



Fair Campaign Practices Commission
Open Government Commission

CONCURRENT MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

MEETING AGENDA

June 16, 2022

6:00 p.m.

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the Fair Campaign Practices Commission and Open Government Commission will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

Members of the public interested in attending will be able to observe and address the meeting using the following information:

Please use the following link to join the meeting: <https://us02web.zoom.us/j/89363688641>

Or Telephone: +1 669 900 6833

Meeting ID: 893 6368 8641

Secretary: Samuel Harvey

The Commission may act on any item on this agenda

1. Call to Order 6:00 p.m.
2. Roll Call.
3. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
4. Approval of minutes for March 17, 2022 FCPC-OGC Concurrent Regular Meeting

Fair Campaign Practices Commission (FCPC) Agenda

5. Reports.
 - a. Report from Chair.
 - b. Report from Staff.
6. Report from officeholder accounts subcommittee; discussion and possible action.

7. City Clerk Department enforcement referrals to the California Fair Political Practices Commission (FPPC); discussion and possible action:
 - a. Stephen Murphy for Berkeley City Council 2020
 - b. Todd Andrew for Berkeley City Council 2020
 - c. Bahman Ahmadi for Berkeley Rent Stabilization Board 2020
 - d. Soulmaz Panahi for Berkeley Rent Stabilization Board 2020
 - e. Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2022
8. FCPC Work Plan; discussion and possible action.

Open Government Commission (OGC) Agenda

9. Reports.
 - a. Report from Chair.
 - b. Report from Staff.
10. OGC Work Plan; discussion and possible action.

Joint FCPC-OGC Agenda

11. Brown Act training presentation; discussion.
12. Conflicts of interest training presentation; discussion
13. Adjournment.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD). Please refrain from wearing scented products to this meeting.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4th Fl., Berkeley, CA.



Fair Campaign Practices Commission
Open Government Commission

DRAFT MINUTES

March 17, 2022

CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting was held telephonically.

Secretary: Samuel Harvey

Members Present: James Hynes (Chair), Pedro Hernandez (Vice Chair), Janis Ching, Jessica Blome, Daniel Newman, Patrick O'Donnell

Also Present: Samuel Harvey, Staff Secretary

1. **Call to Order**

Chair Called the meeting to order at 6:00 p.m.

2. **Roll Call**

Roll call taken.

3. **Public Comment (items not on agenda)**

One speaker.

4. **Approval of minutes for the January 20, 2022 concurrent regular meeting**

- a. Public comment: No speakers.
- b. Commission discussion and action.

Motion to approve minutes (M/S/C: O'Donnell/Ching; Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Hynes; Noes: none; Abstain: Sheahan; Absent: Humbert, Sheahan, Tsang.)

Fair Campaign Practices Commission (FCPC) Agenda

5. **FCPC Reports**

- a. Report from Chair.
- b. Report from Staff.

6. **Report from officeholder (Maccounts subcommittee).**

- a. Public comment: No speakers.
- a. Commission discussion.

7. **FCPC FY 2022-2023 Work Plan.**

- b. Public comment: No speakers.
- b. Commission discussion and action.

Motion to continue work plan discussion to next meeting. (M/S/C: Blome/Hernandez; Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Hynes; Noes: none; Abstain: Sheahan; Absent: Humbert, Sheahan, Tsang.)

Open Government Commission (OGC) Agenda

8. **OGC Reports**

- a. Report from Chair.
- b. Report from Staff.

9. **OGC FY 2022-2023 Work Plan.**

- a. Public Comment: No speakers.
- b. Commission discussion and action.

Motion to continue work plan discussion to next meeting. (M/S/C: Ching/O'Donnell; Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Hynes; Noes: none; Abstain: Sheahan; Absent: Humbert, Sheahan, Tsang.)

10. **Adjournment**

Motion to adjourn. (M/S/C: Ching/O'Donnell; Ayes: Blome, Ching, Hernandez, Newman, O'Donnell, Hynes; Noes: none; Abstain: Sheahan; Absent: Humbert, Sheahan, Tsang.)

The meeting adjourned at 7:23 p.m.



Date: May 12, 2022

To: Fair Campaign Practices Commission

From: Subcommittee on Officeholder Accounts,

Subject: Proposed Legislation Providing for Regulation of Officeholder Accounts

For consideration by the Fair Campaign Practices Committee (“FCPC” or “Commission”), the Subcommittee on Officeholder Accounts (“subcommittee”) has prepared a draft legislative proposal relating to officeholder accounts. This draft is in response to the City Council’s reference in November 2021 to the FCPC of its proposal to authorize and regulate privately funded officeholder accounts. The FCPC members have previously reviewed and expressed concerns about the Council’s proposed draft. The draft version attached to this memorandum reflects FCPC members’ concerns and provides an alternative draft for them to consider.

The subcommittee’s draft FCPC proposal is attached. Also attached is a chart comparing the subcommittee’s draft FCPC proposal with the Council’s November 2021 proposal.

