. Reply at 14–15. The risk of confusion and repeat

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litigation is irrelevant to the standard for a facial challenge. See Wash. State Grange, 552 U.S. at 450 n.6. The possibility of a chilling effect is necessarily tied up in the merits and does not warrant a broader injunction for the reasons explained above.

Yes on Prop B also cites Citizens United to suggest that facial review is preferable to an as-applied challenge in these circumstances. Reply at 15. The Court’s determination that facial review was appropriate in that case rested on its conclusion that “a statute which chills speech can and must be invalidated where its facial invalidity has been demonstrated.” Citizens United, 558 U.S. at 336 (emphasis added). Therein lies the crucial distinction: Yes on Prop B has not demonstrated Proposition F’s facial invalidity.

**E. Other Winter Factors**

The “most important” Winter factor, likelihood of success on the merits, favors San Francisco. VidAngel, 869 F.3d at 856. Yes on Prop B’s arguments that the other Winter factors weigh in its favor rely on its position that it has demonstrated a likelihood of success on the merits. See Mot. at 23–24. Yes on Prop B has therefore failed to demonstrate that any of the Winter factors weigh in favor of a preliminary injunction.

**IV. CONCLUSION**

The City and County of San Francisco are enjoined from enforcing the disclaimer laws adopted through Proposition F against Yes on Prop B’s proposed 5” by 5” newspaper advertisements, smaller “ear” advertisements, and spoken disclaimers on digital or audio advertisements of thirty seconds or less. Yes on Prop B’s requested injunctive relief is otherwise denied.

**IT IS SO ORDERED.**

Dated: February 20, 2020

CHARLES R. BREYER  
United States District Judge

C.A. No. 20-15456

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE  
SAFETY AND EMERGENCY RESPONSE BOND and TODD DAVID,

Plaintiffs-Appellants,

v.

CITY AND COUNTY OF SAN FRANCISCO,

Defendant-Appellee.

---

**PLAINTIFFS-APPELLANTS' EXCERPTS OF RECORD (VOL. II)**

---

Appeal from the Judgment of the United States District Court  
for the Northern District of California  
D.C. No. 20-cv-00630-CRB  
(Honorable Charles R. Breyer)

---

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April 21, 2020

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12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA  
 14 (SAN FRANCISCO DIVISION)

15 YES ON PROP B, COMMITTEE IN SUPPORT  
 OF THE EARTHQUAKE SAFETY AND  
 16 EMERGENCY RESPONSE BOND and  
 TODD DAVID,  
 17  
 Plaintiffs,  
 18  
 vs.  
 19 CITY AND COUNTY OF SAN FRANCISCO,  
 20  
 Defendant.  
 21

No.: 3:20-cv-00630

**NOTICE OF APPEAL AND  
 REPRESENTATION STATEMENT**

**\*PRELIMINARY INJUNCTION APPEAL\***



1                   Plaintiffs Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency  
 2 Response Bond, and Todd David hereby appeal to the United States Court of Appeals for the Ninth  
 3 Circuit from the Order Granting in Part and Denying in Part Motion for Preliminary Injunction filed in  
 4 in this Court on February 20, 2020. A copy of the order is attached to this notice along with the Court's  
 5 Notice of Appeal from a Judgment or Order of a United States District Court (Form 1) and  
 6 Representation Statement (Form 6).

7 Dated: March 16, 2020

Respectfully submitted,

8                   OLSON REMCHO, LLP  
 9                   MAINARDI LAW

10                   By: /S/ Thomas A. Willis

11                   Attorneys for Plaintiffs Yes on Prop. B,  
 12                   Committee in Support of the Earthquake  
 13                   Safety and Emergency Response Bond and  
 14                   Todd David

15 (00405058)

**NOTICE OF APPEAL AND  
REPRESENTATION STATEMENT**



**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 1. Notice of Appeal from a Judgment or Order of a  
United States District Court**

Name of U.S. District Court:

U.S. District Court case number:

Date case was first filed in U.S. District Court:

Date of judgment or order you are appealing:

Fee paid for appeal? (*appeal fees are paid at the U.S. District Court*)

Yes    No    IFP was granted by U.S. District Court

**List all Appellants** (*List each party filing the appeal. Do not use "et al." or other abbreviations.*)

- 1. Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond
- 2. Todd David

Is this a cross-appeal?    Yes    No

If Yes, what is the first appeal case number?

Was there a previous appeal in this case?    Yes    No

If Yes, what is the prior appeal case number?

Your mailing address:

City:    State:    Zip Code:

Prisoner Inmate or A Number (if applicable):

Signature    Date

*Complete and file with the attached representation statement in the U.S. District Court*

*Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)*

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Form 6. Representation Statement

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form06instructions.pdf>

**Appellant(s)** (List each party filing the appeal, do not use "et al." or other abbreviations.)

Name(s) of party/parties:

1. Yes on Prop B, Committee in Support of the Earthquake Safety and  
Emergency Response Bond  
2. David Todd

Name(s) of counsel (if any):

Please see Counsel Attachment.

Address:

Telephone number(s):

Email(s):

Is counsel registered for Electronic Filing in the 9th Circuit?  Yes  No

**Appellee(s)** (List only the names of parties and counsel who will oppose you on appeal. List separately represented parties separately.)

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City and County of San Francisco

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To list additional parties and/or counsel, use next page.

Feedback or questions about this form? Email us at [forms@ca9.uscourts.gov](mailto:forms@ca9.uscourts.gov)

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE CHARLES R. BREYER, JUDGE

YES ON PROP B, COMMITTEE IN SUPPORT )  
 OF THE EARTHQUAKE SAFETY AND )  
 EMERGENCY RESPONSE BOND and )  
 TODD DAVIS, )  
 )  
 Plaintiffs, )  
 )  
 VS. ) NO. C 20-00630 CRB  
 )  
 CITY AND COUNTY OF SAN FRANCISCO, )  
 ) San Francisco, California  
 Defendant. ) Friday, February 14, 2020  
 )

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

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**BY: JESSE MAINARDI, ESQ.**

Reported By: **BELLE BALL, CSR 8785, CRR, RDR**  
 Official Reporter, U.S. District Court

(Appearances continued, next page)

**APPEARANCES, CONTINUED:**

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ANDREW SHEN  
DEPUTY CITY ATTORNEYS**

For Amicus Curiae Peter Keane:

LAW OFFICE OF JONATHAN GOLINGER  
708 Montgomery Street  
San Francisco, California 94133

**BY: JONATHAN GOLINGER, ESQ.**

1 comprehensive regulatory scheme. And the voters were made  
2 aware of who -- what interests were funding Progress  
3 San Francisco.

4 So to the extent there is an informational interest -- and  
5 we agree that there absolutely is -- that interest is  
6 satisfied, already. Those needs are already being met through  
7 the regulatory scheme. We have comprehensive disclosure  
8 requirements in California, and specifically in San Francisco.

9 **THE COURT:** I'm sorry, I thought that this would be  
10 a -- a disclaimer -- I don't know what the right word is.

11 I thought that the requirement is that when the ad goes  
12 out, they say something at the beginning of the ad. And  
13 whatever they -- bup, bup, bup. And you're telling me they've  
14 already said it? Is that your argument? They've already said  
15 it, so why say it again?

16 **MS. ROGERS:** The information that is required to be  
17 disclosed on the face of this political speech is already  
18 available --

19 **THE COURT:** And where is it, exactly?

20 **MS. ROGERS:** At the San Francisco Ethics Commission's  
21 website.

22 **THE COURT:** I see. So in other words, what I do if  
23 I'm a voter, is I hear this, I say: I wonder who's behind  
24 this. I wonder why the XYZ Corporation or Mr. Smith is -- is  
25 putting in more than \$5,000. I'm really interested in that

1 because if I find that, if I find who's behind it, that may  
2 inform my judgment as to what I should do. Whether I should  
3 vote yes or no. Should I follow what the ad says?

4 And so you're telling me that: Yes, there's a way. You  
5 simply go down, you drop whatever you're doing, and you get in  
6 your car. And if you're very lucky, you'll get to City Hall  
7 before the polls close, and you'll be able to go up to the  
8 front desk and say: I want to see the form. Okay, I got that.

9 Anything else?

10 Thank you very much. I'm going to write something on it  
11 for the motion. The preliminary injunction is granted in part,  
12 and denied in part, as I indicate.

13 **MS. STEELEY:** Your Honor, can I just clarify?

14 In terms of the scope of the injunction, one of the  
15 disputes between the parties is whether the injunction should  
16 be limited to the plaintiffs, or should go beyond that.

17 Can we have argument on that issue? Because I think --

18 **THE COURT:** Well, what is it that you want to say  
19 about that?

20 **MS. STEELEY:** Well, we believe that the injunction  
21 should be limited to the plaintiffs. Their showing was made  
22 only as to these plaintiffs. There's been no showing as to  
23 any burden as to any other entity that's not before the Court.

24 So a facial relief --

25 **THE COURT:** I think an injunction, though, one of the



1 tests for injunction is whether it's capable of repeat. Of  
2 repetition.

3 Anyway, okay. That's your position.

4 **MS. STEELEY:** I mean, our position is to have a  
5 facial relief, the Supreme Court requires a showing that there  
6 is a substantial -- that there's a substantial burden to  
7 parties that are not before the Court. And we simply have no  
8 evidence of that.

9 I mean to the -- you know, as our declaration shows, and  
10 to the best of our knowledge, Prop F is being complied with by  
11 entities in the March election without the difficulty that  
12 plaintiffs have identified. So we believe that the relief  
13 should be limited as applied to this plaintiff.

14 **THE COURT:** The relief. That is the injunction.

15 **MS. STEELEY:** The injunction.

16 **THE COURT:** The injunction that I would grant. Okay.

17 And what is your position? I shouldn't, but go ahead.

18 **MS. ROGERS:** Well, our position is that the  
19 government's position in this litigation has created  
20 substantial uncertainty in this area. But nonetheless, we  
21 believe that *Citizens United* actually cuts the other way.

22 If we are to ask every potential litigant, every speaker  
23 in this next election -- which is only three weeks away -- to  
24 come in here and seek similar relief from that that the Court  
25 is ordering with respect to us, that would result in a morass

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 Bond and Todd David

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 YES ON PROP B, COMMITTEE IN SUPPORT  
 14 OF THE EARTHQUAKE SAFETY AND  
 EMERGENCY RESPONSE BOND and  
 15 TODD DAVID,

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN FRANCISCO,

19 Defendant.

No.: \_\_\_\_\_

**VERIFIED COMPLAINT FOR  
 INJUNCTIVE RELIEF**

(FIRST AND FOURTEENTH AMENDMENTS,  
 42 U.S.C. § 1983)



1 Prop. F's disclaimer rules are unconstitutional for an additional reason. They require  
2 plaintiffs to include misleading and confusing information on the disclaimers. Under Prop. F,  
3 plaintiffs must list the names of donors who have not even given to Yes on Prop B and have no  
4 association with Yes on Prop B. Such information will confuse and mislead the voters to believing  
5 those entities support Yes on B's message, and interfere with the associational rights of those donors,  
6 Yes on Prop B, and its donors.

7 There is no constitutional justification for the new disclaimer laws' unprecedented  
8 intrusion on plaintiffs' political speech and rights of association. The compelled disclaimers are  
9 clearly unconstitutional under the Ninth Circuit's *en banc* ruling in *American Beverage Association v.*  
10 *City and County of San Francisco*, 916 F.3d 749 (9th Cir. 2019). By imposing disclaimer obligations  
11 that will commandeer plaintiffs' campaign communications, the City's new disclaimer laws will  
12 displace plaintiffs' core political speech about a ballot measure. "[N]o form of speech is entitled to  
13 greater constitutional protection." *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 347 (1995).

14 Absent action by the Court, plaintiffs will be forced to choose between having their  
15 political message subsumed by compelled speech or face criminal, civil, and administrative penalties.  
16 The practical effect of that choice will be to silence plaintiffs during the March election. The First  
17 Amendment does not permit that result. Accordingly, plaintiffs urgently request that the Court  
18 invalidate Prop. F's disclaimer rules before the March 3, 2020 election, so they may engage with  
19 San Francisco voters in the manner protected by the Constitution.

20 Plaintiffs therefore allege as follows.

### 21 **JURISDICTION**

22 1. Plaintiffs allege violations of their rights under the First and Fourteenth  
23 Amendments of the United States Constitution, and 42 U.S.C. § 1983. The Court therefore has  
24 jurisdiction under 28 U.S.C. §§ 1331 and 1343(a)(3). This action is brought to prevent deprivation of  
25 plaintiffs' free speech and associational rights pursuant to the First and Fourteenth Amendments to the  
26 United States Constitution. Plaintiffs have been and are threatened with being deprived of these rights  
27 by the operation of San Francisco's campaign advertisement disclaimer laws. *See* San Francisco  
28 Campaign & Governmental Conduct Code ("SF Code") § 1.161(a). A true and complete copy of

1 Prop. F’s ballot materials, including the text of Prop. F showing the changes Prop. F made to existing  
2 law, is attached to this complaint as Exhibit B and incorporated herein by reference. A true and  
3 complete copy of Ordinance No. 129-18 as passed on May 22, 2018 showing the changes that  
4 ordinance made to Section 1.161(a)(5) is attached to this complaint as Exhibit C and incorporated  
5 herein by reference.

### 6 VENUE

7 2. Venue for this action properly lies within the above-captioned judicial district  
8 pursuant to 28 U.S.C. § 1391(b) because the events giving rise to plaintiffs’ claims occurred in  
9 the City and County of San Francisco (“the City”). Defendant the CITY AND COUNTY OF  
10 SAN FRANCISCO maintains its principal office in and conduct official business in the City and  
11 County of San Francisco, State of California, which is contained in this judicial district. Additionally,  
12 the claims asserted by plaintiffs arose in the Northern District of California.

### 13 PARTIES

14 3. Plaintiff YES ON PROP B, COMMITTEE IN SUPPORT OF THE  
15 EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND (“Yes on Prop B” or “the  
16 Committee”) is a recipient committee that registered with the California Secretary of State and is  
17 required to file campaign reports with the San Francisco Ethics Commission. Yes on Prop B was  
18 formed for the purpose of supporting passage of Proposition B, a \$628 million earthquake and seismic  
19 safety bond measure on the March 3, 2020 ballot. As such, the Committee is obligated to comply with  
20 the City’s new disclaimer laws when it makes political advertisements supporting Proposition B  
21 through common media, including direct mail, print advertisements, and audio and video  
22 advertisements. For each type of communication, however, the City’s new disclaimer laws impose  
23 unduly burdensome disclaimer requirements that will either foreclose certain types of political  
24 advertising altogether to the Committee or will drown out its message on other forms of advertising.  
25 Prop. F also requires the Committee to include misleading and confusing information on its disclaimer.  
26 Furthermore, Prop. F restricts the Committee’s ability to associate with potential contributor  
27 committees who do not want their own donors to be identified as having supported Proposition B.  
28 Unless the City’s new disclaimer laws are struck down, the Committee will be unable to engage in

1 meaningful campaign communications with the voters of San Francisco about Prop. B and will be  
2 unable to associate with other committees that wish to support passage of Prop. B.

