

ATTACHMENT A

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ORDINANCE XXXX

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE VII
OF THE PHOENIX CITY CODE BY REVISING DIVISION 2
ON CAMPAIGN FINANCE AND ADDING A NEW DIVISION 3
RELATING TO ELECTION FUNDING DISCLOSURE
OBLIGATIONS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX, as
follows:

SECTION 1. That Chapter 12, Article VII, Division 2 of the Phoenix City
Code is amended to read as follows:

DIVISION 2. CAMPAIGN FINANCE

12-1500. State law to govern campaign finance.

UNLESS OTHERWISE PROVIDED IN THE CITY CHARTER OR IN THE
PHOENIX CITY CODE, [t]he applicable provisions of State law shall apply to
campaign finances in all City of Phoenix elections.

SECTION 2. That Chapter 12, Article VII of the Phoenix City Code is
hereby amended by adding a new Division 3 to read as follows:

DIVISION 3. ELECTION FUNDING DISCLOSURE OBLIGATIONS

12-1550. TITLE.

THIS ORDINANCE SHALL BE KNOWN AS THE "KEEP DARK MONEY OUT OF LOCAL PHOENIX ELECTIONS ORDINANCE."

12-1551. DEFINITIONS.

THE DEFINITIONS IN CHAPTER 12, ARTICLE VII, DIVISION 1, SHALL GOVERN WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING, OR AS OTHERWISE REQUIRED BY LAW. IN THIS DIVISION UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) *EXPENDITURE* MEANS ANY PURCHASE, PAYMENT, DISTRIBUTION, LOAN, ADVANCE, DEPOSIT, OR GIFT OF MONEY OR ANYTHING OF VALUE MADE BY A PERSON, ASSOCIATION OF PERSONS, OR ENTITY, OTHER THAN A REGISTERED CANDIDATE COMMITTEE OR POLITICAL ACTION COMMITTEE, FOR THE PURPOSE OF INFLUENCING A LOCAL CITY ELECTION, INCLUDING A CONTRACT, PROMISE OR AGREEMENT TO MAKE AN EXPENDITURE RESULTING IN AN EXTENSION OF CREDIT AND THE VALUE OF ANY IN-KIND CONTRIBUTION RECEIVED, INCLUDING ANY EXPENDITURE DEFINED BY, OR ITEMS EXEMPTED FROM, STATE LAW, AS AMENDED FROM TIME TO TIME, THAT:

A. ADVOCATES FOR THE ELECTION OR DEFEAT OF A CANDIDATE FOR CITY MAYOR OR COUNCILMEMBER, OR A CITY BALLOT MEASURE; OR

B. IDENTIFIES A CANDIDATE FOR CITY MAYOR OR COUNCILMEMBER, OR A CITY BALLOT MEASURE.

(2) *INTERMEDIARY* MEANS:

A. A PERSON, ASSOCIATION OF PERSONS OR ENTITY, WHO IS NOT AN ORIGINAL SOURCE AND WHO RECEIVES AND TRANSFERS FUNDS FROM ONE OR MORE ORIGINAL SOURCES OR FROM OTHER INTERMEDIARIES THAT ARE ATTRIBUTED TO AN EXPENDITURE SUBJECT TO THIS DIVISION; OR

B. A PERSON, ASSOCIATION OF PERSONS OR ENTITY, WHO IS NOT AN ORIGINAL SOURCE AND WHO RECEIVES OR TRANSFERS FUNDS WHICH ARE ATTRIBUTED TO AN EXPENDITURE SUBJECT TO THIS DIVISION AND WHICH IN THE AGGREGATE CONSTITUTE A MAJOR CONTRIBUTION.

TRANSFERS INCLUDE BUNDLING NON-MAJOR CONTRIBUTIONS FOR DELIVERY

TO THE PERSON, ASSOCIATION OF PERSONS, OR ENTITY MAKING THE EXPENDITURE.