EXECUTIVE SUMMARY

This memorandum provides historical background on the proposals relating to officeholder accounts and identifies some of the key the issues involved. It summarizes the main provisions of the draft FCPC proposal for regulating officeholder accounts, describes how the FCPC proposal differs from the Council proposal, and explains the reasons why, if an ordinance allowing privately funded officeholder account is to be enacted, the FCPC proposal for regulating such accounts should be enacted rather than the Council version. Finally, the memorandum discusses possible actions or recommendations that the FCPC might take.

The FCPC is concerned about the influence of private money on American politics and government. The Commission believes that public offices generally should be publicly funded and funded at a level adequate for elected officials to perform their duties. If it is necessary to allow for some private contributions to support the operation of public offices, any such funding must be strictly limited and the receipt and expenditure of private funds must be carefully regulated and fully transparent.

The main differences between the draft FCPC proposal and the Council proposal on officeholder committees and accounts are as follows:

- **Elected officeholders eligible to establish accounts.** The Council proposal would authorize all 24 elected city officials (i.e., the mayor, council members, school board members, rent stabilization board members, and auditor) to establish officeholder accounts and committees. The draft FCPC proposal would strictly limit the officeholders eligible to establish officeholder committees and accounts to *only* the city's nine principal elected officials (i.e., the mayor and eight council members). So far as is known, no one in any of the 15 additional elected officeholder positions proposed by the Council has ever had an officeholder committee and no need has been shown for authorizing the creation of such committees for all of these offices. Establishment of these additional officeholder committees is unnecessary, would create administrative burdens, and would impose unnecessary costs on the city.
- **Cumulative contributions limits.** The Council proposal provides that, for each officeholder representing a district in the city (that is, for each council member), total contributions from all contributors shall not exceed \$5,000 annually; and for each officeholder elected citywide (i.e., mayor, school board members, rent stabilization board members, and auditor), the annual contribution limit would be four times the maximum amount allowed for members representing districts—that is, \$20,000. The FCPC proposal would limit the total annual contributions to the officeholder accounts of council members to \$5,000, the same as the council proposal. But it would limit the total annual contributions to the mayor to \$10,000. And it would not allow any private contributions to any of the other 15 elected city officers for officeholder purposes: the FCPC believes that, if any of these additional officials needs assistance, the funding should be provided publicly.
- **Individual contribution limits.** The Council FCPC proposals differ in several significant ways regarding the individual limits on contributions to officeholder committees and accounts. *First*, regarding the maximum amount allowed annually for contributions to officeholder accounts, the Council proposes using the \$250 contribution limit prescribed for privately financed campaigns whereas the FCPC proposes using the \$50 limit for qualifying contributions under the city's public financing law (now \$60, adjusted for cost of living). The lower limit proposed by the FCPC would help prevent individual contributors from unduly influencing officeholders and help level the playing field, so that all council members could raise funds equally rather than enabling members from wealthier districts with wealthier constituents to raise large contributions. *Second*, both the Council and FCPC proposals would prohibit contributions from organizations and entities. But the FCPC proposal would also limit contributors to natural residents of the City of Berkeley' this would reduce outside influence and give priority to representing Berkeley citizens. *Third*, the Council proposal would allow individual council members to give unlimited amounts to support their own offices and not

require them to report such contributions. The FCPC proposal would establish limits on how much an officeholder can give to their own account and require all such contributions to be reported.

- **Permissible and prohibited officeholder expenditures.** Both the Council and FCPC proposals contain lists of expenditures that are permissible and prohibited. The lists are similar, but contain a few important differences. For instance, the Council proposal would permit officeholder accounts to be used to expend funds for attorney’s fees and other cost relating to litigation, administrative procedures, and other similar processes. By contrast, the FCPC proposal would remove the payment of these litigation and other legal expenses from the permitted list of officeholder expenditures and place them on the list of prohibited expenditures. [TO BE DISCUSSED: In addition, the Council proposal includes—on the list of permissible constituent communications—mailings, newsletters, and other paper communications. The FCPC proposal would allow for such paper communications, but would provide some further restrictions on these constituent communications to ensure that they are not misused for campaign purposes.]
- **Officeholder committees – committee required to file.** Both proposals require officeholders to file a statement of organization of an officeholder committee before accepting contributions. The FCPC proposal adds two provisions to this section. *First*, it would require all eligible officeholders who, directly or indirectly, from an authorized person or themselves, receive contributions or who make expenditures that total more the \$250, to establish an “officeholder committee” and open an “officeholder account.” *Second*, all eligible officeholders who do not directly or indirectly, from an authorized person or from themselves, receive contributions or make expenditures that total more the \$250 must file a verified statement that they are not required to establish a committee or open an account because the amounts received or expended to not exceed the amounts specified for filing a committee.
- **Reporting dates for filing statement.** The Council proposal provides that all contributions received and expenditures made from officeholder accounts must be reported in accordance with the filing dates prescribed by state law for campaign committee statements. Because there are various filing dates prescribed state law relating to different types of campaign committee statements, this provision is ambiguous and potentially burdensome. To clarify the law and make it more flexible, the FCPC proposal would provide that each officeholder committee statement shall be filed in accordance with the filing dates prescribed by state law for semi-annual campaign committee statements, unless the Commission determines that other dates are more appropriate.
- **Record-keeping and auditing requirements.** The FCPC proposal adds two new sections to specify (1) the record-keeping requirements that apply to officeholder committees and accounts, and (2) the auditing procedures that will apply to those committees and accounts. These new provisions are based on

provisions elsewhere in BERA and under state law applying to officeholder committees and accounts. These additional provisions will help ensure that officeholder committees and accounts are properly operated, reviewed, and reported to the public, thereby enhancing public confidence in their elected officials.