3 4. Plaintiff TODD DAVID is the Committee's principal officer and treasurer. In  
4 this capacity, Mr. David oversees the Committee's fundraising and expenditures. Mr. David has had  
5 substantial experience in San Francisco politics, including managing the San Francisco Parent PAC,  
6 which supports and opposes local measures and candidates for school board. Once the March election  
7 is over, Mr. David anticipates being active in the City's November 2020 election, either through the  
8 Committee or a different committee. Prop. F has prevented Mr. David from raising funds for the  
9 Committee. Mr. David approached potential contributors, including general purpose City committees  
10 that have been traditional allies of Mr. David's political committees. Those committees decided not to  
11 contribute, citing concerns that their donors would not want to appear on the Committee's  
12 advertisements. Unless Prop. F's provisions concerning campaign advertising disclaimers are struck  
13 down, Mr. David will be unable to associate with other committees that wish to support the passage of  
14 Proposition B, and will be unable to engage in meaningful political speech supporting Prop. B.

15 5. Defendant CITY AND COUNTY OF SAN FRANCISCO is the municipal  
16 corporation known by the name of San Francisco and includes all its divisions, commissions,  
17 departments, officers, and employees who are charged with enforcement of campaign finance laws,  
18 including the City Attorney, District Attorney, and Ethics Commission. Under City law, violations of  
19 the SF Code, including the Prop. F disclaimer requirements, can be enforced by criminal, civil and  
20 administrative penalties. SF Code § 1.170. The District Attorney is responsible for criminal  
21 enforcement, the City Attorney for civil enforcement, and the Ethics Commission for administrative  
22 investigations and enforcement. SF Code §§ 1.168, 1.170; San Francisco Charter, appendix C,  
23 § C3.699-13.

#### 24 **GENERAL ALLEGATIONS**

25 6. Plaintiffs are a ballot measure committee formed to support Proposition B, an  
26 earthquake safety and emergency response bond on San Francisco's March 3, 2020 election ballot, and  
27 its principal officer. They intend to use the Committee's modest budget to engage in low-cost but  
28

1 effective forms of communication, such as short digital videos that can be posted and shared on the  
2 internet and social media, small newspaper ads in Chinese newspapers, and yard or window signs.

3           7. On May 22, 2018, the San Francisco Board of Supervisors amended  
4 SF Campaign & Governmental Conduct Code section 1.161(a)(5) to require that committees like Yes  
5 on Prop B include a spoken disclaimer in each of their audio and video advertisements, identifying  
6 their top three contributors of \$10,000 or more. *See* Ex. C, SF Ord. No. 129-18 (also amending SF  
7 Code § 1.161(a)(1) to require identification of three contributors instead of two and lowering threshold  
8 from \$20,000 to \$10,000). The law permitted the disclaimer to be spoken at the end of an ad. This  
9 new spoken disclaimer rule went into effect on January 1, 2019 (hereafter the “spoken disclaimer”  
10 rule). *Id.* at § 4(b)(2).

11           8. On November 5, 2019, San Francisco voters approved Proposition F  
12 (“Prop. F”), which amended the SF Campaign & Governmental Conduct Code to prohibit  
13 contributions from persons involved in land-use matters, prohibit contributions from LLCs, and expand  
14 campaign disclaimer requirements. *See* Ex. B, Prop. F Ballot Pamphlet. Prop. F became law on  
15 December 20, 2019. Plaintiffs are only challenging Prop. F’s disclaimer provisions as set forth in  
16 amendments to SF Code section 1.161(a), and not the other provisions of Prop. F.

17           9. Together, San Francisco’s spoken disclaimer and Prop. F disclaimer rules  
18 operate in an area of core political speech. “Discussion of public issues and debate on the  
19 qualifications of candidates are integral to the operation’ of our system of government. As a result, the  
20 First Amendment has its fullest and most urgent application to speech uttered during a campaign for  
21 political office.” *Ariz. Free Enter. Club’s Freedom Club PAC v. Bennett*, 564 U.S. 721, 734 (2011)  
22 (citations, quotations, and emphasis omitted).

23           10. San Francisco has already mandated some of the most comprehensive political  
24 advertisement disclaimer laws in the country. For example, San Francisco law already incorporated  
25 the State’s comprehensive political advertising on-ad disclaimer rules that dictate the content, size,  
26 format, and timing of disclaimers for all forms of advertising, including print, social media and  
27 internet, phone calls (live and robocalls), video (television or online), and audio. *See* Cal. Gov’t Code  
28 §§ 84501-84511. State law already required a committee to list in the disclaimer its top three



1 contributors who have donated \$50,000 or more within the prior 12 months. *Id.* at §§ 84501, 84503.  
2 To those requirements, SF Code imposed additional requirements, three of which are applicable to this  
3 case. First, City law reduced the threshold for reporting the top three major donors from \$50,000  
4 under State law to \$10,000. Second, SF Code required all disclaimers contain an additional line of  
5 text: “Financial disclosures are available at sfethics.org.” Third, the disclaimers for individually  
6 distributed print advertisements (such as mail, doorhangers, palm cards, and flyers) had to be in 12-  
7 point font, whereas State law required 10-point font. Thus, San Francisco already required more  
8 information to be disclosed than did State law, but for the most part, did not depart significantly from  
9 State law regarding the location, size, and format of the disclaimer. The spoken disclaimer rule and  
10 Prop. F, however, changed all of that.

11 11. First, the spoken disclaimer rule in Section 1.161(a)(5) requires that any audio  
12 and video communication audibly identify the names of a committee’s top three contributors at the end  
13 of an advertisement, severely reducing the amount of time committees can use to communicate their  
14 political message and curtailing core political speech. Under state law, disclaimers for video needed  
15 only to appear on the screen, and did not need to be spoken. *See* Cal. Gov’t Code § 84504.1.

16 12. Second, Prop. F has added new specifications that fundamentally alter  
17 disclaimer content, timing, and size of campaign advertisement disclaimers. Specifically, it:

- 18 A. Lowers the disclosure threshold for a committee’s actual top three contributors  
19 yet again, from \$10,000 to \$5,000 (“actual contributors”). SF Code  
20 § 1.161(a)(1).
- 21 B. Requires that if an actual contributor is itself a political committee (such as a  
22 PAC or ballot measure committee) the advertisement must also identify the  
23 names of that committee’s top two contributors of \$5,000 or more in the prior  
24 12 months (“secondary contributors”). *Id.*
- 25 C. Requires that the names of both actual contributors and secondary contributors  
26 must be followed by the dollar amount each entity gave. *Id.*
- 27 D. Changes the format, size, and placement requirements for disclaimers. A  
28 disclaimer must now be *spoken at the beginning* of a video or audio  
advertisement. *Id.* § 1.161(a)(5) (emphasis added). Advertisements subject to  
the spoken disclaimer at the beginning of the ad include live telephone calls  
(including volunteer calls), radio and streaming music services, television, and



1 digital videos published on internet sites like YouTube, and social media  
2 platforms like Facebook.

3 E. Increases the size of disclaimers on print ads, including mail, door-hangers and  
4 flyers, from 12-point font to 14-point bold font. *Id.* § 1.161(a)(3).

5 13. By imposing these new requirements, San Francisco has created a campaign  
6 disclaimer scheme that unconstitutionally reduces the amount of political speech permitted during  
7 San Francisco elections and will impede plaintiffs' ability to communicate with San Francisco voters.  
8 Now, before being permitted to say one word of their political message in a volunteer phone call or  
9 short internet video, plaintiffs will have to say, in its entirety, the following:

10 Ad paid for by Yes on Prop B, Committee in support of the Earthquake  
11 Safety and Emergency Response Bond. Committee major funding from:  
12 1. United Democratic Club of San Francisco – contributors include  
13 San Francisco Association of Realtors, Committee on Jobs Government  
14 Reform Fund; 2. Edwin M. Lee Democratic Club Political Action  
15 Committee – contributors include Committee on Jobs Government Reform  
16 Fund; 3. Yes on A, Affordable Homes for San Franciscans Now! –  
17 contributors include Salesforce.com, Inc., Chris Larsen. Financial  
18 disclosures are available at sfethics.org.

19 14. That disclaimer takes approximately 28 seconds to speak and will consume all  
20 or most of the allotted time for any video ads under 30 seconds, forcing plaintiffs to forego those forms  
21 of communication entirely.

22 15. Plaintiffs' potential print messages, particularly window signs, small newspaper  
23 ads, and posters, are also consumed by Prop. F's required disclaimer. Attached to this Complaint as  
24 Exhibit A are true and correct copies of advertisement mock-ups showing how plaintiffs' disclaimer,  
25 required by Prop. F, will appear on all forms of print and video media, including for (1) yard or  
26 window signs, (2) newspaper ads in three formats (so called small "ear ads" and quarter and half page  
27 ads), (3) palm cards (flyers handed out by field canvassers), and (4) video screen.

28 16. As these examples demonstrate, Prop. F unduly burdens plaintiffs' First  
Amendment right to engage in "core political speech" as to the urgent need for earthquake and fire  
safety resources in San Francisco.

1           17. Prop. F is also unconstitutional insofar as it requires that plaintiffs include  
2 information in this new disclaimer that will ultimately confuse and misinform the electorate, and that  
3 forces plaintiffs to associate with committees with whom they have not, in fact, associated.

4           18. If a committee's listed major contributor is itself a recipient committee, Prop. F  
5 requires that the advertisement state the names of that committee's own top two contributors  
6 ("secondary contributors") of \$5,000 or more in the prior twelve months, along with the dollar  
7 amounts of their contributions. SF Code § 1.161(a)(1). But here, those secondary contributors have  
8 not associated with the Committee for purposes of supporting Proposition B. Instead, they have  
9 associated with *other* committees for unrelated purposes. Moreover, all of those donors gave to those  
10 other committees last year during the November 5, 2019 election cycle and before Yes on Prop B had  
11 been formed. Two of those donors, Salesforce.com and Chris Larsen, made contributions specifically  
12 to support Prop. A on the November 2019 City ballot.

13           19. Due to Prop. F, plaintiffs must now identify the Committee on Jobs Government  
14 Reform Fund, the San Francisco Association of Realtors, Salesforce.com, and Chris Larsen on the face  
15 of any advertisement as supporters of their political message, despite the fact that those donors have  
16 not made any contributions to plaintiffs.

17           20. Prop. F's disclaimer requirements have also compromised plaintiffs' ability to  
18 associate with other committees to advance their political message. Committees who may have  
19 otherwise donated to Yes on Prop B have declined to do so, expressing concern that their own top  
20 contributors will be unwittingly associated with the Committee's political message by virtue of being  
21 included on the disclaimers.

22           21. By requiring that plaintiffs' disclaimer identify secondary contributors, Prop. F  
23 severely burdens plaintiffs' rights to speak about the urgent need for earthquake safety and fire  
24 resources.

25           22. The March 3, 2020 election is only five weeks away. Every day that passes with  
26 the spoken disclaimer rule and Prop. F in effect deprives plaintiffs of being able to give voice to their  
27 political message and forces them to choose between complying with San Francisco's disclaimer  
28 requirements at a direct cost to their political speech, or risk criminal, civil, and administrative

1 penalties if they do not. SF Code § 1.170 (violations may carry criminal, civil, and administrative  
2 penalties).

3 23. Plaintiffs and others in similar positions are currently attempting to chart a  
4 course of action for fundraising and making expenditures for municipal elections in March 2020.

5 24. Plaintiffs contend that application of the spoken disclaimer rule and Prop. F to  
6 its political communications is unconstitutional; on information and belief, defendants claim it is  
7 constitutional. A true controversy exists that must be resolved by this Court.

8 25. Defendant City and County of San Francisco and its agents, commissions, and  
9 divisions, including the City Attorney, District Attorney, and Ethics Commission, are charged with the  
10 enforcement of the spoken disclaimer rule and Prop. F and, on information and belief, plan to enforce  
11 the unconstitutional provisions of the spoken disclaimer rule and Prop. F in violation of plaintiffs'  
12 rights unless ordered to do otherwise by this Court.

13 26. Plaintiffs have suffered and will continue to suffer irreparable injury as a result  
14 of defendants' conduct. Plaintiffs have no plain, speedy or adequate remedy at law.

### 15 **FIRST CAUSE OF ACTION**

#### 16 **(First and Fourteenth Amendments to the United States Constitution)**

17 27. Plaintiffs incorporate by reference paragraphs 1 through 26 above.

18 28. By imposing disclaimer obligations that will commandeer plaintiffs' campaign  
19 communications, the spoken disclaimer rule and Prop. F will displace plaintiffs' "core political  
20 speech." "[N]o form of speech is entitled to greater constitutional protection." *McIntyre v. Ohio*  
21 *Elections Comm'n*, 514 U.S. 334, 347 (1995). Prop. F's disclaimer rules have the effect of drowning  
22 out plaintiffs' message on all forms common political advertising in San Francisco in violation of their  
23 First Amendment rights.

24 29. For the same reason, SF Code section 1.161(a)(5)'s spoken disclaimer rule  
25 independently violates plaintiffs' First Amendment rights.

26 30. By requiring that plaintiffs include secondary contributors on any political  
27 communication, Prop. F compels plaintiffs to publicly depict an association with committees with  
28 whom they have not associated in fact.

1 31. At the same time, Prop. F’s requirement that disclaimers include secondary  
2 contributors chills plaintiffs’ ability to associate with others who would otherwise wish to join in an  
3 effort to promote the passage of Proposition B.

4 32. For these reasons, SF Code section 1.161(a)’s required disclaimers as amended  
5 by Ordinance No. 129-18’s spoken disclaimer rule and Prop. F violate plaintiffs’ rights of free speech  
6 and association guaranteed by the First and Fourteenth amendments to the United States Constitution.

7 **SECOND CAUSE OF ACTION**

8 **(Violation of 42 U.S.C. § 1983)**

9 33. Plaintiffs incorporate by reference paragraphs 1 through 32 above.

10 34. The aforesaid actions of defendant and its commissions, divisions, and agents in  
11 implementing Section 1.161(a) as amended by Ordinance No. 129-18’s spoken disclaimer rule and  
12 Prop. F are, and will be, undertaken under color of statutes, regulations, customs and usages of the  
13 CITY AND COUNTY OF SAN FRANCISCO within the meaning of 42 U.S.C. § 1983, and will  
14 deprive plaintiffs of the rights, privileges and immunities secured to them by the Constitution and laws,  
15 including but not limited to their rights to speak, to associate, and to participate fully and equally in the  
16 political process.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, plaintiffs pray that this Court:

- 19 1. Grant plaintiffs a preliminary and permanent injunction against enforcement of  
20 Section 1.161(a) as amended by Ordinance No. 129-18’s spoken disclaimer rule and Prop. F’s  
21 campaign advertisement disclaimer requirements.  
22 2. Award plaintiffs their costs herein.  
23 3. Award plaintiffs reasonable attorneys’ fees.  
24 4. Grant plaintiffs such further and additional relief as the Court may deem just and  
25 proper.  
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Dated: January 28, 2020

Respectfully submitted,

THOMAS A. WILLIS  
ANDREW HARRIS WERBROCK  
KRISTEN MAH ROGERS  
OLSON REMCHO, LLP

JESSE MAINARDI  
MAINARDI LAW

By: /S/ Thomas A. Willis

Attorneys for Plaintiffs Yes on Prop B,  
Committee in Support of the Earthquake  
Safety and Emergency Response Bond and  
Todd David

**EXHIBIT A: YARD SIGN**

HORIZONTAL SIGN

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Ad paid for by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. Committee major funding from: 1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000), 2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000), 3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000) Financial disclosures are available at [sfethics.org](http://sfethics.org).



