ORDINANCE NO.

ORDINANCE AMENDING SECTIONS 1.11.010 (DEFINITIONS), 1.11.070 ( LOBBYIST REGISTRATION) AND 1.11.090 OF CHAPTER 1.11 (SUNSHINE PROVISIONS) OF THE ANAHEIM MUNICIPAL CODE TO STRENGTHEN AND EXPAND THE REGULATIONS APPLICABLE TO LOBBYISTS, AND SECTION 1.11.080 (REVOLVING DOOR) TO MODIFY THE RESTRICTIONS ON EMPLOYMENT OF LOBBYISTS AND REQUIRE LOBBYISTS WHO ACT AS ADVISORS TO CITY OFFICIAL(S) TO REPORT THEIR ACTIVITY.

WHEREAS, in 2017, the City adopted a “Sunshine Ordinance” to increase transparency in City government; and

WHEREAS, the Sunshine Ordinance, among other things, established a protocol for lobbyists to register with the City and report their lobbying activities; and

WHEREAS, in 2022, the lobbying provisions were amended to add criminal penalties; and

WHEREAS, the City now desires to strengthen and expand its regulation of lobbyists, establish an auditing process, and modify the restrictions on the employment of lobbyists and require lobbyists who act as advisors to elected officials to report their advisory activities.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ANAHEIM HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Anaheim Municipal Code 1.11.010 is hereby amended to read in full as follows:

1.11.010 DEFINITIONS.

"Agenda" means a document that informs the public about a Meeting, published in advance of the Meeting, which at a minimum: (i) identifies the Legislative Body conducting the Meeting, (ii) specifies the time and location of the Meeting and (iii) lists each item of business to be discussed or transacted and describes the proposed action for such item.

"Agenda Packet" means a complete set of materials that includes the Agenda and its relevant Supporting Documents.

"Brown Act" means California Government Code sections 54950 et seq., as those sections may be amended from time to time.

"Executive team" means the City Manager, Assistant City Manager, Deputy City Manager, City Attorney, City Clerk, City Treasurer, Police Chief, Fire Chief, Public Utilities General Manager, and the Directors of Community Services, Convention, Sports and Entertainment, Economic Development, Finance, Housing and Community Development, Human Resources, Planning and Building, and Public Works.
“Influence (or Influencing) Legislative or Administrative Action” means communicating directly with any elected or appointed official of the City, the staff, aides, or advisers of the Mayor or City Council, any member of the City Executive Team, a Legislative Body or any board or commission of the City, or taking any other action for the principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing any legislative or administrative action.

“Legislative or Administrative Action” means the drafting, introduction, consideration, modification, enactment, adoption, or denial of any ordinance, motion, or resolution under consideration by any elective or appointed official of the City, member of the City Executive Team, a City Legislative Body, any City board or commission, or any regional agency in which the City of Anaheim has a voting role, or the granting, award, approval, or denial of any contract, permit, land use entitlement, grant, license, or franchise by the City or any regional agency in which the City of Anaheim has a voting role.

"Legislative Body" shall have the meaning set forth in California Government Code section 54952, as it may be amended from time to time.

"Lobby" or "Lobbying" means performing services, for compensation, for the purpose of influencing legislative or administrative action.

"Lobbying Firm" means any business entity, including an individual who engages in Lobbying activities, which meets either of the following criteria: (1) the business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing legislative or administrative action on behalf of any other person, and any partner, owner, officer, or employee of the business entity is a Lobbyist; or (2) the business entity receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, to communicate directly with any elective official, agency official, or legislative official for the purpose of influencing legislative or administrative action on behalf of any other person, if a substantial or regular portion of the activities for which the business entity receives compensation is for the purpose of influencing legislative or administrative action.