- **Enforcement.** Both the Council and FCPC proposals provide that the enforcement provisions in Article 7 of BERA apply to officeholder committee and accounts. The FCPC proposal further provides that the limitations on contributions in Article 6 applies to officeholder accounts, so that if there is any violation of the restrictions on officeholder contributions, the treasurer shall promptly pay an amount equal to any excess contributions received into the city's general fund. Also, the FCPC proposal has added a provision to the enforcement section that provides that, if the Commission determines, after notice and a hearing, that an officeholder has committed a substantial violation of the regulations relating to officeholder accounts, it may suspend or terminate the officeholder's committee and account and may prohibit the officeholder from establishing, maintaining, or operating such a committee or account in the future.

BACKGROUND

Private contributions to officeholder accounts are regulated for elected state officeholders including the governor and members of the Legislature. State law provides individual and cumulative limits on contributions to officeholder accounts and includes requirements for reporting, recording keeping, and auditing. (Gov't Code § 85316(b); Cal. Code Regs. § 18531.62.) By contrast, the Berkeley Election Reform Act does not currently expressly regulate or prohibit private contributions to officeholder accounts of elected city officials. Under existing law, if funds for officeholder accounts are used for Berkeley campaign purposes, this may implicate various parts of the Berkeley campaign financing law and may trigger various local and state legal requirements. But many aspects of officeholder accounts at the local level are unregulated and such accounts are subject to potential abuse.

The Berkeley Election Reform Act provides that "Public officials . . . should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them." (BERA, section 1.12.010.) The Commission has long been concerned about the possible adverse influence of private funding on local politics and government. In 2019, the Commission started discussing whether there is a need to amend the local campaign finance law relating to officeholder accounts to better protect the public interest and preserve the impartiality of elected officials. In this regard, it considered both government funded officeholder accounts (so-called D-13 accounts) and privately funded officeholder accounts. Regarding privately funded accounts, the Commission considered three options: (1) leaving the law on these officeholder accounts unchanged; (2) prohibiting privately funded officeholder accounts entirely (an approach used by the City of San Jose), or (3) authorizing privately funded officeholder accounts but limiting their use and imposing restrictions and requirements on them (an approach used by the City of Oakland).

At its regular meeting on November 21, 2019, the Commission voted to recommend amendments to the BERA that would prohibit privately funded officeholder accounts. The Commission submitted its proposal to the Council on February 4, 2020.¹ The FCPC report summarized its proposal: “Contributions to and expenditures from Officeholder Accounts provide an unfair advantage to incumbents. They also increase the reliance on private campaign contributions and risk increasing the perception of corruption. Amending the Berkeley Election Reform Act to prohibit Officeholder Accounts will help to level the playing field in municipal elections, which was also the goal of the Fair Elections Act of 2016.”

The Council, at its February 4, 2020 meeting, discussed the issues of officeholder accounts. It had a lengthy discussion about the publicly funded D13 accounts. At that meeting, the Council also decided not to approve the FCPC recommendation to prohibit privately funded officeholder accounts. Instead, the City Council referred both the issues relating to D13 accounts and those relating to officeholder accounts to its Agenda and Rules Committee for further consideration.

At a special meeting on March 9, 2020, the Agenda and Rules Committee had an initial discussion of these topics. It was agreed that the Council Committee would work collaboratively with the FCPC and Open Government Commission (OGC) on matters relating to D13 accounts and officeholder accounts. The FCPC and the OGC submitted recommendations to the Council related to this process, which were included as part of the discussions regarding officeholder and D-13 accounts.

Besides the FCPC’s concerns about privately funded officeholder accounts, the OGC was concerned about the practice of councilmembers appearing to make individual donations to community organizations using their publicly funded D-13 accounts. The issues relating to D-13 grant practices have been resolved separately. On March 9, 2021, the Council approved a recommendation by the OGC, supported by the Agenda and Rules Committee, to have donations to private non-profit organizations made by the entire Berkeley City Council on behalf of the citizens of Berkeley rather than from individual Council members.

The Agenda and Rules Committee continued to discuss the question of privately funded officeholder accounts at multiple meetings in early 2021, with input from three FCPC-OGC Commissioners. On March 29, 2021, the Agenda and Rules Committee took action to send this item to the Council with two proposed alternatives: (1) a proposal by the Agenda and Rules Committee to regulate officeholder accounts in a manner based on existing regulation of campaign committees, and (2) the proposal by the FCPC to prohibit officeholder accounts.