**EXHIBIT A: NEWSPAPER AD (“EAR AD”)**

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EAR AD

**Ad paid for by Yes on Prop B, Committee  
in Support of the Earthquake Safety and  
Emergency Response Bond. Committee  
major funding from:**

- 1. United Democratic Club of San Francisco  
(\$5,000) – contributors include  
San Francisco Association of Realtors  
(\$6,500), Committee on Jobs  
Government Reform Fund (\$5,000)**

**EXHIBIT A: NEWSPAPER AD (5" X 5")**



**Ad paid for by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. Committee major funding from:**

**1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000)**

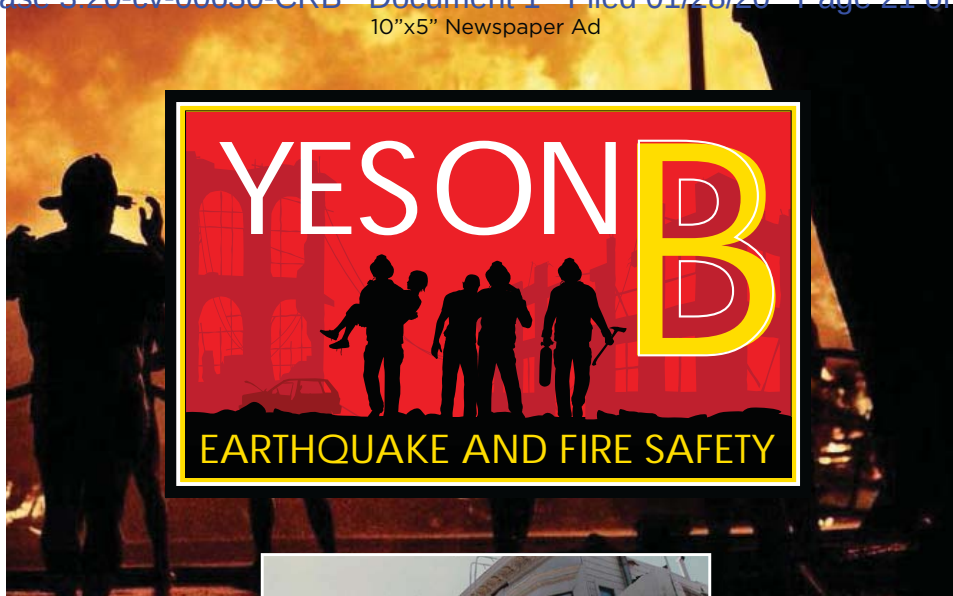
**2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000)**

**3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000)**

**Financial disclosures are available at [sfethics.org](http://sfethics.org).**

**EXHIBIT A: NEWSPAPER AD (10" X 5")**

10"x5" Newspaper Ad



- ⚠ Will not raise taxes!
- ⚠ The next big one is coming!
- ⚠ Act responsibly and prepare!

**ENDORSED BY:**

- Mayor London Breed
- SF Firefighters
- SF Police Officers
- Unanimously Supported by the Board of Supervisors

**Ad paid for by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. Committee major funding from:**

1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000)
2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000)
3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000)

**Financial disclosures are available at [sfethics.org](http://sfethics.org).**

**EXHIBIT A: FLYER (“PALM CARD”; TWO-SIDED)**





- ⚠ Will not raise taxes!
- ⚠ The next big one is coming!
- ⚠ Act responsibly and prepare!

**ENDORSED BY:**

- Mayor London Breed
- SF Firefighters
- SF Police Officers
- Unanimously Supported by the Board of Supervisors

**Ad paid for by Yes on Prop B. Committee in Support of the Earthquake Safety and Emergency Response Bond. Committee major funding from:**

- 1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000)**
- 2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000)**
- 3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000)**

**Financial disclosures are available at [sfethics.org](http://sfethics.org).**

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# WE NEED TO BE PREPARED FOR THE NEXT BIG ONE.



## PROP B.

This is text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write. This is placeholder text to show how much copy with fit into the space and how much we can write.



*Thirty years ago Loma Prieta, how safety needs to improve. Thirty years ago Loma Prieta, how safety needs to improve.*

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## PROP B. WILL HELP.



**EXHIBIT A: VIDEO SCREEN**

VIDEO SCREEN

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**Ad paid for by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond.**

**Committee major funding from:**

- 1. United Democratic Club of San Francisco (\$5,000) – contributors include San Francisco Association of Realtors (\$6,500), Committee on Jobs Government Reform Fund (\$5,000)**
- 2. Edwin M. Lee Democratic Club Political Action Committee (\$5,000) – contributors include Committee on Jobs Government Reform Fund (\$5,000)**
- 3. Yes on A, Affordable Homes for San Franciscans Now! (\$5,000) – contributors include Salesforce.com, Inc. (\$300,000), Chris Larsen (\$250,000)**

**Financial disclosures are available at [sfethics.org](http://sfethics.org).**

**EXHIBIT B: PROPOSITION F BALLOT MATERIALS**



# F

## Campaign Contributions and Campaign Advertisements

Shall the City establish new restrictions on campaign contributions to local elected officials and candidates, and apply new disclaimer requirements to campaign advertisements?

YES	<input type="radio"/>
NO	<input type="radio"/>

### Digest by the Ballot Simplification Committee

**The Way It Is Now:** Local law restricts certain campaign contributions to local elected officials and candidates including:

- Contributions from corporations; and
- Contributions from City contractors, or those seeking to contract with the City, during certain periods.

State and local law require campaign advertisements to disclose specific information about their funding, referred to as "disclaimers." These disclaimers must identify the political committee that paid for the advertisement. Also, the disclaimer on an advertisement paid for by an independent political committee must name the committee's top three contributors of \$10,000 or more.

**The Proposal:** Proposition F would restrict two types of campaign contributions:

- Contributions to any local elected official or candidate from limited liability companies or limited liability partnerships; and
- Contributions to members of the Board of Supervisors, the Mayor, the City Attorney, candidates for these offices and campaigns that they control, from persons with certain financial interests in City land-use approval matters.

Contributions relating to land-use approvals are restricted for persons with one of the following types of financial interests:

- A person with an ownership interest of \$5 million or more in a project;

- A director or principal officer of an entity with an ownership interest of \$5 million or more in a project; or
- A developer of a project with an estimated construction cost of \$5 million or more.

This restriction would start when a request or application regarding a land-use matter is pending before certain City boards and commissions, and would end 12 months after the City's final decision.

Proposition F would also change the disclaimer requirements for advertisements paid for by independent political committees:

- These disclaimers would be required to name the committee's top three contributors who donated at least \$5,000 and the amount each contributed.
- If any of those contributors is another independent political committee, the advertisement would be required to name that other committee's top two contributors who donated at least \$5,000 and the amount each contributed.

Proposition F would increase the size of written disclaimers and require disclaimers to appear at the beginning of audio and video advertisements.

**A "YES" Vote Means:** If you vote "yes," you want to establish new restrictions on campaign contributions to local elected officials and candidates, and apply new disclaimer requirements to campaign advertisements.

**A "NO" Vote Means:** If you vote "no," you do not want to make these changes.

**This measure requires 50%+1 affirmative votes to pass.**

The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 111. Some of the words used in the ballot digest are explained starting on page 42.





## Controller's Statement on "F"

City Controller Ben Rosenfield has issued the following statement on the fiscal impact of Proposition F:

Should the proposed initiative ordinance be approved by the voters, in my opinion, it would have a minimal impact on the cost of government.

The ordinance expands the list of corporate entities prohibited from contributing to a candidate committee. In addition, the ordinance includes a new section of the Campaign and Governmental Conduct Code prohibiting any contribution to a member of the Board of Supervisors, a candidate for the Board of Supervisors, the Mayor, a candidate for Mayor, the City Attorney, or a candidate for City Attorney from a person, or the person's affiliated entities, with a financial interest of at least \$5 million in a land use matter before various specified boards within 12 months from the date of the final resolution of the matter. Finally, the ordinance expands filing and disclosure requirements for contributions to campaign advertisements.

The Ethics Department would incur some additional staff costs related to monitoring and enforcement of the proposed additional filing and disclosure requirements and prohibited entities. One-time costs for software development of new reporting requirements would be \$50,000 to \$100,000.

## How "F" Got on the Ballot

On June 18, 2019, the Department of Elections received a proposed ordinance signed by the following Supervisors: Fewer, Haney, Mandelman, Mar, Ronen.

The Municipal Elections Code allows four or more Supervisors to place an ordinance on the ballot in this manner.

**This measure requires 50%+1 affirmative votes to pass.**

**The above statement is an impartial analysis of this measure. Arguments for and against this measure immediately follow. The full text begins on page 111. Some of the words used in the ballot digest are explained starting on page 42.**





## Proponent's Argument in Favor of Proposition F

### VOTE YES ON PROP F TO SHINE SUNLIGHT ON DARK MONEY

San Francisco elections are awash in unlimited Dark Money from Corporate SuperPACs. Voters are prevented from making fully informed choices by the lack of strong disclosure laws, which allows shell committees to hide the true source of these Corporate PAC advertisements. Loopholes in existing law allow corporate contributions directly to candidates. "Pay-to-play" politics undermine voter trust in the integrity of decisions made by City Hall.

Proposition F, the **Sunlight On Dark Money Initiative**, strengthens the San Francisco Campaign Finance Reform Ordinance to assist voters in making informed decisions, fight corruption, and enhance the integrity of our elections.

Proposition F will:

- 1) **STRENGTHEN DARK MONEY DISCLOSURE:** Increases disclosure of the true source of funds behind campaign ads by Dark Money SuperPACs such as "Progress San Francisco" to help voters understand who is paying for the campaign ads they see in the mail, on television, and online.
- 2) **FIGHT PAY-TO-PLAY CORRUPTION:** Cracks down on "pay-to-play" corruption by prohibiting real estate developers and those with financial interests in land use decisions from giving campaign contributions to

public officials who oversee those decisions while they are being made and for a period thereafter.

- 3) **CLOSE THE CORPORATE MONEY LOOPHOLE:** Extends the existing ban on corporations making direct contributions to candidates to include "limited liability companies" and "limited liability partnerships," which have been used to circumvent the ban.

Learn more at [www.SunlightOnDarkMoney.com](http://www.SunlightOnDarkMoney.com)

JOIN US AND VOTE YES ON F:

*Supervisor Gordon Mar*

*Peter Keane, former Chair, San Francisco Ethics Commission\**

*Tom Ammiano, former Assemblymember*

*Friends of Ethics*

*Former San Francisco Ethics Commission Chair\* Bob Planthold*

*Former San Francisco Ethics Commission Chair\* Paul Melbostad*

*Former San Francisco Ethics Commissioner\* Quentin Kopp*

*Jon Golinger, Director, Sunlight on Dark Money*

\*For identification purposes only; author is signing as an individual and not on behalf of an organization.

## Rebuttal to Proponent's Argument in Favor of Proposition F

Proposition F threatens the right of social welfare nonprofits to participate in San Francisco politics.

The proposed ordinance attacks rights secured by the NAACP in the 1958 Supreme Court case NAACP v. Patterson (Alabama), which affirmed that social welfare nonprofits can make independent political expenditures without disclosing their donors.

At the time, NAACP members lived in immediate fear of harassment and violence.

Today, candidates for President 'dox' financial supporters of their opponents. Private employers track employee political donations and discriminate against diversity of opinion. Social media activists, on all sides, pore over government records, publish names and addresses of 'enemies'. Media personalities condone, or even call for, violence against people they deem offensive. Members of domestic terrorist organi-

zations, clad in masks, threaten citizens, surround private homes and attack peaceful assemblies on the public square.

Disclosure is no longer simply a 'disinfectant'. It has become, once again, an instrument of political violence.

Social welfare non-profits offer an important vehicle for citizens to exercise freedom of speech with less fear of retribution. San Francisco should welcome social welfare non-profits on all sides of every issue as contributors to the political debate. Proposition F will frighten them away.

Vote No on Proposition F.

*San Francisco Republican Party*



## Opponent’s Argument Against Proposition F

Proposition F should be opposed. It will only exacerbate the problem it claims to address, the two primary reasons being: it unfairly bans individuals from fully participating in the political process if they choose to seek legal remedy from city agencies regarding use of their property, and the contributor disclosure requirements in this climate will only produce a chilling effect on political speech originating outside the local Democratic establishment.

Proposition F ironically means more official interactions you have with your local government, the less say you have in the formal process for choosing the makeup of said government. No one should be forced to sit on the political sidelines, simply because they asked for a zoning variance or a discretionary entitlement from a city agency in the preceding year.

Proposition F also requires names of certain committee contributors to be disclosed, ostensibly for greater transparency with voters. Unfortunately, in this tumultuous era where 'doxing' is the norm, this will only make people more vulnerable to politically-motivated

harassment, suppress dissent, and force consensus without adequate prior dialogue.

It also empowers outside moneyed interests at the expense of local ones. With San Francisco’s real estate prices so high, many people who have been here for generations are the most affected; allowing those from outside San Francisco or those with the least to lose -- to play a larger role.

People will not stop participating in the political process merely because the objective, formalized channels are closed to them. Just like we see with gun laws, the perverse incentives invoked by Proposition F will only alienate the law-abiding, while encouraging the dishonest to pursue their interests in ways even further removed from proper oversight.

Please vote no on Proposition F.

*San Francisco Republican Party*

## Rebuttal to Opponent’s Argument Against Proposition F

### DON'T BUY THE REPUBLICAN PARTY LIES: VOTE YES ON F

Why is the Republican Party of Donald Trump so wrong about Proposition F?

- The Republican Party says that by increasing disclosure of who is paying for campaign ads Prop. F will somehow have a “chilling effect” on speech. **WRONG**
- Prop. F advances a basic, fundamental idea: voters deserve to know who’s trying to buy their vote. There is nothing chilling about that.
- The Republican Party says that by restricting real estate developers from handing campaign checks to the elected officials who have to approve their development projects Prop. F somehow “bans individuals from fully participating in the political process.” **WRONG**
- Prop. F cracks down on “pay-to-play” corruption by ensuring developers of big projects costing over \$5 million can’t buy approvals for projects.
- The Republican Party says that by stopping corporations from exploiting loopholes in the law Prop. F will somehow “suppress dissent.” **WRONG**

- Prop. F closes legal loopholes and ensures that all corporate contributions to candidates are prohibited.