"Lobbyist" means any individual or entity who either (1) receives or becomes entitled to receive five hundred dollars ($500) or more in consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate, directly or through his or her agents, with any elective or appointed official of the City, member of the City Executive Team, or Legislative Body, board or commission of the City, for the purpose of influencing legislative or administrative action of the City of Anaheim or any regional agency in which Anaheim has a voting role, or (2) is employed or contracted for a role that includes influencing legislative or administrative action as a substantial or regular portion of the employment or contract.
"Meeting" shall have the meaning set forth in California Government Code section 54952.2, as it may be amended from time to time.

"Public Record(s)" shall have the meaning set forth in California Government Code sections 7920.000 et seq., as those sections may be amended from time to time.

"Supporting Documents" means all documents, regardless of form, medium or author, that are provided to members of a Legislative Body for their use in considering Agenda items for a Meeting.

SECTION 2. Anaheim Municipal Code 1.11.070 is hereby amended to read in full as follows:

1.11.070 LOBBYIST REGISTRATION.

.010 Initial Registration. Within fifteen (15) days of Lobbying the City of Anaheim or any regional agency in which Anaheim has a voting role, a Lobbyist shall register with the City Clerk, by filing a lobbying registration form, as provided by the City Clerk and made available on the City Clerk's webpage, which shall include, at a minimum, a written statement containing the following information, certified as true under penalty of perjury: 1) the Lobbyist's full name, business name, address, and telephone number; 2) the name, business address and telephone number of any individual or entity by whom a Lobbyist is employed, retained or engaged for compensation to perform Lobbying services in the City; 3) the legislative or administrative action of the City with respect to which the Lobbyist has been employed, retained or engaged, and 4) an acknowledgement by the Lobbyist to that he or she will comply with the requirements of this Chapter, retain and provide business records for the City Auditor’s review, and cooperate with the City with regard to any audit performed under this Chapter. This registration shall be maintained by the City Clerk for the period of time set forth in the City's record retention schedule and shall not be exempt from disclosure under the California Public Records Act. The failure to timely register as a Lobbyist is a violation of this Chapter and a penalty fee may be assessed by the City Clerk, as set by resolution.

.020 Quarterly Report. Each Lobbyist shall file a report, certified as true under penalty of perjury, 1) disclosing any Lobbying of the City of Anaheim or any regional agency in which Anaheim has a voting role, and 2) any campaign contributions made during the reporting period to the Mayor and/or any member of the City Council, with the City Clerk on a quarterly basis on a form provided by the City Clerk and made available on the City Clerk's webpage. The report shall be filed and received by the City Clerk no later than 30 calendar days after the end of the quarter and shall be posted on the City Clerk's webpage. The report shall specifically identify the local legislative or administrative action(s), if any, the Lobbyist supported or opposed during the reporting period. Each Lobbyist shall retain on file all business records relevant to any lobbying reported in the Quarterly Report for a period of not less than five years from the date the Quarterly Report is filed, and shall submit copies, or make original documents available, to the City Auditor upon request. The failure to timely file a Quarterly Report with the required disclosures, or to retain, or provide access to, the Lobbyist’s business records, are violations of this Chapter and a penalty fee may be assessed by the City Clerk, as set by resolution.
.030 Annual Registration. A lobbyist shall renew their registration by January 15 of each year unless they have filed a termination report with the City Clerk by such date.

.040 Registration and Annual Fees. The City Council may by resolution establish registration and annual fees as set forth therein to defray the reasonable cost of regulating Lobbying activities in the City. Registration shall not be complete until the fee is paid.

.050 Appearance of Unregistered Lobbyist. If a Lobbyist who has not registered appears at a public Meeting of any City Legislative Body in order to make a presentation on behalf of a client, the Lobbyist will be permitted to make the presentation upon stating the information required by subsection .010 on the record. The Lobbyist shall be required to file the required registration form, and pay the registration fee and any penalty fee as set by resolution, to the City Clerk within seven (7) calendar days of such presentation.