¹ https://www.cityofberkeley.info/Clerk/City_Council/2020/02_Feb/Documents/2020-02-04_Special_Item_02_Amendments_to_the_Berkeley_pdf.aspx.

The Council considered these two proposals at its meeting on November 9, 2021. The Council first considered the option of referring the proposal to prohibit officeholder accounts to the FCPC. This motion failed by a vote of 4 to 5. The Council then considered then the option of referring the Agenda and Rules Committee’s proposal for regulating officeholder accounts to the FCPC. This motion passed by a vote of 6 to 3. Thus, the Council’s reference of its regulated proposal has been presented to the FCPC for its consideration.

In January 2022, the FCPC considered the Council’s referral. The Commission discussed the regulated approach proposed by the Council, as well as prohibiting officeholder accounts. It did not support the Council’s proposal for regulating officeholder accounts, at least as drafted. Concerns expressed included that: the Council’s version would apply to all 24 elected city officials, not just the mayor and council members, which is unnecessarily broad; the individual and cumulative amounts of the proposed contributions allowed were too high; the proposal would allow the use of officeholder funds to be used for legal defense purposes, which would be improper; and the proposal does not provide for audits of officeholder accounts. The FCPC formed a subcommittee and directed it to prepare an alternative proposal for regulating officeholder accounts in Berkeley that would reflect the members’ concerns, and to bring it back to the full Commission.

The subcommittee has prepared a possible alternative proposal for regulating officeholder accounts and submits it to the FCPC for its consideration.

COMMISSION’S PROPOSAL FOR ORDINANCE ON OFFICEHOLDER ACCOUNTS

This section summarizes the main provisions of the proposed FCPC ordinance, describes how the FCPC proposal differs from the Council version, and explains the reasons the FCPC proposal is preferable.

Article 9. Officeholder Committees and Accounts

Both the Commission and the Council have placed their main legislative proposals concerning officeholder accounts in a new Article 9. While there is considerable overlap between the two versions of Article 9, there are also important differences, as explained further below. The Commission version also includes some new sections, for which nothing comparable exists in the Council version.²

Section 2.12.600. Regulation of officeholder committees and accounts

The FCPC proposal includes a statement that the purpose of Article 9 is to establish limits on the amounts of contributions to officeholder accounts, as authorized by state law. (Section 2.12.600.A.) It further states that the purposes of the article include (1) providing adequate funds, if needed, for the City of Berkeley’s principal elected officials to fully and effectively performs their duties of their office; (2) ensuring transparency and openness of city business and its officials; and (3) preserving public confidence in the city and its key officeholders. (Section 2.12.600.B.)

² All references to “section” or “sections” refer to a section or sections of the Berkeley Election Reform Act (BERA), unless otherwise specified.

The Council version does not include any general or specific provisions about the purposes of Article 9 comparable to 2.12.600A. and B. The statements of purpose in the FCPC version will assist the public to better understand the ordinance and help persons interpreting it to apply its provisions properly.

The Council version of section 2.12.600 also included provisions very broadly defining “officeholder” and exempting officeholders from reporting expenditures of personal funds for their own officeholder accounts. In the FCPC version, these provisions have been deleted from section 2.12.600 and replaced by substantively different provisions elsewhere in BERA, as explained further below. (See sections 2.12.157, 2.12.601, 2.12.603.)

Section 2.12.601. Officeholders eligible to establish officeholder committees and accounts

The FCPC proposal provides that the Mayor and City Council members are the “eligible officeholders” under Article 9. They are the *only* elected officials who may establish officeholder committees and accounts. (Section 2.12.601.A; see also section 2.12.157.A.) All other elected city officials would be prohibited from establishing an officeholder committee or account or from receiving any contributions or making any expenditures associated with holding office, except that these other non-eligible elected officials would be allowed to personally contribute incidental expenses not to exceed \$250 to the operation of their offices.

The FCPC proposal differs significantly from the Council’s version in narrowing the number of elected officials eligible to receive private funding to the nine principal elected officials in the city: the mayor and the eight members of the City Council. The Commission does not support the extending the authorization to receive private funding for officeholder operations to include the members of the School Board (5 members) and the Rent Stabilization Board (9 members), and the city auditor (1 person). These 15 additional officials have historically never required such additional private funding and no need has been shown for authorizing it. Making these elected officials dependent on private funding is not good policy. If they need any additional funding, the City of Berkeley—not private contributors—should provide it. (See section 2.12.601.C. below). These other officials’ time should be devoted to their official duties, not to fundraising for their offices. Lastly, including these 15 additional officials in the regulated program would impose undue administrative burdens on the city government and the Commission, which may be costly and time-consuming.

In addition to specifying which officeholders are eligible for receiving and expending private funds, section 2.12.601 provides that nothing in it prohibits the City from providing financial support and assistance to officeholders who are not eligible to establish committees or accounts to enable them to perform the duties of their offices. (Section 2.12.601.C.) This is a new provision, not included in the Council proposal. It highlights the point that public funding of officeholders is, and should remain, an option instead of private funding.