TO SHED LIGHT ON DARK MONEY: **VOTE YES ON F**  
TO FIGHT POLITICAL CORRUPTION: **VOTE YES ON F**  
TO CLOSE CORPORATE MONEY LOOPHOLES: **VOTE YES ON F**

*Supervisor Gordon Mar*  
*Peter Keane, former Chair, San Francisco Ethics Commission\**  
*Tom Ammiano, former Assemblymember\**  
*Friends of Ethics*  
*Former San Francisco Ethics Commission Chair\* Bob Planthold*  
*Former San Francisco Ethics Commission Chair\* Paul Melbostad*  
*Former San Francisco Ethics Commissioner\* Quentin Kopp*  
*Jon Golinger, Director, Sunlight on Dark Money*

\*For identification purposes only; author is signing as an individual and not on behalf of an organization.



**Paid Argument IN FAVOR of Proposition F**

Friends of Ethics supports F - the Sunlight on Dark Money measure.

Vote YES on F -- F for Fresh Air in government.

Friends of Ethics includes former members / leaders of SF Ethics Commission, SF Civil Grand Jury, Sunshine Ordinance Task Force, and Common Cause.

Friends of Ethics includes Elena Schmid, Larry Bush, Bob Dockendorff, Sharyn Saslafsky, Bob Planthold, and Charles Marsteller.

*Bob Planthold, Friends of Ethics*

The true source(s) of funds for the printing fee of this argument: FRIENDS OF ETHICS.

**Paid Argument IN FAVOR of Proposition F**

Transparency is the best weapon against corporate money and influence. That's why San Francisco Tomorrow Supports Proposition F.

Yes on F

*San Francisco Tomorrow*

The true source(s) of funds for the printing fee of this argument: San Francisco Tomorrow.

***End of Paid Arguments IN FAVOR of Proposition F***

**No Paid Arguments AGAINST Proposition F Were Submitted**

General Plan, and the Surplus Land Ordinance, and reviews whether to increase the numerical cap on the number of Educator Housing Project units or otherwise amend the modifications and requirements in Section 206.9. The report shall include, but shall not be limited to, the following information:

(A) Financing details of Educator Housing Projects, including the amount of public subsidy, if any;

(B) Tenant recruitment and leasing outreach plans for non-residential neighborhood-serving uses;

(C) Eligibility and placement plans for Educator Housing Projects constructed in partnership with the San Francisco Unified School District or the San Francisco City College District;

(D) The number of educators/employees who have applied for housing in an Educator Housing Project;

(E) Area Median Incomes for Educator Housing Projects; and

(F) Plans for monitoring and verifying eligibility on an annual basis.

Section 5 Additional findings. The People of the City and County of San Francisco specifically find that, for the reasons set forth in Section 1, this ordinance is consistent with the San Francisco General Plan and the Priority Policies set forth in San Francisco Planning Code Section 101.1, and the actions in this ordinance will serve the public necessity, convenience, and welfare pursuant to San Francisco Planning Code Section 302.

Section 6. Scope of Ordinance. In enacting this ordinance, the People of the City and County of San Francisco intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly shown in this ordinance as additions or deletions, in accordance with the “Note” that appears under the official title of the ordinance.

Section 7. Amendment by Board of Supervisors. The Board of Supervisors by not less than two-thirds vote of all its members may by ordinance amend any part of this measure if the amendment furthers the purpose of this measure.

## Proposition F

**Ordinance amending the Campaign and Governmental Conduct Code to prohibit campaign contributions from limited liability companies and limited liability partnerships; prohibit campaign contributions to members of and candidates for the Board of Supervisors, the Mayor and candidates for Mayor, the City Attorney and candidates for City Attorney, and the controlled committees of those officials and candidates, from any person with pending or recently resolved land use matters before the City; and expand disclaimer requirements for independent expenditure committee advertisements.**

NOTE: **Unchanged Code text and uncodified text** are in plain font.  
**Additions to Codes** are in single-underline italics Times New Roman font.  
**Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Title.

This Initiative shall be known as the “Sunlight on Dark Money Initiative.”

Section 2. Findings.

The People of the City and County of San Francisco declare their findings and purposes in enacting this ordinance to be as follows:

(a) The San Francisco Campaign Finance Reform Ordinance (“CFRO”), S.F. Campaign & Gov. Conduct Code, Article I, was enacted to enhance the integrity of the election process and help restore public trust in governmental and electoral institutions in the City and County of San Francisco. CFRO’s specific purposes include assisting voters in making informed electoral decisions through increased disclosure, limiting contributions to candidates and committees to eliminate or reduce the appearance or reality that campaign contributions may lead to corruption or undue influence over elected officials, and enforcement to ensure compliance with the law.

(b) In recent years, exacerbated by the United States Supreme Court’s decision in Citizens United v. Federal Elections Commission, corporations, lobbyists, and other wealthy interests have exploited legal loopholes to evade the reasonable contribution limits enacted by voters while hiding disclosure of their donations from voters.

(c) In 2015, the Board of Supervisors approved Ordinance No. 102-15, repealing certain disclosure requirements for independent expenditure committees, also known as “Super PACs.” The repeal of those requirements has reduced the information available to San Francisco voters, making it more difficult for them to make informed choices.

(d) In April 2018, the Board of Supervisors, by a 6-5 vote, rejected a proposal to limit “pay to play” corruption or the appearance of “pay to play” corruption in land use decisions by prohibiting campaign contributions by persons with land use matters before a City decision-making body while those decisions are pending and until 12 months after those decisions are made or resolved.

(e) The corrosion of the integrity of San Francisco’s elections caused by the evasion of campaign contribution limits, lack of “pay to play” safeguards, and inadequate disclosure requirements is an urgent problem that requires action by the people of San Francisco through the initiative process.

Section 3. The Campaign and Governmental Conduct Code is hereby amended by revising Sections 1.114, 1.161, 1.162, and 1.170, and adding Section 1.127 to read as follows:

**SEC. 1.114. CONTRIBUTIONS – LIMITS AND PROHIBITIONS.**

(a) LIMITS ON CONTRIBUTIONS TO CANDIDATES. No person other than a candidate shall make, and no campaign treasurer for a candidate committee shall solicit or accept, any contribution which will cause the total amount contributed by such person to such candidate committee in an election to exceed \$500.

(b) PROHIBITION ON CONTRIBUTIONS FROM CORPORATIONS. No corporation, limited liability company, or limited liability partnership organized pursuant to the laws of the State of California, the United States, or any other state, territory, or foreign country, whether for profit or not, shall make a contribution to a candidate committee, provided that nothing in this subsection (b) shall prohibit such a corporation, limited liability company, or limited liability partnership from establishing, administering, and soliciting contributions to a separate segregated fund to be utilized for political purposes by the corporation, limited liability company, or limited liability partnership, provided that the separate





segregated fund complies with the requirements of Federal law including Sections 432(e) and 441b of Title 2 of the United States Code and any subsequent amendments to those Sections.

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**SEC. 1.127. CONTRIBUTIONS BY PERSONS WITH PENDING LAND USE MATTERS.**

(a) Definitions. For purposes of this Section 1.127, the following terms have the following meanings:

“Affiliated Entities” means business entities directed and controlled by the same person or majority-owned by the same person.

“Financial Interest” means (a) an ownership interest of at least \$5,000,000 in the project or property that is the subject of the Land Use Matter; (b) holding the position of director or principal office, including but not limited to President, Vice-President, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Executive Director, Deputy Director, or member of the Board of Directors, in an entity with an ownership interest of at least \$5,000,000 in the project or property that is the subject of the Land Use Matter; or (c) being the developer of a project with an estimated construction cost of at least \$5,000,000 that is the subject of the Land Use Matter.

“Land Use Matter” means (a) any request to a City elective officer for a Planning Code or Zoning Map amendment, or (b) any application for an entitlement that requires a discretionary determination at a public hearing before a City board or commission. “Land Use Matter” shall not include discretionary review hearings.

“Prohibited Contribution” means a contribution of any amount to (a) a member of the Board of Supervisors, (b) a candidate for member of the Board of Supervisors, (c) the Mayor, (d) a candidate for Mayor, (e) the City Attorney, or (f) a candidate for City Attorney.

(b) Prohibited Contributions. No person, or the person’s Affiliated Entities, with a Financial Interest in a Land Use Matter pending before the Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, or the Treasure Island Development Authority Board of Directors, shall make any Prohibited Contribution at any time from the date of commencement of a Land Use Matter until 12 months have elapsed from the date that the board or commission renders a final decision or ruling or any appeals to another City agency from that decision or ruling have been finally resolved.

(c) Prohibition on Soliciting or Accepting Prohibited Contributions.

(1) Prohibition. No member of the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates may accept or solicit any contribution prohibited by subsection (b).

(2) Safe Harbor. Notwithstanding subsection (c)(1), if a member of the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates, accepts a contribution prohibited by subsection (b) after exercising due diligence, such due diligence shall constitute a full and complete defense in any enforcement action for a violation of this Section 1.127, except that the recipient of the prohibited contribution shall forfeit that contribution. A candidate or committee would satisfy this due diligence requirement if the person making the contribution to such candidate or committee attests under penalty of perjury that the contribution is not prohibited by subsection (b).

(d) Exception for Primary Residence. The prohibitions set forth in subsections (b) and (c) of this Section 1.127 shall not apply if the Land Use Matter concerns only the person’s primary residence.

(e) Forfeiture of Prohibited Contributions. In addition to any oth-

er penalty provided by law, each member of the Board of Supervisors, candidate for member of the Board of Supervisors, the Mayor, candidate for Mayor, the City Attorney, candidate for City Attorney, or controlled committees of such officers and candidates, who solicits or accepts any contribution prohibited by subsection (b) of this Section 1.127 shall pay promptly the amount received by or deposited to the City and County of San Francisco by delivering the payment to the Ethics Commission for deposit in the City’s General Fund.

(f) Notification. The Board of Appeals, Board of Supervisors, Building Inspection Commission, Commission on Community Investment and Infrastructure, Historic Preservation Commission, Planning Commission, Port Commission, and the Treasure Island Development Authority Board of Directors shall post a description of the prohibition in subsection (b) of this Section 1.127 on their respective websites and include that description on each meeting agenda.

**SEC. 1.161. CAMPAIGN ADVERTISEMENTS.**

(a) DISCLAIMERS. In addition to complying with the disclaimer requirements set forth in Chapter 4 of the California Political Reform Act, California Government Code sections 84100 et seq., and its enabling regulations, all committees making expenditures which support or oppose any candidate for City elective office or any City measure shall also comply with the following additional requirements:

(1) TOP THREE CONTRIBUTORS. The disclaimer requirements for primarily formed independent expenditure committees and primarily formed ballot measure committees set forth in the Political Reform Act with respect to a committee’s top three major contributors shall apply to contributors of \$10,000 \$5,000 or more. Such disclaimers shall include both the name of and the dollar amount contributed by each of the top three major contributors of \$5,000 or more to such committees. If any of the top three major contributors is a committee, the disclaimer must also disclose both the name of and the dollar amount contributed by each of the top two major contributors of \$5,000 or more to that committee. The Ethics Commission may adjust this monetary threshold to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest five thousand dollars.

(2) WEBSITE REFERRAL. Each disclaimer required by the Political Reform Act or its enabling regulations and by this Section 1.161 shall be followed in the same required format, size, and speed by the following phrase: “Financial disclosures are available at sfethics.org.” A substantially similar statement that specifies the web site may be used as an alternative in audio communications.

(3) MASS MAILINGS AND SMALLER WRITTEN ADVERTISEMENTS. Any disclaimer required by the Political Reform Act and by this section on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement shall be printed in at least 12-point 14-point, bold font.

(4) CANDIDATE ADVERTISEMENTS. Advertisements by candidate committees shall include the following disclaimer statements: “Paid for by \_\_\_\_\_ (insert the name of the candidate committee).” and “Financial disclosures are available at sfethics.org.” Except as provided in subsections (a)(3) and (a) (5), the statements’ format, size and speed shall comply with the disclaimer requirements for independent expenditures for or against a candidate set forth in the Political Reform Act and its enabling regulations.

(5) AUDIO AND VIDEO ADVERTISEMENTS. For audio advertisements, the disclaimers required by this Section 1.161 shall be spoken at the end beginning of such advertisements, except that such disclaimers do not need to disclose the dollar amounts of contributions as required by subsection (a)(1). For video adver-

tisements, the disclaimers required by this Section 1.161 shall be spoken at the *end beginning* of such advertisements, *except that such disclaimers do not need to disclose the dollar amounts of contributions as required by subsection (a)(1).*

(b) FILING REQUIREMENTS.

(1) INDEPENDENT EXPENDITURES *ADVERTISEMENTS*. Committees required by state law to file late independent expenditure reports disclosing expenditures that support or oppose a candidate for City elective office shall also file with the Ethics Commission on the same date a copy of the associated advertisement(s), *an itemized disclosure statement with the Ethics Commission for that advertisement(s), and*

(A) if the advertisement is a telephone call, a copy of the script and, if the communication is recorded, the recording shall also be provided; *or*

(B) if the advertisement is audio or video, a copy of the script and an audio or video file shall be provided;

(C) *if the advertisement is an electronic or digital advertisement, a copy of the advertisement as distributed shall be provided;*

*or*  
(D) *if the advertisement is a door hanger, flyer, pamphlet, poster, or print advertisement, a copy of the advertisement as distributed shall be provided.*

(2) INDEPENDENT EXPENDITURE MASS MAILINGS.

(A) *Each committee making independent expenditures that pays for a mass mailing shall, within five working days after the date of the mailing, file a copy of the mailing and an itemized disclosure statement with the Ethics Commission for that mailing.*

(B) *Each committee making independent expenditures that pays for a mass mailing shall file a copy of the mailing and the itemized disclosure statement required by subsection (b)(2) within 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election.*

(C) *Exception. Committees making independent expenditures to support or oppose a candidate for City elective office are not subject to the filing requirements imposed by this subsection (b)(2) during the time period that they are required by state law to file late independent expenditure reports and if they also file the itemized disclosure statement required by subsection (b)(1).*

(3) CANDIDATE MASS MAILINGS.

(A) Each candidate committee that pays for a mass mailing shall, within five working days after the date of the mailing, file a copy of the mailing and an itemized disclosure statement with the Ethics Commission for that mailing.

(B) Each candidate committee that pays for a mass mailing shall file a copy of the mailing and the itemized disclosure statement required by subsection (b)(3) within 48 hours of the date of the mailing if the date of the mailing occurs within the final 16 days before the election.

(3) The Ethics Commission shall specify the method for filing copies of advertisements and mass mailings.

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SEC. 1.162. ELECTIONEERING COMMUNICATIONS.

(a) DISCLAIMERS.

(1) Every electioneering communication for which a statement is filed pursuant to subsection (b) shall include the following disclaimer: "Paid for by \_\_\_\_\_ (insert the name of the person who paid for the communication)." and "Financial disclosures are available at sfethics.org."