(3) *MAJOR CONTRIBUTION* MEANS ANY MONEY, ADVANCE, DEPOSIT OR OTHER THING OF VALUE THAT IS MADE FOR THE PURPOSE OF INFLUENCING AN ELECTION, INCLUDING ANY CONTRIBUTION OR ITEMS EXEMPTED AS DEFINED BY STATE LAW, AS AMENDED FROM TIME TO TIME, OR A TRANSFER OF FUNDS OR GOODS OR SERVICES WITH A MONETARY VALUE OF \$1,000 OR MORE IN THE AGGREGATE FROM A SINGLE SOURCE USED TO INFLUENCE THE RESULT OF A LOCAL CITY OF PHOENIX ELECTION.

(4) *ORIGINAL SOURCE* MEANS A PERSON, ASSOCIATION OF PERSONS, OR ENTITY, OTHER THAN A REGISTERED CANDIDATE COMMITTEE OR POLITICAL ACTION COMMITTEE, REGARDLESS OF LEGAL FORM, WHO MAKES A MAJOR CONTRIBUTION FROM HIS, HER OR ITS OWN RESOURCES, SUCH AS WAGES, INVESTMENT INCOME, INHERITANCE, OR REVENUE FROM THE SALE OF GOODS OR SERVICES EXCEPT FUNDS FROM CONTRIBUTIONS, DONATIONS OR GIFTS.

12-1552. PURPOSE AND INTENT.

A. THE KEEP DARK MONEY OUT OF LOCAL PHOENIX ELECTIONS ORDINANCE IS INTENDED TO SECURE THE RIGHT OF THE RESIDENTS OF THE CITY OF PHOENIX TO KNOW THE SOURCE OF ALL MAJOR CONTRIBUTIONS MADE TO INFLUENCE THE RESULT OF A LOCAL PHOENIX ELECTION, TO PREVENT ACTUAL CORRUPTION AND ITS APPEARANCE, AND TO PROTECT THE INTEGRITY OF PHOENIX ELECTIONS.

B. THE KEEP DARK MONEY OUT OF LOCAL PHOENIX ELECTIONS ORDINANCE REQUIRES PUBLIC DISCLOSURE OF THE ORIGINAL SOURCE OF ALL MAJOR CONTRIBUTIONS USED TO FUND AN EXPENDITURE MADE TO INFLUENCE THE RESULT OF A PHOENIX ELECTION, REGARDLESS OF WHETHER THAT CONTRIBUTION PASSED THROUGH ANY INTERMEDIARIES.

C. TO ENSURE TRANSPARENCY IN THE POLITICAL PROCESS, THE DISCLOSURE REQUIREMENT WILL BE ENFORCED BY CITIZEN COMPLAINTS, AS WELL AS CIVIL PENALTIES FOR VIOLATIONS.

12-1553. REQUIRED DISCLOSURE

A. REQUIRED DISCLOSURE FOR EXPENDITURES TO INFLUENCE A CITY OF PHOENIX ELECTION

ANY PERSON, ASSOCIATION OF PERSONS (HEREINAFTER "ASSOCIATION") OR ENTITY, OTHER THAN A REGISTERED CANDIDATE COMMITTEE OR POLITICAL ACTION COMMITTEE, REGARDLESS OF LEGAL FORM, THAT MAKES EXPENDITURES (AS DEFINED IN SECTION 12-1551(1)) TO

INFLUENCE THE RESULT OF A LOCAL CITY OF PHOENIX ELECTION TOTALING \$1,000 OR MORE WITHIN AN ELECTION CYCLE SHALL DISCLOSE THE ORIGINAL SOURCE OR SOURCES OF ALL MAJOR CONTRIBUTIONS RECEIVED DURING THAT PERIOD ATTRIBUTED TO THAT EXPENDITURE, AND ANY INTERMEDIARIES THROUGH WHICH SUCH CONTRIBUTIONS PASSED.