Finally, section 2.12.601 provides that nothing in the section requires an eligible officeholder to open an officeholder committee, contribute to such a committee, or spend person funds on their own officeholder expenses. (Section 2.12.601.D.) The FCPC believes that these are sound policies, underscoring that officeholding should not be dependent on private funding or the personal financial contributions of officeholders. The Council version included a similar provision in section 2.12.600.B.

Section 2.12.602. Cumulative contribution limits

As a preliminary matter, with regard to the Council members' and mayor's offices, the FCPC notes that City provides public funding for those offices through the D-13 accounts. If additional private funding is needed for their support, the cumulative and individual amounts of the private contributions should be strictly limited.

The FCPC proposal provides that, for the office of mayor, total contributions to an officeholder account from all contributors shall not exceed \$10,000 in the aggregate for a calendar year. (Section 2.12.602.A.) The proposal further provides that, for each member of the City Council, total contributions to an officeholder account from all contributors shall not exceed \$5,000 in the aggregate per calendar year. (Section 2.12.603.B.) The dollar amounts of these cumulative limits will be adjusted periodically as provided in section 2.12.545. (Section 2.12.602.C.)

The establishment of cumulative limits is a reasonable means to regulate contributions. Similar cumulative limits for officeholder contributions have been enacted for all statewide elected offices, including the Governor, members of the Senate and Assembly, and other offices. (See Cal. Gov. Code, § 85316(b)(2).) The amounts proposed by the FCPC are reasonable and will ensure that the amounts contributed do not exceed what is necessary for conducting local Berkeley officeholder's official business.

The FCPC's proposal on cumulative contributions for City Council members is similar to the Council's: it provides for a limit of up to \$5,000 annually (to be adjusted under section 2.12.545) for each officeholder account. However, it would allow only up to \$10,000 annually (to be adjusted) for the mayor's officeholder account, instead of the \$20,000 (to be adjusted) proposed by the Council, because there has not been a showing that the mayor's office requires the substantially higher cumulative amount.

The FCPC proposal also does not authorize any cumulative amounts—or any contributions at all—for the for local elective officers other than the Mayor and Council members, for the reasons explained previously. (The Council proposal would have authorized those elected officials, as citywide elected officials, to receive up to four times the maximum amount allowed for council members representing districts—that is, up to \$20,000 (to be adjusted), a large amount for which there does not appear to be any justification.)

Section 2.12.603 Individual contributions - Restrictions - Limits on contributions

Limits on individual contributors

The FCPC's proposal provides that only a natural person who is a resident of Berkeley shall make a contribution to an officeholder committee or account. In addition, the proposal would make the prohibition against contributions by organizations and entities to candidates and committees in section 2.12.440 applicable to officeholder committees and accounts. (Section 2.12.603.A.)

This proposal differs from the Council's proposal insofar as that proposal contains the prohibition against contributions by organizations and entities but does not prohibit contributions by person who are not residents of Berkeley. (See Council proposal, section 2.12.615.) The FCPC considers the additional requirement of limiting contributions to natural persons residing in Berkeley to be valuable in that it would limit the influence of outsiders on Berkeley officeholders. It is important that Berkeley officeholders be responsible first and foremost to their own citizens. Restricting private contributions from non-residents will help promote this goal and avoid undue outside influence.

Limits on the amounts of contributions

The FCPC's proposal provides that no individual contributor shall make, and no eligible officeholder shall accept, a contribution per person for the calendar year whose value totals more than the maximum amount of a "qualifying contribution" permitted under section 2.12.167 (\$50), as adjusted periodically as provided in section 2.12.545. (Section 2.12.603.B.) This amount is currently set at \$60. This proposed limit on individual contributions is significantly less than that proposed by the Council. The Council would use the \$250 campaign contribution limit in section 2.12.415 as the limit on individual contributions to officeholder accounts. (See Council Proposal, section 2.12.615.A.)

The FCPC's proposed lower limit on individual contributions is based on sound public policy and should result in fairer results. The lower contribution limit will ensure that no single private individual can unduly influence—or appear to unduly influence—any principal elected official of the City. Also, this lower limit will help level the playing field; it will enable all eligible elected officials alike to be able to collect small contributions from numerous constituents, rather than enabling a few members from wealthier districts to collect larger contributions from wealthier constituents and thereby reap the benefits of establishing officeholder committees and accounts. If a regulated approach to officeholder accounts is to be enacted, it must not create disparities in the resources available to different Council members based on the wealth of their districts or of their constituents.

Restrictions on officeholders' personal contributions

The FCPC proposal would place limits on the amount that an officeholder can personally contribute to their own officeholder committee and expend on officeholding business; and it would require officeholders to report all their contributions and expenditures.

Specifically, new section 2.12.603.D.1. provides that all contributions by an officeholder shall be made through an officeholder committee and placed in an officeholder account, and these contributions shall be reported like all other contributions.

New section 2.12.603.D.2. provides that the total amount contributed by an eligible officeholder and all other contributors per calendar year combined shall not exceed the cumulative contribution limit in section 2.12.602. [An alternative version of 2.12.603.D.2, which the Commission should discuss, would allow for a personal annual contribution by the mayor of up to \$5,000, and by a council member of up to \$2,500. In this version, the amounts contributed annually by an eligible officeholder would not count towards the cumulative annual contribution limit for that officeholder in section 2.12.602.]