(2) Any disclaimer required by this Section 1.162 shall be included in or on an electioneering communication in a size, speed, or format that complies with the disclaimer requirements for independent expenditures supporting or opposing candidates

set forth in the Political Reform Act and its enabling regulations.

(3) Notwithstanding subsection (a)(2), any disclaimer required by this Section 1.162:

(A) to appear on a mass mailing, door hanger, flyer, poster, oversized campaign button or bumper sticker, or print advertisement, shall be printed in at least 14-point font;

(B) to be included in an audio advertisement, shall be spoken at the *end beginning* of such advertisements; or

(C) to be included in a video advertisement, shall be spoken at the *end beginning* of such advertisements.

\*\*\*

SEC. 1.170. PENALTIES.

(a) CRIMINAL. Any person who knowingly or willfully violates any provision of this Chapter 1 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$5,000 for each violation or by imprisonment in the County jail for a period of not more than six months or by both such fine and imprisonment; provided, however, that any willful or knowing failure to report contributions or expenditures done with intent to mislead or deceive or any willful or knowing violation of the provisions of Sections 1.114, *or* 1.126, *or* 1.127 of this Chapter 1 shall be punishable by a fine of not less than \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Sections 1.114, *or* 1.126, *or* 1.127 of this Chapter 1, or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140, whichever is greater.

(b) CIVIL. Any person who intentionally or negligently violates any of the provisions of this Chapter 1 shall be liable in a civil action brought by the City Attorney for an amount up to \$5,000 for each violation or three times the amount not reported or the amount received in excess of the amount allowable pursuant to Sections 1.114, *or* 1.126, *or* 1.127 or three times the amount expended in excess of the amount allowable pursuant to Section 1.130 or 1.140, whichever is greater. In determining the amount of liability, the court may take into account the seriousness of the violation, the degree of culpability of the defendant, and the ability of the defendant to pay.

(c) ADMINISTRATIVE. Any person who violates any of the provisions of this Chapter 1 shall be liable in an administrative proceeding before the Ethics Commission held pursuant to the Charter for any penalties authorized therein.

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Section 4. Scope of Ordinance. In enacting this ordinance, the People of the City and County of San Francisco intend to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal Code that are explicitly show in this ordinance as additions or deletions, in accordance with the "Note" that appears under the official title of the ordinance.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of the ordinance. The voters hereby declare that they would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional.

Section 6. Amendment or Repeal.



(a) Only the voters may amend or repeal any of the provisions of Section 1.114(b) and Section 1.127, including the pre-existing provisions of Section 1.114(b) prohibiting contributions from corporations. Sections 1.114(b) and 1.127 are not subject to Section 1.103.

(b) The Board of Supervisors may amend or repeal the remaining provisions of the ordinance subject to the conditions set forth in Section 1.103:

(1) the amendment furthers the purposes of this Chapter;

(2) the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;

(3) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors; and

(4) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

Section 7. Effective Date. The effective date of this ordinance shall be ten days after the official vote count is declared by the Board of Supervisors.

\* \* \*

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 Bond and Todd David

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 YES ON PROP B, COMMITTEE IN SUPPORT  
 14 OF THE EARTHQUAKE SAFETY AND  
 EMERGENCY RESPONSE BOND and  
 15 TODD DAVID,

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN FRANCISCO,

19 Defendants.

No.: 3:20-cv-00630

**DECLARATION OF TODD DAVID  
 IN SUPPORT OF MOTION FOR  
 PRELIMINARY INJUNCTION**

Hearing:

Date: TBD  
 Time: TBD  
 Crtrm.: TBD  
 Judge: TBD



**DECLARATION OF TODD DAVID**

I, Todd David, declare as follows:

1. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

2. I am the principal officer and treasurer of the “Yes on Prop B, Committee in support of the Earthquake Safety and Emergency Response Bond” committee (the “Committee”), the plaintiff in this matter.

3. I am the Executive Director of the San Francisco Housing Action Coalition (SFHAC), a nonprofit organization that advocates for building new well-designed, well-located housing at all levels of affordability in San Francisco.

4. I have been involved in San Francisco politics throughout my professional career, including as the Political Director for a successful state senate campaign and as a principle officer for the San Francisco Parent PAC, which supports and opposes local measures and candidates for school board. I have also served as the campaign manager for San Francisco ballot measure campaigns, including a soda tax measure in 2014 and a parks funding measure in 2016.

5. The Committee is a recipient committee under state law which is registered with the California Secretary of State. The Committee is required to file campaign reports with the Ethics Commission, and I am informed and believe that upon filing those reports the information is made public and fully searchable on the Ethics Commission’s website.

6. The Committee is primarily formed to support the passage of Proposition B on the March 3, 2020 ballot in the City and County of San Francisco.

7. I am informed and believe that on December 10, 2019, Proposition B was placed on the ballot by the Board of Supervisors and requires approval by at least a 66 and 2/3 percent vote to pass.

8. I am informed and believe that Proposition B would authorize the City and County of San Francisco to issue \$628,500,000 in bonds to improve San Francisco’s fire, earthquake and emergency response facilities and services.

1           9.       The Committee is not the only committee formed to support the passage of  
2 Proposition B. I am informed and believe that a separate committee, known as “Yes on B, sponsored  
3 by San Francisco Firefighters Local 798” is also primarily formed to support Proposition B. However,  
4 I wanted to be sure that the voter group with which I have worked most closely through the years was  
5 certain to understand the importance of passing Proposition B, particularly given the abbreviated  
6 election season this year, which resulted from the new March 3 primary in California, and given the  
7 two-thirds vote approval requirement for Proposition B. Thus, I decided to start a separate committee  
8 to target and get-out-the-vote of the voter group with which I was most familiar, including those whom  
9 I know through my involvement with the Parent PAC and SFHAC and my work on past candidate and  
10 ballot measure campaigns.

11           10.       As the Committee’s principal officer, I am responsible for directing its political  
12 activity including approving the content of its communications, authorizing its expenditures, and  
13 determining its campaign strategy.

14           11.       As the Committee’s treasurer, I am responsible for ensuring that the  
15 Committee’s public campaign statements are true and complete.

16           12.       As of January 27, 2020, the Yes on A, Affordable Housing for San Franciscans  
17 Now! committee, the Edwin M. Lee Democratic Club Political Action Committee, and the United  
18 Democratic Club of San Francisco had each contributed \$5,000 to the Committee on December 31,  
19 2019, January 6, 2020, and January 9, 2020, respectively.

20           13.       The three committees listed above are the Committee’s top three contributors of  
21 \$5,000 or more in the past 12 months.

22           14.       I have been notified by the Yes on A, Affordable Housing for San Franciscans  
23 Now! committee that its top two contributors of \$5,000 or more in the past 12 months are  
24 Salesforce.com, Inc. and Chris Larsen, who contributed \$300,000 and \$250,000, respectively, to that  
25 committee in 2019. A true and correct copy of that notice from that committee regarding its  
26 contributors is attached as Exhibit 1.

27           15.       I am informed and believe that the Yes on A, Affordable Housing for  
28 San Franciscans Now! committee is a recipient committee primarily formed to support the passage of

1 Proposition A on the November 5, 2019 ballot in the City and County of San Francisco, which  
2 authorized San Francisco to issue \$600 million in bonds to construct and maintain affordable housing.  
3 I am informed and believe that Proposition A was passed by San Francisco voters.

4 16. I have not communicated with Salesforce.com, Inc. or any representative thereof  
5 regarding whether Salesforce is taking an official position on Proposition B, nor have I solicited any  
6 donations from Salesforce. Salesforce has not made, and the Committee has not accepted, any  
7 contributions from Salesforce.com, Inc. I do not know if Salesforce.com, Inc. is supporting, taking a  
8 neutral position, or opposing Proposition B.

9 17. I have been notified by the United Democratic Club of San Francisco that its top  
10 two contributors of \$5,000 or more in the past 12 months are the San Francisco Association of Realtors  
11 (the "Realtors Association") and the Committee on Jobs Government Reform Fund, which contributed  
12 \$6,500 and \$5,000, respectively, to that committee in 2019. A true and correct copy of that notice  
13 from that committee regarding its contributors is attached as Exhibit 2.

14 18. I have been notified by the Edwin M. Lee Democratic Club Political Action  
15 Committee that its sole contributor of \$5,000 or more in the past 12 months contributors is the  
16 Committee on Jobs Government Reform Fund, which contributed \$5,000 to that committee in 2019. A  
17 true and correct copy of that notice from that committee regarding its contributors is attached as  
18 Exhibit 3.

19 19. I am informed and believe that the United Democratic Club of San Francisco  
20 and the Edwin M. Lee Democratic Club Political Action Committee are "general purpose" recipient  
21 committees that support or oppose various candidates and ballot measures in San Francisco. True and  
22 correct copies of the committee's Statements of Organizations (Form 410), as posted with redactions  
23 on the Ethics Commission website, are attached as Exhibit 4.

24 20. I have not communicated with the Realtors Association or any representatives  
25 thereof regarding whether the committee has or will be taking an official position on Proposition B,  
26 nor have I solicited any donations from the Realtors Association. The Realtors Association has not  
27 made, and the Committee has not accepted, any contributions from the Realtors Association.

1           21.     Moreover, I have decided *not* to solicit contributions from the Realtors  
2 Association because of Proposition F’s on-message disclaimer requirement. Based on my experience  
3 in San Francisco politics, I do not wish to associate the Realtors Association with the Committee’s  
4 messaging because I wish to appeal to a wide range of voters citywide and I believe that including the  
5 name of the Realtors Association in our ads may risk alienating those “progressive” Democrats who  
6 tend to take a more antagonistic position towards business and industry. In my experience,  
7 Progressives tend to blame those in the for-profit housing industry, including realtors, for  
8 San Francisco’s acute and politically charged housing crisis. Progressives are a powerful voting bloc,  
9 having recently had a string of electoral successes in San Francisco (which is already a Democratic  
10 town) and I do not want them to be prejudiced against Proposition B by virtue of the fact that the  
11 Realtors Association would be identified on the Committee’s advertisements.

12           22.     My strategy in soliciting contributions from supporters is generally informed by  
13 whether an association with a potential contributor will further, or detract from, the political message  
14 that I am trying to convey. For example, if a potential contributor has been associated with a position,  
15 cause, or other publicized event or issue that is at odds with that political message, I will consciously  
16 decide not to seek a solicitation from that individual.

17           23.     I have solicited contributions from other committees that have previously  
18 supported my campaign activities and who I consider to be natural political allies but these committees  
19 have declined to contribute the requested amounts and to associate with our campaign.

20           24.     Representatives of these committees have stated that they are concerned by the  
21 fact their own contributors could be disclosed on communications by the Committee and other  
22 campaign committee recipients of their contributions.

23           25.     In particular, these representatives are concerned that their committees’ own  
24 contributors may not wish to have their names and contribution amounts appear on campaign  
25 advertisements, particularly those not of their own choosing, as such appearance will be indicative of  
26 support and association.

27           26.     From my experience on campaigns, I understand that the 66 and 2/3 percent vote  
28 threshold necessary to pass Proposition B is a challenging one to meet.

1           27.     The Committee will have a limited budget to disseminate its communications  
2 and thus it is important that these communications are efficient and effective in attracting and holding  
3 someone's attention, delivering a compelling message, and clearly requesting a vote for Proposition B.

4           28.     In furtherance of its purpose, I have considered the cost and effectiveness of  
5 various forms of communications the Committee could use to engage San Francisco voters and urge  
6 them to vote in favor of Proposition B. I considered one or more of the following: (1) direct mail;  
7 (2) flyers; (3) window signs; (4) billboards; (5) volunteer and paid phone banks; (6) radio; and (7) paid  
8 online communications, including video ads distributed via social media and audio ads distributed via  
9 streaming radio platforms.

10          29.     Given its budgetary constraints, the Committee's preferred forms of  
11 communication would be digital (video) media, yard or window signs, and newspaper ads in a Chinese  
12 newspaper.

13          30.     To get a better sense of whether Proposition F's new disclaimer laws would  
14 adversely affect or limit the Committee's ability to communicate in any of those forms of  
15 communications, I had Margaret Muir, a leading political consultant with whom I have worked before,  
16 mock up what the Committee's ads might look like with Proposition F's enhanced disclaimers.  
17 The mocked-up ads are attached hereto as Exhibit 5, and were attached to my verified complaint in this  
18 case as Exhibit A. As can be seen from those exhibits, in virtually every example, the disclaimer  
19 would consume an unprecedented amount of space, at times as much as 100% of the communication. I  
20 am informed and believe that one of the reasons for this is that the Committee has accepted three  
21 contributions from other committees, and therefore under Proposition F, the top two donors of those  
22 committees must be identified on the Committee's disclaimers.

23          31.     In particular, the mocked-up ads revealed to me that several of my preferred  
24 forms of communication for the Committee, including online video and small newspaper ads, would be  
25 foreclosed because the disclaimer would either consume 100% of those ads or render any subsequent  
26 message meaningless. And for other forms of communication, such as window or yard signs, the  
27 disclaimer will consume approximately 35% of the available space.

1           32. A review of Exhibit 5 shows that the Committee’s disclaimer would consume  
2 the following percentages of usable space:

- 3           a. flyer/“palm card”: 35-38% (of one side), 17-19% (of both sides),  
4           b. window sign (horizontal): 35%  
5           c. 10” x 5” newspaper ad: 31-33%  
6           d. 5” x 5” newspaper ad: 75-80%  
7           e. 4” x 2” newspaper (ear) ad: 100%

8           33. I also asked Ms. Muir to evaluate the Committee’s spoken disclaimer  
9 requirements for digital and audio media advertisements. Due to its length (approximately 28 seconds  
10 for video and 16 seconds for radio), the Committee’s required disclaimer would consume the following  
11 percentages of time for the below forms of digital media advertisements:


- 12           a. digital video spots of 6 to 15 seconds: 100%  
13           b. digital video, 30-second spots: 90-93%  
14           c. audio or streaming music ads, 6 to 15 seconds: 100%  
15           d. audio or streaming music ads, 30-second spot: 50-53%

16           34. It will not be worthwhile for the Committee to use a medium of communication  
17 in which the Committee’s message is drowned out by Proposition F’s disclaimer requirements and thus  
18 the Committee will refrain from spending funds on these media. Given the above-discussed  
19 constraints, if the City’s new disclaimer laws are not enjoined before the March election, I do not  
20 believe it would be effective for the Committee to engage in any of its preferred methods of  
21 communication and therefore the Committee will not be able to engage in the election process.

22           35. Given my interest and involvement in San Francisco politics, I expect to  
23 participate in future ballot measure and other campaigns in San Francisco, and expect to be particularly  
24 active in connection with the November 3, 2020 presidential election cycle, either with this Committee  
25 or with another.

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on January 28, 2020.