.060 Annual Report. Within ninety (90) days after the end of a calendar year, the City Clerk shall prepare and submit to the City Council a report outlining the activity of registered Lobbyists during the calendar year as reflected in the documents provided pursuant to subsections .010 and .020, as well as a list of any fines assessed or notices issued pursuant to this section.

.070 Notice of Registration. The City Clerk shall issue a "notice of registration required" upon receipt of credible evidence that a person is acting as a Lobbyist without having registered as required by subsection .010. Any person who in good faith and on reasonable grounds believes that he or she is not required to register under subsection .010 shall, within thirty (30) days after notice from the City Clerk, furnish evidence to the City Clerk that he or she is exempt from registration. The City Clerk shall review that evidence, as well as any other evidence he or she deems relevant, and make a determination whether the person is required to register as a Lobbyist.

.080 Appeal. A decision of the City Clerk requiring a person to register as a Lobbyist, or assessing a penalty fee under subsection .010 or .020, may be appealed to the City Hearing Officer, whose decision shall be final without any further action of the City being required.

.090 Criminal Penalties. The penalty fees provided for in this section apply to inadvertent violations of its provision. Any person or entity that knowingly or intentionally i) acts as a Lobbyist in the City without having registered in compliance with subsection .010, ii) fails to file the quarterly report required by subsection .020, iii) files a quarterly report that contains inaccurate information or omits information required to be disclosed by subsection .020, or iv) conceals or diverts compensation for Lobbying activity in order to avoid the requirements of this section, shall be guilty of a misdemeanor and subject to a maximum of six (6) months in jail and a fine of $1,000.00. In addition, no person convicted of a violation of this section may act as a Lobbyist or otherwise attempt to influence municipal legislation for compensation for one year after that conviction, and no person convicted of a second violation of this section may act as a Lobbyist or otherwise attempt to influence municipal legislation for compensation for an additional three years after the second conviction.
Applicability. The provisions of this section shall not apply:

1. To a public official acting in his or her official capacity;

2. To any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper, periodical, radio or television station) which in the ordinary course of business publishes news items, editorials or other comments, or paid advertisements, which directly or indirectly urge action upon municipal legislation, if such newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with action upon such municipal legislation;

3. To a person invited by the City Council or any of its committees, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City charged by law with the duty of conducting a hearing and making a decision as to a pending or proposed matter, for the purpose of giving testimony to aid the body or person extending the invitation;

4. To a person applying for a grading permit or for a permit relating to the construction, alteration, demolition or moving of a building, or to a person filing a parcel map or subdivision tract map; provided, however, that if a person meets the definition of a Lobbyist and takes an appeal, or represents a person taking an appeal, pursuant to any procedure or authority provided by law from an administrative determination made with respect to such an application or map, they shall be required to register as provided in this section upon taking the appeal or any action relating to the appeal;

5. To a person whose attempts to influence legislative or administrative action are limited solely to actions taken or services provided to a client as a professional licensed by a state licensing organization, including, but not limited to, attorneys, architects and engineers; provided however, that the exemption for attorneys shall only apply if the attorney is engaged in the practice of law with respect to the subject of the legislative or administrative action the attorney seeks to influence; or

6. To persons who submit competitive bids or respond to requests for proposals, provided the provision of such communications are limited to direct conversation or correspondence with the official or department specifically designated to receive such information. This exception shall not apply to direct communications with members of the City Council for the purpose of influencing a decision to award or deny a contract.

7. To labor negotiators who are engaged in contract negotiations with the City regarding a collective bargaining agreement for City employees.

Audit. The City Auditor shall annually conduct an audit of a representative random sample of lobby registrants, but not less than 20 percent of registrants, to ensure that registrants’ filings are in compliance with this Chapter. The City Auditor shall notify the City Clerk and the
City Attorney of any apparent violations this Chapter, provide all relevant records from the audit upon request, and cooperate with any enforcement action. The final audit report detailing the findings will be addressed to the City Manager, City Attorney, and City Clerk.