The FCPC proposal to restrict the amount that an officeholder can contribute personally to their own account and require officeholders to report their contributions and expenditures differs significantly from the Council version. In the Council proposal, there would be no limits on the amount that an officeholder could contribute to their own officeholder committee or spend on officeholder expenses, either through or not through an officeholder committee. (Council proposal, section 2.12.615.C.) Also, the Council's proposal would exempt officeholders from reporting on their personal contributions and expenditures. (Council proposal, section 2.12.600.C.)

The FCPC proposal is based on better public policy, will be much more transparent, and will produce fairer results. In previous discussions, members of the City Council have repeated stated that they believe that one important reason for authorizing officeholder accounts is to level the playing field among council members and districts. But the specific provisions in the Council's draft ordinance allowing officeholders to spend unlimited personal funds on their offices would have the opposite effect. These provisions would allow more affluent council members to contribute unlimited amounts for the purpose of maintaining their offices, while less economically privileged members would not be able to afford such expenditures. Furthermore, by exempting members from reporting their own contributions and expenditures, the public would be deprived of the ability to know how the public's business is being financed and managed. Hence, the FCPC proposal establishing limits on personal contributions and expenditures and requiring reporting by all, including incumbent officeholders, is preferable.

Section 2.12.604 Limits and requirements for contributions and expenditures

Both the FCPC and City Council's proposals provide that various provisions in BERA—such as those prohibiting contributions from persons except in their legal name and prohibiting anonymous contributions—shall apply to officeholder committees and accounts under Article 9. The FCPC version has revised the section for clarity and relocated it.

Section 2.12.610 Permissible officeholder expenditures

This section provides a list of permissible officeholder expenditures. This is important so that officeholders will know clearly what kinds of expenditures that they may lawfully make.

The FCPC version of this section is similar to the Council's. However, it has been renumbered and relocated (from section 2.12.606 to 2.12.610). Also, a cross reference has been added to new section 2.12.612.F. on constituent communications to clarify that there are limitations that apply to the use of officeholder funds for constituent communications. In addition, the FCPC has deleted the council's proposed subpart J, which would have permitted officeholders to expend officeholder funds for attorney's fees and other costs relating to litigation, administrative procedures, or other similar processes.

Attorney's fees and costs are not appropriate expenditures to be made from officeholder accounts. Other state and local laws do not include these in this category for good reasons. The raising and expenditure of funds for legal defense purposes are not ordinary office expenses, raise many complex legal and ethical issues, and require separate, detailed provisions if they are to be lawful and appropriate. Hence, attorney's fees and costs should not be listed as permissible officeholder expenses in section 2.12.610.

Section 2.12.611 Prohibited officeholder expenditures

This section contains a list of prohibited officeholder expenses. It is important that officeholders have this list so that they will know what kinds of expenditures they are prohibited from making from officeholder accounts.

The FCPC version of this section is similar to the Council's. However, it has been renumbered and relocated (from section 2.12.604 to 2.12.611). Also, it contains two significant changes.

First, in the FCPC proposal, subsection B. prohibiting expenditures for campaign consulting, research, etc. has the additional words "or for any other campaign expenditures of any kind" added at the end of the sentence. This clarifies that no officeholder funds may be used for any kind of campaign purposes. The basic premise of Article 9 is that officeholder accounts are not campaign accounts and can never be used for campaign purposes. Officeholder funds should be used solely for legitimate expenses for operating an office. The added words in subsection B. underscore that all campaign funds should be entirely separate and should be strictly regulated by other provisions in BERA and state law.

Second, new subsection E. has been added that prohibits the use of officeholder funds for attorney's fees and costs of litigation. As explained above under section 2.12.610, the use of officeholder accounts to pay for attorney's fees and cost is not appropriate and should be expressly prohibited.

Section 2.12.612. Constituent and community communications

This new section has been added to ensure that funds from officeholder accounts for constituent and community communications are used only for legitimate officeholder

purposes, and never for campaign purposes. The council proposal contains no equivalent provision.

Section 2.12.620 Prohibitions on transfer or reallocation of funds

The proposal includes this provision prohibiting the transfer or relocation of funds because the receipt an officeholder committee of any funds from any campaign committee, or the transfer of officeholder funds to any kind of campaign purposes, would violate the basic principle that these funds should be kept strictly separate. Both the FCPC and the Council proposals contain this identical provision.

Section 2.12.621 Prohibition on simultaneously maintaining officeholder and campaign committees

This provision is included because it ensures that officeholder activities and campaign activities will be kept strictly separate, administered separately, and reported separately. Both the FCPC and the Council proposals contain this identical provision.

Section 2.12.625 Officeholder committees and public financing

The FCPC proposal adds this section to clarify that individuals who have an officeholder account may participate in the City's public campaign financing program, provided that they comply with Article 9.