  
TODD DAVID

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9 Attorneys for Plaintiffs  
 Yes on Prop B, Committee in Support of the  
 10 Earthquake Safety and Emergency Response  
 Bond and Todd David

11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA

13 YES ON PROP B, COMMITTEE IN SUPPORT  
 14 OF THE EARTHQUAKE SAFETY AND  
 EMERGENCY RESPONSE BOND and  
 15 TODD DAVID,

16 Plaintiffs,

17 vs.

18 CITY AND COUNTY OF SAN FRANCISCO,

19 Defendants.

No.: 3:20-cv-00630

**DECLARATION OF MAGARET MUIR  
 IN SUPPORT OF MOTION FOR  
PRELIMINARY INJUNCTION**

Hearing:

Date: TBD  
 Time: TBD  
 Crtrm.: TBD  
 Judge: TBD



**DECLARATION OF MAGGIE MUIR**

I, Maggie Muir, declare as follows:

1. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

2. I am a political consultant with over 20 years of experience running candidate and ballot measure campaigns, primarily at the state and local levels.

3. I am the founder and principal of Muir Consulting, a political consulting firm whose current and former clients include San Francisco’s current Mayor, Assessor, and member of the California State Senate as well as its former Sheriff and District Attorney.

4. Over the past ten years, I have been the primary consultant on over a dozen successful ballot measure campaigns, with an emphasis on passing measures that require a two-thirds vote, including campaigns in San Francisco for a \$600 million affordable housing bond in November 2019 (Prop. A), a \$425 million bond to rebuild the seawall around downtown in November 2018, bonds for road and transit improvements in 2016 and 2011, and a parks bond in 2012.

5. As the primary consultant on these campaigns, I have been responsible for developing each campaign’s strategy and budget, designing and placing campaign advertisements in various media, and overseeing campaign operations, including staffing, voter outreach and compliance.

6. My years of experience have taught me that a successful bond measure campaign strategy will generally include determining which types of voters are supportive or undecided about the measure, raising awareness about the importance of the measure and the primary uses of bond proceeds among those voters, and identifying and helping to turn out supportive voters on election day (or encouraging them to turn in their vote-by-mail ballots).

7. Media, targeting, and turnout strategies are based on poll results identifying types of voters who are supportive of the measure, or who are identified as undecided but persuadable, and thus different campaigns will have different strategies depending on the type of bond and on the poll results. For example, a bond campaign aimed at reinforcing San Francisco’s seawall would likely target flooding concerns held by commuters.

1           8.       Based on my experience with five bond measures in San Francisco over the last  
2 nine years, I have learned that a successful bond measure campaign must address the concerns of  
3 property owners, particularly those located on the western side of San Francisco, about whether and to  
4 what extent the bond measure will affect their property taxes.

5           9.       The budget of larger bond measure campaigns I have worked on in  
6 San Francisco have typically been approximately \$1 million to \$1.75 million. In these campaigns, the  
7 bulk of the campaign's budget – at least 70% – is spent on a variety of paid media, including TV,  
8 radio, direct mail, signs, a phone program, newspaper ads, and digital advertising.

9           10.      Spending for voter outreach efforts, such as canvassing, typically represents  
10 about 10% of the campaign's budget, with the balance of the budget (i.e., about 20%) taken up by  
11 spending for research, fundraising, and consulting and compliance fees.

12           11.      Based on my years of experience, I know that the bulk of a larger campaign's  
13 paid media spending generally focuses on direct mail and television ads, although spending on digital  
14 media is increasing rapidly as more voters of all demographic groups get their news and information  
15 online, via social media sites like Facebook, news sites like the San Francisco Chronicle, and blogs.

16           12.      In any case, a successful campaign communicates its message in as many media  
17 outlets as possible in order to reach all targeted audiences and to reinforce its messaging in the other  
18 media.

19           13.      The larger bond measure campaigns I have worked on have spent up to  
20 \$550,000 on direct mail, \$650,000 on television, and \$310,000 on digital advertising.

21           14.      The budgets of smaller bond measure campaigns I have worked on in  
22 San Francisco have typically been approximately \$250,000 to \$300,000. These campaigns use similar  
23 strategies, but tend to focus on only one or two forms of media for messaging and voter outreach.

24           15.      I am aware of the mandated funder disclaimer statements for campaign  
25 advertisements required by San Francisco law pursuant to Proposition F and, as described below, based  
26 on my experience, I believe that in most cases these statements will overwhelm and dominate  
27 communications sent by a ballot measure campaign or independent expenditure committee because the  
28

1 focus will be primarily on the funding sources of the message and not on the actual content of the  
2 message sought to be conveyed.

3 16. These requirements will be so distracting as to render important campaign  
4 communications ineffective, and to deprive voters of important information they need to make  
5 decisions at the ballot.

6 17. Moreover, the formatting requirements for these disclaimer statements will  
7 make campaign messaging via certain media impossible, while substantially increasing the costs of  
8 such messaging in other media.

9 18. In my experience, recipients of campaign communications perceive that a  
10 person listed as a funding source on that communication is associated with the message sought to be  
11 conveyed.

12 19. I understand that Todd David has formed a small ballot measure committee to  
13 support Proposition B in the March 3, 2020 San Francisco municipal election. I have worked with  
14 Mr. David before and in order to provide him and his new committee guidance about how the City's  
15 new disclaimer laws would affect the Committee's communications efforts, particularly given its  
16 modest budget, I caused my office to mock-up ads for Yes on Prop B. Those mocked up ads are  
17 attached as Exhibit 1.

18 ***Digital Strategy Generally***

19 20. Advertising via digital media – including social media, websites like the  
20 New York Times and other news sites, and video and audio streaming – has become an increasingly  
21 integral part of San Francisco campaigns given that most voters tend to get their information on their  
22 computers, tablets, and mobile devices. All campaigns must therefore have a robust digital budget,  
23 even if the campaign budget is small.

24 21. A digital campaign strategy typically includes advertising on social media sites  
25 and purchasing spots on programmatic websites. These ads can include static images, but have been  
26 including video clips more recently, since video clips generate much higher viewer engagement than  
27 static ads and have become a preferred type of digital ad.

1           22. A video or static digital ad will typically be viewed by a user as he or she scrolls  
2 down through a social media website or through another type website, or watches or listens to material  
3 on streaming platforms like Youtube or Spotify.

4           23. Although not as precise as direct mail, digital ads have become much more  
5 targeted in recent years, as campaigns are increasingly able to find voters by cross-referencing voter  
6 file information with specific IP addresses, and to use digital information to target other similar voters  
7 based on demographic information.

8           24. The resulting targeted ads are placed on social media and programmatic  
9 websites, as well as audio- and video-based sites, visited by the identified users or by users with  
10 similar demographic characteristics.

11           25. Digital ads are relatively inexpensive, particularly compared to television ads.  
12 Audio and video digital ads in particular are able to be made and produced for pretty low cost, using a  
13 mobile phone camera and editing software.

14           26. Digital advertising is relatively easy to manage, can generally work for any size  
15 political campaign, and can easily expand to more advanced ads as the size of the campaign grows.

16           27. A digital strategy also allows a ballot measure campaign to receive real-time  
17 metrics and feedback about its targeting efforts.

18           28. Finally, online advertising can also serve an important fundraising function by  
19 directing viewers to click through to a campaign's website and learn more about a campaign and  
20 contribute to the sponsoring committee.

### 21 *Digital Video Ads*

22           29. Digital video ads are displayed on social media, platforms like Youtube, and on  
23 programmatic or commercial websites, including news sites. Video ads are more engaging than static  
24 ads and tend to have higher "click through" rates where the viewer is interested in the message and, in  
25 order to learn more, clicks the video to be taken to the sponsor's website.

26           30. These ads can be of any length but are increasingly lasting 15 seconds or less  
27 due to online viewer habits. Specifically, a viewer whose attention is not grabbed at the beginning of  
28 the ad will typically drop off between three and five seconds. Even those viewers who are interested

1 typically watch a video ad for only about 15 seconds. In short, video completion rates are significantly  
2 lower if the attention of the viewer is not engaged immediately.

3 31. Many platforms and commercial websites allow viewers to “skip” video ads by  
4 pressing an icon after a few seconds (typically three to five), while others allow sponsors to pay more  
5 to remove this capability (a “no skip” option).

6 32. On social media sites like Facebook, many users often may not even view video  
7 ads with sound, at least at first, and sound will only commence after they click on the ad. As a result,  
8 many campaigns include captioning on the ad which transcribes the video narration.

9 33. Based on the Committee’s current top three contributors of \$5,000 or more, I  
10 understand that the mandated disclaimer statement that will appear on typical video ad is as set forth in  
11 Exhibit 1. I also understand that a mandated disclaimer statement must also be spoken at the beginning  
12 of the ad.

13 34. Specifically, I have been informed that Yes on B must have the following  
14 disclaimer spoken at the beginning of a digital video ad before any political message can be conveyed:

15 Ad paid for by Yes on Prop B, Committee in support of the Earthquake  
16 Safety and Emergency Response Bond. Committee major funding from:  
17 1. United Democratic Club of San Francisco – contributors include  
18 San Francisco Association of Realtors, Committee on Jobs Government  
19 Reform Fund; 2. Edwin M. Lee Democratic Club Political Action  
20 Committee – contributors include Committee on Jobs Government  
21 Reform Fund; 3. Yes on A, Affordable Homes for San Franciscans Now!  
22 – contributors include Salesforce.com, Inc., Chris Larsen. Financial  
23 disclosures are available at sfethics.org.

24 35. I have spoken the above mandated disclaimer statement and it took me  
25 approximately 27-28 seconds to say the whole thing read in a clearly spoken manner and in a pitch and  
26 tone substantially similar to the rest of a typical television advertisement.

27 36. Thus, the required *spoken* disclaimer statement would consume 100% of a 15-  
28 second ad, 90-93% of 30-second ad, and 45-46% of a 60-second ad. Moreover, I estimate that the  
required *written* disclaimer statement will take up approximately 35-40% of the screen. This written  
disclaimer statement must appear at the beginning or end of the ad for at least 5 seconds of a video of  
30 seconds or less, and at the beginning the ad for at least 10 seconds of a video longer than  
30 seconds.

1           37.     Given the above, it is my professional judgement that San Francisco’s mandated  
2 disclaimer requirements will seriously compromise a ballot measure or independent expenditure  
3 campaign’s ability to effectively communicate its message to voters through digital video ads.

4           38.     First, reading the above mandated disclaimer statement alone effectively rules  
5 out any campaign digital video advertisement of 30 seconds or less, as the statement takes up all or  
6 most of the ad. Even for video lasting more than 30 seconds, a viewer that faces a long disclaimer at  
7 the beginning will not be engaged immediately and will be more likely to pass over the ad. In any  
8 case, the statement would completely dominate the advertisement, distracting from the campaign’s  
9 message.

10          39.     Second, the spoken disclaimer statement requirement substantially increases the  
11 likelihood that a viewer will lose interest and continue to scroll through his or her social media feed, or  
12 skip the ad when able to. Even if the viewer must activate the sound to hear the spoken statement, it  
13 will be as the disclaimer statement is being read, thus discouraging continued viewing. For ads over  
14 30 seconds in length, the printed disclaimer statement displayed at the beginning of the ad will  
15 certainly also encourage a viewer to skip the ad.

16          40.     Third, with each line required by law to comprise at least 4 percent of the height  
17 of the viewing screen, I estimate that the required written disclaimer statement will take up  
18 approximately 35 to 40% of the screen. This disclaimer statement must appear at the beginning or end  
19 of the ad for at least 5 seconds of a video of 30 seconds or less, and at the beginning the ad for at least  
20 10 seconds of a video longer than 30 seconds. Written on a black background, this disclaimer  
21 statement will certainly distract from the message and any information conveyed while it is displayed.

22          41.     Fourth, taken together, the written and audio disclaimer statements certainly  
23 make the disclosed funders the main message of the ad, not the information about the ballot measure.

24          42.     Finally, any captioning included for an ad would, when appearing at the same  
25 time as the printed “black box” disclaimer statement, essentially fill the entire screen with that  
26 information.

1 ***Digital and Conventional Radio Ads***

2 43. Although relatively expensive, conventional radio advertisements remains an  
3 important means for ballot measure campaigns to reach the Chinese community in San Francisco.

4 44. Less expensive, advertising on music streaming services such as Pandora or  
5 Spotify is an increasingly utilized aspect of a campaign's digital strategy.

6 45. In either case, most audio ads are at most 15 to 30 seconds, but the trend is  
7 towards shorter ads for reasons similar to those mentioned with respect to video ads.

8 46. Also, like video ads, an effective ad must engage the attention of the listener  
9 immediately or the listener will likely change the channel, skip the ad, or generally ignore it. Effective  
10 audio ads typically use a conversational tone and concisely convey a clear message.

11 47. Based on the Committee's current top three contributors of \$5,000 or more, the  
12 following mandated disclaimer statement must also be spoken at the beginning of an audio ad,  
13 including radio and streaming radio ads:

14 Ad paid for by Yes on Prop B, Committee in support of the Earthquake  
15 Safety and Emergency Response Bond. Committee major funding from:  
16 United Democratic Club of San Francisco – contributors include  
San Francisco Association of Realtors, Committee on Jobs Government  
17 Reform Fund. Financial disclosures are available at sfethics.org.

18 48. I have spoken the above mandated disclaimer statement and it took me  
19 approximately 15-16 seconds to say the whole thing in a clearly spoken manner and in a pitch and tone  
20 substantially similar to the rest of a typical audio advertisement. Thus, the required spoken disclaimer  
21 statement would consume 100% of a 15-second ad, 50-53% of 30-second ad, and 25-27% of a 60-  
second ad.

22 49. Given the above, it is my professional judgement that San Francisco's mandated  
23 disclaimer requirements will seriously compromise a ballot measure committee's ability to effectively  
24 communicate its message to voters through digital or conventional radio ads because the statement  
25 would completely dominate the advertisements. It would take up essentially all of a 15-second ad, and  
26 a majority of a 30-second ad, effectively ruling out such ads. For the 30-second ad, the disclaimer at  
27 the beginning would ensure that listeners would not be engaged by the message and, for digital audio  
28 ads, would significantly lower audio completion rates.



1 *Flyers*

2 50. Direct voter contact through in-person conversations (also known as “field,”  
3 “outreach,” and “canvassing”) is a traditional and effective method for influencing voters and  
4 increasing voter turnout in San Francisco bond measure campaigns.

5 51. Flyers or “palm cards” distributed by canvassers are integral to canvassing  
6 efforts as they provide the canvasser with an outline of talking points, reinforce that messaging, and  
7 remind voters of a measure’s impacts after a conversation with a canvasser.

8 52. These materials are individual pieces of paper with engaging graphics and key  
9 messages about the measure, often in bullet point form. A palm card is typically a single page  
10 measuring 5.5 inches by 8.5 inches, which allows such cards to be easily held and distributed by  
11 workers and volunteers (they usually are on thick paper or cardboard stock for ease of use). A larger  
12 bond measure campaign may spend around \$30,000 on palm cards and similar materials such as flyers  
13 and doorhangers.