B. ORIGINAL SOURCE AND INTERMEDIARY CONTRIBUTION TRANSFERS: REQUIRED DISCLOSURE

THE DISCLOSURE REQUIRED BY THIS DIVISION SHALL IDENTIFY THE NAME, ADDRESS AND EMPLOYER OF EACH ORIGINAL SOURCE OF A MAJOR CONTRIBUTION ATTRIBUTED TO AN EXPENDITURE AS WELL AS THE AMOUNT(S) AND DATE(S) OF EACH MAJOR CONTRIBUTION. IF THE MAJOR CONTRIBUTION PASSED THROUGH AN INTERMEDIARY OR INTERMEDIARIES, THE DISCLOSURE SHALL IDENTIFY THE NAME, ADDRESS AND EMPLOYER OF EACH INTERMEDIARY, THE NAME, ADDRESS AND EMPLOYER OF THE PERSON, ASSOCIATION OR ENTITY FROM WHOM THE INTERMEDIARY RECEIVED THE FUNDS, THE DATE(S) AND AMOUNT(S) RECEIVED FROM THAT PERSON AND THE NAME, ADDRESS AND EMPLOYER OF THE PERSON, ASSOCIATION OR ENTITY TO WHOM THE FUNDS WERE TRANSFERRED, WITH THE DATE(S) AND AMOUNT(S) OF THE TRANSFERS.

(1) CONTRIBUTIONS ARE ATTRIBUTED TO AN EXPENDITURE SUBJECT TO THIS DIVISION AT THE TIME THAT THEY ARE EARMARKED AND USED FOR THAT EXPENDITURE, OR WHEN THEY CAN BE CREDIBLY TRACED TO AN EXPENDITURE USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(2) DISCLOSURE IS NOT REQUIRED OF THE NAMES OF DONORS WHO HAVE SPECIFICALLY RESTRICTED THEIR DONATION TO NON ELECTION-RELATED USES, PROVIDED THE FUNDS WERE NOT IN FACT USED TO INFLUENCE THE RESULT OF A CITY CANDIDATE OR CITY BALLOT MEASURE ELECTION.

(3) DISCLOSURE IS NOT REQUIRED OF THE IDENTITY OF PERSONS CONTRIBUTING LESS THAN \$1,000 DURING AN ELECTION CYCLE OR OF THE CONTRIBUTORS OF MEMBERSHIP DUES OR FEES MADE CONSISTENT WITH A MEMBERSHIP DUES AND FEES SCHEDULE PUBLISHED BY AN ORGANIZATION AT LEAST TWO (2) YEARS PRIOR TO THE MAJOR CONTRIBUTION SUBJECT TO THIS DIVISION.

(4) A PERSON, ASSOCIATION OR ENTITY THAT MAKES EXPENDITURES (AS DEFINED IN SECTION 12-1551(1)) TO INFLUENCE THE RESULT OF A CITY OF PHOENIX ELECTION TOTALING \$1,000 OR MORE WITHIN AN ELECTION CYCLE SHALL EXERCISE ITS BEST EFFORTS TO IDENTIFY THE ORIGINAL SOURCE OR SOURCES OF ALL MAJOR CONTRIBUTIONS RECEIVED

DURING THAT PERIOD ATTRIBUTED TO THAT EXPENDITURE, AND ANY INTERMEDIARIES THROUGH WHICH SUCH CONTRIBUTIONS PASSED. THE PERSON, ASSOCIATION OF PERSONS OR ENTITY WILL NOT BE DEEMED TO HAVE EXERCISED BEST EFFORTS TO IDENTIFY THE ORIGINAL SOURCE OR SOURCES OF ALL MAJOR CONTRIBUTIONS UNLESS IT HAS MADE AT LEAST ONE (1) WRITTEN REQUEST FOR THE IDENTITY OF THE ORIGINAL SOURCE OR SOURCES OF ALL MAJOR CONTRIBUTIONS TO THE CONTRIBUTOR OR INTERMEDIARY AFTER THE RECEIPT OF THE CONTRIBUTION.