The City Auditor shall also seek from any elective or appointed official of the City, the staff, aides, or advisers of the Mayor or City Council, any member of the City Executive Team, or Legislative Body, board or commission of the City, no less frequently than semi-annually, information about past meetings or communications with anyone who reasonably may be considered to have lobbied such individuals based on the definitions in this Chapter. The City Auditor shall notify the City Clerk and the City Attorney of any individuals who appear to have engaged in lobbying activity but who have not registered as lobbyists or properly reported lobbying activity.

SECTION 3. Anaheim Municipal Code 1.11.080 is hereby amended to read in full as follows:

1.11.080 REVOLVING DOOR.

.010 Future employment. No City official or employee of Anaheim, for a period of two years following the termination of his or her office or employment, shall:

1. Advocate or Lobby before any City of Anaheim agency, official or employee for compensation on behalf of any person or any organization;

2. Accept employment or otherwise receive compensation from a person or organization that entered into a contract with the City of Anaheim within one year prior to the termination of his or her office or employment, where the former official or employee personally and substantially participated in the award of the contract for the City and will subsequently perform work related to that contract for the person or organization awarded the contract; or

3. Participate as a competitor in any competitive selection process for a City contract where the former official or employee recommended or approved the project or the work that is the subject of the contract, and any such City contract shall not be awarded to such former official or employee.

.020 Exceptions. Subsection .010 shall not preclude the hiring of a former City employee as a consultant to the City, provided that such hiring is approved in advance by the City Council. Nor shall this subsection apply to any City official or employee who left office or whose City employment or service terminated prior to the effective date of this ordinance; provided, however, that a person who returns to City office, employment or service on or after the effective date of this ordinance shall be subject to the requirements hereof.

.030 Restrictions on Employment and Utilization of Lobbyists. The City shall not contract with any person for, or employ any person in, the positions of Council Aide, Policy Aide, or Chief of Staff to the Mayor if that person was or is required to register as a Lobbyist under section 1.11.070, for a period of one year following the person's Lobbying of Anaheim. Nor shall any person required to register as a Lobbyist under Section 1.11.070 serve as an advisor, paid or unpaid, to any City Official for a period of one year following the person's Lobbying of
Anaheim, unless all contacts as an advisor are reported to the City Clerk, consistent with Section 1.11.070.020. For purposes of this section, “advisor” means one who provides input by way of advice, guidance, information, or speaking points on matters relevant to the City.

.040 Restrictions on Concurrent Employment of Employees of Lobbying Firms. The City shall not retain or employ any person who is also retained or employed to perform services for a Lobbying Firm that engages in Lobbying the City of Anaheim or any regional agency in which Anaheim has a voting role.

.050 Disclosure of Confidential Information. City officials and employees shall respect and maintain the confidentiality of information acquired in the course and scope of their employment concerning the property, personnel or affairs of the City. They shall not disclose confidential information or records without proper and legally required authorization, or use such confidential information or records to advance their personal, financial or other private interests, or the private gain or advantage of others.

SECTION 4. Anaheim Municipal Code 1.11.090 is hereby amended to read in full as follows:

1.11.090 RESPONSIBILITY FOR ADMINISTRATION.

With the exception of responsibilities delegated to the City Clerk and the City Auditor, the City Manager shall administer and coordinate the implementation and ongoing management of the provisions of this Chapter for all local bodies, agencies and departments.

SECTION 5.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 6.

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the Anaheim Bulletin, a newspaper of general circulation, published and circulated in the City of Anaheim.

SECTION 7.

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.
THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the ____ day of ________________________, 2023, and thereafter passed and adopted at a regular meeting of said City Council held on the ____ day of ________________________, 2023, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY OF ANAHEIM

By: __________________________

MAYOR OF THE CITY OF ANAHEIM

ATTEST:

____________________________

CITY CLERK OF THE CITY OF ANAHEIM