14 53. Based on the Committee’s current top three contributors of \$5,000 or more, the  
15 mandated disclaimer statement that will appear on a palm card is as set forth in Exhibit 1, will  
16 consume about 35-38% of one side of the card (i.e., 17-19% of the total usable space on the card).

17 54. Given the above, it is my professional judgement that San Francisco’s mandated  
18 disclaimer requirements will compromise a bond measure’s campaign’s ability to effectively  
19 communicate its message to voters through canvassing, flyers, and palm cards for the reasons set forth  
20 below.

21 55. The mandated disclaimer statement will dominate the message. In addition, the  
22 disclaimer statement will significantly reduce the amount of information that can be conveyed via a  
23 palm card. A mandated disclaimer statement that takes up that much of the palm card could require a  
24 campaign to print an additional page (so the whole thing is a folded booklet) to make up for the  
25 missing information. This would double both the size and the cost of the piece, and would reduce both  
26 the easy visibility of the messaging as well as the ease with which the pieces are carried and conveyed.



1 **Window Signs and Billboards**

2 56. While billboards increase a bond measure's visibility, window signs are  
3 important to bond measure campaigns in San Francisco because they demonstrate support in the  
4 community and otherwise increase awareness about the measure.

5 57. While billboards are placed via commercial entities, window signs are typically  
6 distributed by campaign volunteers and staff to local stores and residents for display in their windows.

7 58. A typical window sign will measure approximately 14 inches by 22 inches in  
8 order to fit into a typical home or store window. Window signs may be prepared for display both  
9 vertically and horizontally, while billboards are typically displayed horizontally. Billboards and  
10 window signs typically include a compelling graphic, a tag line, and a key message about the measure.

11 59. To be effective, a window sign's message must be visible from the street or  
12 further away.

13 60. Based on the Committee's current top three contributors of \$5,000 or more, the  
14 mandated disclaimer statement that will appear on a window sign and billboard is as set forth in  
15 Exhibit 1.

16 61. With each line required by law to comprise at least five percent of the height of  
17 the ad, I estimate that the disclaimer statement will consume approximately 35% of a horizontal  
18 window sign and billboard, and likely a greater percentage of a vertical window sign.

19 62. Given the above, it is my professional judgement that San Francisco's mandated  
20 disclaimer requirements will compromise a bond measure campaign's ability to effectively  
21 communicate its message to voters, and to demonstrate community support, through window signs and  
22 billboards because the required statements are so big that the sign's graphics and messaging must be  
23 substantially smaller and less visible from the street.

24 63. As mentioned, I was the consultant to the successful campaign to support the  
25 housing bond on the November 5, 2019 ballot in San Francisco, and that campaign produced window  
26 signs in compliance with San Francisco law as it existed prior to the enactment of Proposition F. An  
27 example of one of those signs is set forth in Exhibit 2. The disclaimer on those signs only required the  
28 listing of the committee's top three contributors of \$10,000 or more, and consumed only about 15% of

1 the space of a horizontal sign. In my professional opinion, the required format for these disclaimers  
2 under the law before the enactment of Proposition F were overly large, but still consumed less space  
3 and provided clearer, and sufficiently prominent, funder information to voters.

#### 4 ***Print/Newspapers Ads***

5 64. Printed ads in traditional newspapers and magazines are a traditional campaign  
6 media and a particularly effective for reaching Chinese voters in San Francisco as newspapers are  
7 where many Chinese voters get in-language local information.

8 65. In my experience, larger bond measure campaigns may spend as much as  
9 \$40,000 on print ads.

10 66. A common, and the most economical, Chinese newspaper ad is what is known  
11 as the “ear” ad, which is a small ad measuring about two inches by four inches and appearing in the top  
12 left or right corner of a newspaper page. These ads typically cost about \$300 to \$400 per ad, versus  
13 quarter and half page ads that can cost thousands of dollars.

14 67. Based on the Committee’s current top three contributors of \$5,000 or more, and  
15 the requirement that the mandated disclaimer statement appear in at least 14-point bold type in print  
16 ads, the Committee’s disclaimer would consume 100% of an “ear” ad and about 75-80% of an ad  
17 measuring five inches by five inches. It is my professional judgement that these requirements will  
18 seriously compromise a bond measure’s campaign’s ability to effectively communicate its message to  
19 Chinese voters through print ads as they would effectively render these ads infeasible. *See* Ex. 1.  
20 Moreover, the disclaimer statement would dominate and distract from messages in even larger ads as  
21 the font size in newspapers are significantly smaller than 14 point. For example, the disclaimer would  
22 consume about 31-33% of a five inch by 10-inch ad. In essence, the ad would in large part be a  
23 disclaimer statement. *See* Ex. 1.

#### 24 ***Phone Banks***

25 68. Phone calls made by volunteers and paid callers to voters are an effective way of  
26 identifying, tracking, and communicating with supporters in bond measure campaigns. They also help  
27 increase voter turnout among supporters.

1           69. Volunteers and paid callers will typically place calls to targeted voters and, after  
2 using a script to guide their discussion, determine the voters' position on the measure, identifying  
3 supporters or those who might be convinced to support the measure. Later they will call previously  
4 identified supporters once vote-by-mail ballots have been sent out to urge them to return those ballots.

5           70. Phone banks can be implemented quickly and can easily target voters based on  
6 the appropriate demographics. While commercial firms may be paid directly to make these calls,  
7 volunteers will often be organized by campaign staff to make calls from the campaign's headquarters.  
8 Such volunteer phone banking is often used for the Chinese voters in San Francisco.

9           71. Based on my experience, larger bond measure campaigns spend up to \$15,000 to  
10 \$20,000 on volunteer and paid phone banks.

11           72. Although these calls can be effective if done correctly, there is always a risk that  
12 voters will simply hang up or delete a voicemail message.

13           73. Based on the Committee's current top three contributors of \$5,000 or more, I  
14 understand that the following mandated disclaimer statement must also be spoken at the beginning of a  
15 phone call:

16           Hello. This ad is paid for by Yes on Prop B Committee in support of the  
17 Earthquake Safety and Emergency Response Bond. Committee major  
18 funding from: 1. United Democratic Club of San Francisco –  
19 contributors include San Francisco Association of Realtors, Committee  
20 on Jobs Government Reform Fund; 2. Edwin M. Lee Democratic Club  
21 Political Action Committee – contributors include Committee on Jobs  
22 Government Reform Fund; 3. Yes on A, Affordable Homes for  
23 San Franciscans Now! – contributors include Salesforce.com, Inc., Chris  
24 Larsen. Financial disclosures are available at sfethics.org.

25           74. I have spoken the above mandated disclaimer statement and it took me  
26 approximately 27-28 seconds to say the whole thing in a clearly spoken manner and in a pitch and tone  
27 substantially similar to the rest of a typical call.

28           75. Given the above, it is my professional judgement that San Francisco's mandated  
29 disclaimer requirements will seriously compromise a bond measure campaign's ability to effectively  
30 communicate its message to voters and to increase voter turnout through phone banks because it is  
31 exceedingly unlikely that any call beginning with the above mandated disclaimer statement will be

1 listened to in their entirety, if at all. People will simply hang up if the mandated disclaimer statement  
2 is the first thing that they hear.

3 **Television**

4 76. Although evidently out of reach for the Committee due to budgetary constraints,  
5 television advertising is a preferred medium for larger bond measure campaigns in San Francisco due  
6 to its ability to reach an extensive and varied group of voters throughout the city.

7 77. Campaign television ads are placed on broadcast and cable networks via a media  
8 buyer who purchases time from those networks, typically in increments of 15, 30, or 60 seconds.  
9 Television advertising is the most expensive advertising medium available to a ballot measure and  
10 candidate campaign. Rates for TV advertising are often measured in cost per mille (“CPM”), which  
11 means the cost of getting an ad to 1,000 people. TV advertising rates in the San Francisco Bay Area  
12 can range between \$5 CPM and \$45 CPM, but rates will increase as other committees and candidates  
13 buy up the ad space during an election cycle.

14 78. Television advertising for a bond measure campaign will generally include the  
15 campaign’s main theme as well as key messages, such as the measure’s impact on city residents. Such  
16 advertising will be effective only if it attracts viewers’ attention at the beginning of the ad and thus  
17 much thought and effort goes into creating an engaging “hook” at the beginning of the ad, particularly  
18 the first five seconds.

19 79. Based on the Committee’s current top three contributors of \$5,000 or more, I  
20 understand that the mandated disclaimer statement that will appear on typical television ad is as set  
21 forth in Exhibit 1, and that the required spoken disclaimer statement would consume 100% of a 15-  
22 second ad, about 90-93% of 30-second ad, and 45-46% of a 60-second ad.

23 80. Specifically, I have been informed that Yes on B must have the following  
24 disclaimer spoken at the beginning of a television ad before any political message can be conveyed:

25 Ad paid for by Yes on Prop B, Committee in support of the Earthquake  
26 Safety and Emergency Response Bond. Committee major funding from:  
27 1. United Democratic Club of San Francisco – contributors include  
28 San Francisco Association of Realtors, Committee on Jobs Government  
Reform Fund; 2. Edwin M. Lee Democratic Club Political Action  
Committee – contributors include Committee on Jobs Government  
Reform Fund; 3. Yes on A, Affordable Homes for San Franciscans Now!

1 – contributors include Salesforce.com, Inc., Chris Larsen. Financial  
2 disclosures are available at sfethics.org.

3 81. I have spoken the above mandated disclaimer statement and it took me  
4 approximately 27-28 seconds to say the whole thing read in a clearly spoken manner and in a pitch and  
5 tone substantially similar to the rest of a typical television advertisement.

6 82. Given the above, it is my professional judgement that San Francisco's mandated  
7 disclaimer requirements will seriously compromise a bond measure campaign's ability to effectively  
8 communicate its message to voters through television ads.

9 83. First, reading the above mandated disclaimer statement alone effectively rules  
10 out any campaign television advertisement of 30 seconds or less, as the statement takes up all or most  
11 of the ad. Even for video lasting more than 30 seconds, a viewer that faces a long disclaimer at the  
12 beginning will not be engaged immediately and will be more likely to change the channel. In any case,  
13 the statement would completely dominate the advertisement, distracting from the campaign's message.

14 84. Second, with each line required by law to comprise at least 4 percent of the  
15 height of the television screen, I estimate that the required written disclaimer statement will take up  
16 approximately 35 to 40% of the screen. This disclaimer statement must appear at the beginning or end  
17 of the ad for at least 5 seconds of a video of 30 seconds or less, and at the beginning the ad for at least  
18 10 seconds of a video longer than 30 seconds. Written on a black background, this disclaimer  
19 statement will certainly distract from the message and any information conveyed while it is displayed.

20 85. Third, taken together, the written and audio disclaimer statements certainly  
21 make the disclosed funders the main message of the television ad, not the information about the ballot  
22 measure.

### 23 ***Robocalls***

24 86. Automatically dialed phone calls (i.e., "robocalls") are an inexpensive way to  
25 get a bond measure campaign's message out in San Francisco in a quick and targeted fashion and with  
26 the help of elected officials, who often are willing to appear in those messages.

27 87. These calls are recorded messages, often by public officials and local celebrities,  
28 that are delivered en masse to targeted voters' phones in San Francisco. Given the advent of mobile

1 phones and caller ID, many of these messages are delivered to voicemail and many people will delete  
2 these messages.

3 88. Based on the Committee's current top three contributors of \$5,000 or more, the  
4 following mandated disclaimer statement must also be spoken at the beginning of a robocall, including  
5 radio and streaming radio ads:

6 Hello. This ad is paid for by Yes on Prop B Committee in support of the  
7 Earthquake Safety and Emergency Response Bond. Committee major  
8 funding from: United Democratic Club of San Francisco – contributors  
9 include San Francisco Association of Realtors, Committee on Jobs  
Government Reform Fund. Financial disclosures are available at  
sfethics.org.

10 89. Given the above, it is my professional judgement that San Francisco's mandated  
11 disclaimer requirements will seriously compromise a bond measure's campaign's ability to effectively  
12 communicate its message to voters through robocalls because people will simply hang up if the  
13 mandated disclaimer statement is the first thing that they hear on the call, and they will simply delete  
14 and not listen to any message left with that statement.

#### 15 *Direct Mail*

16 90. Although a direct mail program is likely beyond the means of the Committee,  
17 mass campaign mailers sent directly to voters, also known as direct mail, remain one of the most  
18 effective types of campaign communications.

19 91. By using information contained in the voter file maintained by the Department  
20 of Elections, a campaign can send mail containing a carefully crafted message to a precisely targeted  
21 audience based on a variety of factors including past turnout, ethnicity, age, gender, party preference,  
22 and residence address.

23 92. In order to be effective, direct mail must grab a voter's attention as quickly as  
24 possible, usually through a compelling image; otherwise, it will be typically thrown away without  
25 being read.

26 93. The benefit of direct mail is that the reader's attention can be easily commanded  
27 by an immediately visible message without having to open anything. The space on each side of a  
28 mailer is important for conveying the message and grabbing the voter's attention. At least a 2" area on



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the top of one side of the mail piece, however, is unusable since that area must be used for the mailing address, return address, and U.S. Postal Service permit information.

94. A typical one-page mail piece that is 8.5 inches by 11 inches, sent to a targeted citywide audience, could cost approximately \$70,000, at \$0.55 to \$0.60 per piece, including design, production, and postage costs, although more targeted mail sent to a limited geographic area can cost much less.

95. In some instances, the mandated disclaimer statement required by Prop. F will take up a considerable amount of space on a mailer. For example, a smaller post-card size mailer, which is typically used for smaller campaigns, could potentially see the entire disclaimer take up almost all of a single side.

96. The disclaimer statement will overwhelm the other elements of a smaller mailer, compromise the campaign’s ability to include compelling graphics and text, and will substantially increase the likelihood of the mailer being thrown out by a voter before he or she has read its message.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on January 20, 2020.

  
MARGARET MUIR



ADRMOP, APPEAL

**U.S. District Court  
California Northern District (San Francisco)  
CIVIL DOCKET FOR CASE #: 3:20-cv-00630-CRB**

Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond et al v. City and County of San Francisco

Assigned to: Judge Charles R. Breyer  
Case in other court: USCA#:20-15456  
Cause: 28:1331 Fed. Question

Date Filed: 01/28/2020  
Jury Demand: Plaintiff  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

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**Plaintiff**

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V.