C. REPORTING, CIVIL PENALTIES AND APPEALS

(1) THE DISCLOSURES REQUIRED BY THIS DIVISION SHALL BE MADE IN ELECTRONIC FORMAT AND FILED WITH THE CITY CLERK, AS THE CITY CLERK SO PRESCRIBES.

(2) THE DISCLOSURE SHALL BE MADE WITHIN FORTY-EIGHT (48) HOURS OF THE EXPENDITURE. A PERSON, ASSOCIATION OR ENTITY WHO MAKES ONE DISCLOSURE SHALL MAKE SUPPLEMENTAL DISCLOSURES WITHIN FORTY-EIGHT (48) HOURS OF MAKING SUBSEQUENT EXPENDITURES TOTALING \$1,000 OR MORE.

(3) DISCLOSURES SHALL BE MADE UNDER OATH AND SUBJECT TO THE PENALTY OF PERJURY BY A PERSON, ASSOCIATION OF PERSONS, OR ENTITY, OR A REPRESENTATIVE OF SUCH, WHO HAS KNOWLEDGE OF AND AUTHORITY OVER THE OPERATIONS OF THE PERSON, ASSOCIATION OF PERSONS, OR ENTITY MAKING THE EXPENDITURE SUBJECT TO THIS DIVISION.

(4) THE CITY CLERK SHALL POST THE DISCLOSURES PUBLICLY ON LINE IN ELECTRONIC AND DOWNLOADABLE FORMAT WITHIN TWO (2) WORKING DAYS OF RECEIPT.

(5) THE CIVIL PENALTIES AND APPEALS PROCESS APPLICABLE TO VIOLATIONS OF CAMPAIGN FINANCE AS SET FORTH IN A.R.S. § 16-938 AS AMENDED APPLY EQUALLY TO ANY PERSON, ASSOCIATION OR ENTITY SUBJECT TO THIS DIVISION AND ARE INCORPORATED HEREIN BY THIS REFERENCE.

(6) ALL CIVIL PENALTIES COLLECTED PURSUANT TO THIS DIVISION SHALL BE PAID INTO THE CITY OF PHOENIX GENERAL FUND.

D. SEVERABILITY AND DEFERENCE TO STATE LAW

(1) THE PROVISIONS OF THIS DIVISION ARE SEVERABLE. IF ANY PROVISION IS HELD INVALID FOR ANY REASON, THE REMAINING PROVISIONS

WILL BE SEVERED FROM THE VOID PORTION AND GIVEN THE FULLEST POSSIBLE FORCE AND APPLICATION.

(2) NOTHING IN THIS DIVISION SHALL PREEMPT OTHER LAWS, ORDINANCES OR RULES REGULATING THE REQUIREMENTS OF DISCLOSURE.

E. PUBLIC RECORD PRESUMPTION

ALL DOCUMENTS PROVIDED TO THE CITY PURSUANT TO THIS DIVISION ARE PRESUMED TO BE PUBLIC RECORD PURSUANT TO THE LAWS OF THE STATE OF ARIZONA AND MAY BE SUBJECT TO DISCLOSURE UPON REQUEST IN ACCORDANCE WITH THE LAWS OF THE STATE OF ARIZONA.

SECTION 3. City of Phoenix voters approved Proposition 419 on election funding disclosure obligations at a special election on November 6, 2018. Pursuant to Section 2 of Article XIII of the Constitution of the State of Arizona the Governor of the State of Arizona approved Proposition 419 on July 3, 2019. Pursuant to Chapter IV, Section 14 of the Charter of the City of Phoenix, the requirements of this ordinance shall take effect and become operative thirty (30) days after its passage by the Council of the City of Phoenix and apply to elections beginning in 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PHOENIX, ARIZONA as follows:

PASSED by the Council of the City of Phoenix this 4th day of September, 2019.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

_____ Acting City Attorney

REVIEWED BY:

_____ City Manager
DRL:rb:2135373v1

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