Section 2.12.630 Statement of organization – Committee required to file

The FCPC and council's proposals both contain the provisions that (1) every officeholder shall file a statement of organization with the City Clerk before accepting contributions, and (2) the date an officeholder committee is formed by filing the statement of organization shall determine the officeholder committee's obligations to file statements and reports. (Section 2.12.630.B.and C.)

The FCPC proposal would also add two subsections. The first new subsection provides that every eligible officeholder who directly or indirectly, from any authorized person or from themselves, receives contributions that cumulatively total more than two hundred fifty dollars (\$ 250) in a calendar year or makes expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall establish an "officeholder committee" and shall open an "officeholder account" as defined in section 2.12.157. (Section 2.12.630.A.) This new provision is consistent with the approach to establishing a committee for campaign purposes under BERA, section 2.12.095.

The second new subsection provides that every eligible officeholder who does not directly or indirectly, from any authorized person or from themselves, receive contributions that cumulatively total more than two hundred fifty dollars (\$250) in a calendar year or make expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall file a verified certificate stating that they are not required to establish a committee or open an account because the amounts received or expended, if any, do not exceed the amounts specified in

subsection A. above. (Section 2.12.630.D.) The certificates required by that subsection shall be filed on the dates prescribed by section 2.12.650. This new provision is consistent with the reporting requirements for campaign candidates who raise or expend only small amounts and are allowed to file a short form statement rather than a complete campaign statement, (See section 2.12.270.C.)

These two new provisions should make it easier for officeholders who receive or expend only minimal amounts and do not intend to raise funds for officeholder purposes to comply with the law, while requiring them to publicly report those facts by regularly filing the appropriate certification.

Section 2.12.631 Statement of organization – Information required

Both the FCPC and Council proposals contain this section that prescribes the information that the statement of organization is required to contain. (The FCPC version section has also been renumbered.)

Section 2.12.632 Statement of organization – Change of Information – Amendment required

Both the FCPC and Council proposals contain this section that prescribes the time by which any change to the statement of organization shall be filed—that is, ten days. (The FCPC version section has also been renumbered.)

Section 2.12.640 Officeholder committee treasurer

Both the FCPC and Council proposals contain this section that requires the appointment of a treasurer and compliance with the requirements for treasurers under section 2.12.245. (The FCPC version section has also been renumbered.)

Section 2.12.641 Officeholder account – Establishment required – Procedure for use

Both the FCPC and Council proposals contain this section that requires the treasurer to establish and manage a checking account. The FCPC proposal has modified the provision to clarify that the checking account must a separate account used exclusively for the purposes of the officeholder committee. (The FCPC version section has also been renumbered.)

Section 2.12.650 Reporting – Officeholder statements – Content – Filing dates

Under the FCPC proposal, this section requires that all contributions received and expenditures made from an officeholder account must be reported and the committee statements must provide all the information required by section 2.12.280 for campaign statements. While the Council proposal may have assumed these requirements, the FCPC proposal makes them explicit, which will improve the clarity, implementation, and enforcement of the ordinance.

The FCPC proposal also modifies the Council proposal regarding the time of filing officeholder committee statements, to provide that each statement shall be filed in accordance with the filing dates prescribed by state law for semi-annual campaign

statements, unless the Commission determines that other dates are more appropriate. (The underlined provisions are new.) The FCPC's proposed changes to this section improve it by (1) making the timing of filing of officeholder statements clearer because there are many different possible dates for filing campaign statements, many of which would seem to be inapplicable, and (2) giving the Commission the discretion to adjust the filing dates if another date or dates prove to be more appropriate for officeholder statements than the semi-annual campaign filing dates.

Section 2.12.655 Filing requirements

Both the FCPC proposal and the Council proposal require all reports and statements required by Article 9 to comply with certain filing requirements contained in sections of the BERA relating to the filing of campaign statements—for example, the signature and verification requirements in section 2.12.025 and the provision on where to file in section 2.12.230. Including these requirements will facilitate the filing of statements and reports and ensure their accuracy.

The FCPC version has modified the Council's proposed language in the section to be clearer and has relocated the provisions placed by the Council in section 2.12.675 to this section 2.12.655, a more logical location. Also, the FCPC version has cross-referenced the verification requirements in section 2.12.025, as the Council's version had; but it has deleted the Council's additional subpart B. on verification in section 2.12.675, which appears to be inconsistent with the cross-referenced section 2.12.025 on verification, is difficult to understand, and could be difficult to implement or enforce.

Section 2.12.658 Requirements for public inspection, preservation, and City Clerk's responsibilities

The FCPC proposal has added a separate section providing that all reports and statements required by Article 9 shall be subject to the same provisions for public inspection, preservation, and Clerk's responsibilities as provided for campaign reports and statements in sections 2.12.040, 2.12.045, and 2.12.050. The Council proposal had provided in its proposed section 2.12.675 for the same provisions of the BERA to be applicable to reports and statements in Article 9. Requiring compliance with these additional sections of BERA, as both the FCPC and the Council propose, will ensure the transparency of the reports and statements.