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**City and County of San Francisco**

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**ATTORNEY TO BE NOTICED**

**Amicus**

**Peter Keane**

Date Filed	#	Docket Text
01/28/2020	<u>1</u>	VERIFIED COMPLAINT for Injunctive Relief (First and Fourteenth Amendments, 42 U.S.C. Section 1983) against Defendant City and County of San Francisco, (Filing Fee: \$400.00, receipt number 0971-14113839). Filed by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond, Todd David. (Attachments: #(1) Civil Cover Sheet, #(2) Summons)(Willis, Thomas) (Filed on 1/28/2020) Modified on 1/29/2020 (tnS, COURT STAFF). (Entered: 01/28/2020)
01/28/2020	<u>2</u>	CONSENT/DECLINATION to Proceed Before a United States Magistrate Judge filed by Todd David, YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND.. (Willis, Thomas) (Filed on 1/28/2020) (Entered: 01/28/2020)
01/28/2020	<u>3</u>	Certification of Interested Entities or Persons filed by Todd David, YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND re <u>1</u> Complaint (Willis, Thomas) (Filed on 1/28/2020) (Entered: 01/28/2020)
01/28/2020	<u>4</u>	CERTIFICATE OF SERVICE filed by Todd David, YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND of re <u>2</u> Consent/Declination to Proceed Before a US Magistrate Judge, re <u>1</u> Complaint, re <u>3</u> Certificate of Interested Entities (Willis, Thomas) (Filed on 1/28/2020) (Entered: 01/28/2020)
01/28/2020	<u>5</u>	NOTICE OF MOTION AND MOTION for Preliminary Injunction; <i>Memorandum of Points and Authorities</i> filed by Todd David, YES ON PROP B, COMMITTEE IN SUPPORT OF THE EARTHQUAKE SAFETY AND EMERGENCY RESPONSE BOND. Responses due by 2/11/2020. Replies due by 2/18/2020. (Attachments: # <u>1</u> Request for Judicial Notice, # <u>2</u> Declaration of Nicole Derse, # <u>3</u> Declaration of Margaret Muir, # <u>4</u> Declaration of Andrew Sinn, # <u>5</u> Declaration of Todd David, # <u>6</u> Proposed Order)(Willis, Thomas) (Filed on 1/28/2020) (Entered: 01/28/2020)
01/29/2020	<u>6</u>	Case assigned to Judge Charles R. Breyer.  Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E-Filing A New Civil Case</i> at <a href="http://cand.uscourts.gov/ecf/caseopening">http://cand.uscourts.gov/ecf/caseopening</a> .  Standing orders can be downloaded from the court's web page at <a href="http://www.cand.uscourts.gov/judges">www.cand.uscourts.gov/judges</a> . Upon receipt, the summons will be issued and returned electronically. Counsel is required to send chambers a copy of the initiating

		documents pursuant to L.R. 5-1(e)(7). A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. (mbcS, COURT STAFF) (Filed on 1/29/2020) (Entered: 01/29/2020)
01/29/2020	<u>7</u>	<b>Initial Case Management Scheduling Order with ADR Deadlines: Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and <a href="http://cand.uscourts.gov/cameras">http://cand.uscourts.gov/cameras</a>. Joint Case Management Statement due by 4/24/2020. Initial Case Management Conference set for 5/1/2020 at 08:30 AM in San Francisco, Courtroom 06, 17th Floor. (Attachments: #(1) Notice of Eligibility for Video Recording)(tnS, COURT STAFF) (Filed on 1/29/2020) (Entered: 01/29/2020)</b>
01/29/2020	<u>8</u>	Summons Issued as to Defendant City and County of San Francisco. (tnS, COURT STAFF) (Filed on 1/29/2020) (Entered: 01/29/2020)
01/29/2020	<u>9</u>	UNOPPOSED MOTION to Shorten Time for re <u>5</u> Plaintiffs' Motion for Preliminary Injunction; Declaration of Kristen M. Rogers filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Willis, Thomas) (Filed on 1/29/2020) (Entered: 01/29/2020)
01/30/2020	<u>10</u>	[Proposed] Order Granting re <u>9</u> MOTION to Shorten Time for Plaintiffs' Motion for Preliminary Injunction filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Willis, Thomas) (Filed on 1/30/2020) (Entered: 01/30/2020)
01/30/2020	<u>11</u>	MOTION for Leave to File Excess Pages for re <u>5</u> Motion for Preliminary Injunction and Provide Summary of Argument filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Attachments: #(1) [Proposed] Order)(Willis, Thomas) (Filed on 1/30/2020) (Entered: 01/30/2020)
01/30/2020	<u>12</u>	CERTIFICATE OF SERVICE by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond re <u>7</u> Initial Case Management Scheduling Order with ADR Deadlines, and Supplementary Material (Willis, Thomas) (Filed on 1/30/2020) (Entered: 01/30/2020)
01/31/2020	<u>13</u>	<b>ORDER GRANTING PLAINTIFFS' MOTION TO EXCEED PAGE LIMIT FOR MOTION FOR PRELIMINARY INJUNCTION AND PROVIDE SUMMARY OF ARGUMENT by Judge Charles R. Breyer on 1/31/2020. Granting <u>11</u> Motion for Leave to File Excess Pages. (ls, COURT STAFF) (Filed on 1/31/2020) (Entered: 01/31/2020)</b>
01/31/2020	<u>14</u>	<b>ORDER GRANTING PLAINTIFFS' MOTION TO SHORTEN TIME TO NOTICE MOTION FOR PRELIMINARY INJUNCTION – Re <u>10</u> Proposed Order, filed by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond, Todd David: Opposition due by 2/7/2020. Replies due by 2/11/2020. Motion Hearing set for 2/14/2020 at 10:00 AM in San Francisco, Courtroom 06, 17th Floor before Judge Charles R. Breyer. Signed by Judge Charles R. Breyer on 1/31/2020. (lsS, COURT STAFF) (Filed on 1/31/2020) (Entered: 01/31/2020)</b>
01/31/2020		Set/Reset Deadlines as to <u>5</u> MOTION for Preliminary Injunction; Memorandum of Points and Authorities. Opposition due by 2/7/2020. Replies due by 2/11/2020. Motion Hearing set for 2/14/2020 at 10:00 AM in San Francisco, Courtroom 06, 17th Floor before Judge Charles R. Breyer. (lsS, COURT STAFF) (Filed on 1/31/2020) (Entered: 01/31/2020)
01/31/2020	<u>15</u>	CERTIFICATE OF SERVICE filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond of re <u>13</u> Order on Motion for Leave to File Excess Pages, re <u>14</u> Order (Willis, Thomas) (Filed on 1/31/2020) (Entered: 01/31/2020)
02/04/2020	<u>16</u>	STIPULATION WITH PROPOSED ORDER RE: PAGE LIMITS FOR THE OPPOSITION AND REPLY BRIEF CONCERNING PLAINTIFFS MOTION FOR A PRELIMINARY INJUNCTION filed by City and County of San Francisco. (Steeley, Tara) (Filed on 2/4/2020) (Entered: 02/04/2020)
02/05/2020	<u>17</u>	<b>STIPULATION AND ORDER RE: PAGE LIMITS FOR THE OPPOSITION AND REPLY BRIEF CONCERNING PLAINTIFFS' MOTION FOR A</b>

		<b>PRELIMINARY INJUNCTION by Judge Charles R. Breyer: Granting <u>16</u> Stipulation. (ls, COURT STAFF) (Filed on 2/5/2020) (Entered: 02/05/2020)</b>
02/07/2020	<u>18</u>	OPPOSITION/RESPONSE to (re <u>5</u> MOTION for Preliminary Injunction; <i>Memorandum of Points and Authorities</i> ) filed by City and County of San Francisco. (Steeley, Tara) (Filed on 2/7/2020) (Entered: 02/07/2020)
02/07/2020	<u>19</u>	Declaration of Patrick Ford in Support of <u>18</u> Opposition/Response to Motion for Preliminary Injunction filed by City and County of San Francisco. (Attachments: # <u>1</u> Exhibit A)(Related document(s) <u>18</u> ) (Steeley, Tara) (Filed on 2/7/2020) (Entered: 02/07/2020)
02/07/2020	<u>20</u>	Request for Judicial Notice in Support of re <u>18</u> Opposition/Response to Motion for Preliminary Injunction filed by City and County of San Francisco. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Related document(s) <u>18</u> ) (Steeley, Tara) (Filed on 2/7/2020) (Entered: 02/07/2020)
02/07/2020	<u>21</u>	[Proposed] Order Granting in Part and Denying in Part Plaintiffs' MOTION for Preliminary Injunction re <u>18</u> Opposition/Response to Motion for Preliminary Injunction filed by City and County of San Francisco. (Steeley, Tara) (Filed on 2/7/2020) (Entered: 02/07/2020)
02/11/2020	<u>22</u>	REPLY (re <u>5</u> MOTION for Preliminary Injunction ; <i>Memorandum of Points and Authorities</i> ) filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Attachments: # <u>1</u> Declaration of Jesse Mainardi in Support of Plaintiffs' Reply Brief)(Willis, Thomas) (Filed on 2/11/2020) (Entered: 02/11/2020)
02/12/2020	<u>23</u>	<b>ORDER Granting Partial Preliminary Injunction. (crblc2, COURT STAFF) (Filed on 2/12/2020) (Entered: 02/12/2020)</b>
02/12/2020	<u>24</u>	First MOTION to File Amicus Curiae Brief filed by Peter Keane. Motion Hearing set for 2/14/2020 10:00 AM in San Francisco, Courtroom 06, 17th Floor before Judge Charles R. Breyer. Responses due by 2/14/2020. Replies due by 2/14/2020. (Attachments: # <u>1</u> Exhibit Exhibits A–F)(Golinger, Jonathan) (Filed on 2/12/2020) (Entered: 02/12/2020)
02/13/2020	<u>25</u>	STIPULATION AND [PROPOSED] ORDER FOR AN EXTENSION OF TIME FOR DEFENDANT CITY AND COUNTY OF SAN FRANCISCO TO RESPOND TO THE COMPLAINT filed by City and County of San Francisco. (Steeley, Tara) (Filed on 2/13/2020) (Entered: 02/13/2020)
02/13/2020	<u>26</u>	Statement of Non–Opposition to re <u>24</u> First MOTION for Leave to File Amicus Curiae Brief filed by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Related document(s) <u>24</u> ) (Willis, Thomas) (Filed on 2/13/2020) (Entered: 02/13/2020)
02/14/2020	<u>27</u>	<b>Minute Entry for proceedings held before Judge Charles R. Breyer: Motion Hearing held on 2/14/2020 – Re <u>5</u> Motion for Preliminary Injunction – Motion taken under submission. The Court will issue an order. (Total Time in Court: 20 Minutes) Court Reporter: Belle Ball. Plaintiff Attorney: Thomas Andrew Willis, Jesse A. Mainardi and Kristen Mah Rogers. Defendant Attorney: Tara M. Steely and Andrew Shen (City &amp; County of SF); Jonathan Golinger (Peter Keane). (This is a text–only entry generated by the court. There is no document associated with this entry.) (ls, COURT STAFF) (Date Filed: 2/14/2020) (Entered: 02/14/2020)</b>
02/18/2020	<u>28</u>	<b>STIPULATION AND ORDER FOR AN EXTENSION OF TIME FOR DEFENDANT CITY AND COUNTY OF SAN FRANCISCO TO RESPOND TO THE COMPLAINT by Judge Charles R. Breyer: Granting <u>25</u> Stipulation. (ls, COURT STAFF) (Filed on 2/18/2020) (Entered: 02/18/2020)</b>
02/19/2020	<u>29</u>	TRANSCRIPT ORDER for proceedings held on 2/14/2020 before Judge Charles R. Breyer by City and County of San Francisco, for Court Reporter Belle Ball. (Steeley, Tara) (Filed on 2/19/2020) (Entered: 02/19/2020)

02/19/2020	<u>30</u>	TRANSCRIPT ORDER for proceedings held on 02/14/2020 before Judge Charles R. Breyer by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond, for Court Reporter Belle Ball. (Willis, Thomas) (Filed on 2/19/2020) (Entered: 02/19/2020)
02/20/2020	<u>31</u>	<b>ORDER by Judge Charles R. Breyer granting in part and denying in part <u>5</u> Motion for Preliminary Injunction; granting <u>9</u> Motion to Shorten Time; granting <u>24</u> Motion to File Amicus Curiae Brief. (crblc2, COURT STAFF) (Filed on 2/20/2020) (Entered: 02/20/2020)</b>
02/25/2020	<u>32</u>	STIPULATION WITH PROPOSED ORDER <i>FOR A FURTHER EXTENSION OF TIME FOR DEFENDANT CITY AND COUNTY OF SAN FRANCISCO TO RESPOND TO THE COMPLAINT</i> filed by City and County of San Francisco. (Steeley, Tara) (Filed on 2/25/2020) (Entered: 02/25/2020)
02/26/2020	<u>33</u>	<b>STIPULATION AND ORDER FOR A FURTHER EXTENSION OF TIME FOR DEFENDANT CITY AND COUNTY OF SAN FRANCISCO TO RESPOND TO THE COMPLAINT by Judge Charles R. Breyer: Granting <u>32</u> Stipulation. (lsS, COURT STAFF) (Filed on 2/26/2020) (Entered: 02/26/2020)</b>
03/04/2020	<u>34</u>	Transcript of Proceedings held on February 14, 2020, before Judge Charles R. Breyer. Court Reporter Belle Ball, CSR, CRR, RDR, telephone number (415)373-2529, belle_ball@cand.uscourts.gov. Per General Order No. 59 and Judicial Conference policy, this transcript may be viewed only at the Clerk's Office public terminal or may be purchased through the Court Reporter until the deadline for the Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction, if required, is due no later than 5 business days from date of this filing. (Re <u>30</u> Transcript Order, <u>29</u> Transcript Order ) Release of Transcript Restriction set for 6/2/2020. (Related documents(s) <u>30</u> , <u>29</u> ) (ballbb15S, COURT STAFF) (Filed on 3/4/2020) (Entered: 03/04/2020)
03/16/2020	<u>35</u>	NOTICE OF APPEAL to the Federal Circuit as to <u>31</u> Order on Motion for Preliminary Injunction, Order on Motion to Shorten Time, Order on Motion to File Amicus Curiae Brief by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. Filing fee \$ 505, receipt number 0971-14284781. Appeal Record due by 4/15/2020. (Willis, Thomas) (Filed on 3/16/2020) (Entered: 03/16/2020)
03/16/2020		<u>Electronic filing error.</u> Incorrect event used. [err101] Re: <u>35</u> Notice of Appeal to the Federal Circuit, filed by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond, Todd David. This filing will not be processed by the clerks office. Please re-file in its entirety by using the correct event "Notice of Appeal to the Ninth Circuit". (tnS, COURT STAFF) (Filed on 3/16/2020) (Entered: 03/16/2020)
03/17/2020	<u>36</u>	NOTICE OF CROSS APPEAL as to <u>31</u> Order on Motion for Preliminary Injunction, Order on Motion to Shorten Time, Order on Motion to File Amicus Curiae Brief by Todd David, Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond. (Pay.gov Agency Tracking ID 0971-14284781.) Appeal Record due by 4/16/2020. (Willis, Thomas) (Filed on 3/17/2020) (Entered: 03/17/2020)
03/17/2020	<u>37</u>	USCA Case Number 20-15456 for <u>36</u> Notice of Cross Appeal to the Ninth Circuit, filed by Yes on Prop B, Committee in Support of the Earthquake Safety and Emergency Response Bond, Todd David. (tnS, COURT STAFF) (Filed on 3/17/2020) (Entered: 03/17/2020)