For the sake of clarity, the FCPC has placed this provision in a separate new section 2.12.658, with a title that expressly identifies the content of the section, rather than in section 2.12.655 on filing requirements or the Council's proposed section 2.12.675.

Section 6.12.660 Termination of officeholder committees upon leaving office

Both the FCPC and Council proposals contain this section which provides that officeholders who do not run for re-election or seek a subsequent public office shall terminate their officeholder committee with 90 days of leaving office. It further provides that, following the date of leaving office, officeholders shall not make any new expenditures from their committee except for: (1) paying for legitimate officeholder

expenses accrued before leaving office; (2) repaying contributions on a pro rata basis; or (3) donating funds to the City's general fund. These provisions will assist in implementing and administering the law by clarifying exactly what officeholders must do—and must not do—in terminating their officeholder committees and accounts. (Section 2.12.660.A.–B.)

The FCPC proposal would add an additional requirement to this section. It would require officeholders terminating their officeholder accounts to file a statement regarding the disposition of all funds from the account. This will ensure that the Commission and the public are aware of that all officeholder funds have been properly disposed of. (Section 2.12.660.A.–B.)

The FCPC version has also renumbered this section from 2.12.612 to 2.12.660.

Section 2.12.670 Records of officeholder accounts

The FCPC proposal adds a new section on record-keeping requirements. First, these provisions provide, among other things, that it is the duty of officeholders and treasurers to maintain detailed accounts, records, bills, and receipts necessary to prepare officeholder statements and to establish that the statements are accurate and properly filed. These provisions are consistent with state and local law relating to recordkeeping. (See Gov't Code § 84104; 2 Cal. Code Reg. § 18401; BERA, section 2.12.250.D.–E.)

Second, the section provides that records relating to officeholder accounts shall be retained for a period of at least four years after the adoption of a final audit report or five years from the date of any violation. This is consistent with state and local law. (See 2 Cal. Code Reg. §§ 18401 and 18531.62; BERA, section 2.12.250.D.–F.)

Finally, the section provides that officeholders and treasurers shall make available to the Commission and other authorities or their designees specified in section 2.12.250, on demand, the details of any officeholder account requested and the records supporting it. This is consistent with state and local law. (See Gov't Code § 90001(i); 2 Cal. Regs. § 18401; BERA, section 2.12.250.F.)

Section 2.12.675 Audits of officeholder committees and accounts

The FCPC proposal provides for regular audits of officeholder committees and accounts. It provides that the City Auditor shall audit all officeholder committees and accounts every two years beginning in 2024. The audits shall cover the preceding two-year period ending July of every even numbered year. The final audits shall be publicly filed with the Clerk and copies shall be sent to the FCPC for review not later than October 1 of the even year when the audits were scheduled to be prepared and filed. (Section 2.12.685.A.)

The FCPC proposal further provides that, if any audit or audits are not completed, finalized, and filed by October 1, the Clerk shall promptly notify the Commission and the

affected officeholder and treasurer. Upon receipt of this notice, the officeholder committee shall immediately cease operations, including collecting contributions and making expenditures, until the final audit or audits have been filed, copies sent to the Commission, and the Commission has approved the audits. (section 2.12.685.B.)

Unlike the FCPC proposal, the Council proposal does not include any provision regarding audits. Providing for regular audits of officeholder committees and accounts is good practice, ensures compliance with the law, and is consistent with state law relating to the regulation of officeholder committees and accounts. (See Gov't Code § 90001; 2 Cal. Code Reg. § 18531.62(c)(4).) The state's requirement for regular audits of officeholder accounts is superior to the current provision in BERA for auditing campaign accounts (see BERA, section 2.12.250.G), which has proven ineffective. In most instances, BERA is more rigorous than state law; with regard to the auditing of officeholder committees and accounts, it should also be at least as rigorous.

Finally, with respect to the cost of audits, these should be minimal. At least until recently, only one Member of the Council has maintained an officeholder account. Even if other Members and the Mayor establish such accounts in the future, the burden of auditing these few additional accounts every two years should not be substantial and would be outweighed by the benefits of creating greater public confidence in the city's principal officeholders by assuring that all private contributions to them are being properly regulated. Naturally, if the authorization to establish officeholder committees were to be expanded to all elected city officials, as proposed by the Council, that would greatly increase the costs of auditing; but that is not proposed by the Commission.

Section 2.12.685 Enforcement

Both the FCPC and the Council proposals provide that the violations of Article 9 involving the unlawful use of officeholder committees are subject to the enforcement procedures and penalties in Article 7 of BERA. (Section 2.12.685.A.) The FCPC proposal also makes the limitations on contributions in Article 6 explicitly applicable to Article 9. This means that, if any person is found guilty of violating the terms of the chapter, the treasurer who received part or all of the contributions which constitute the violation shall pay promptly, from available officeholder account funds, if any, the amount received by such persons in excess of the amount permitted by the chapter for deposit in the general fund,

In addition, the FCPC proposal adds a provision that, if the Commission determines, after notice and a hearing, that an officeholder has committed a substantial violation of the regulations relating to officeholder accounts, it may suspend or terminate the officeholder's committee and account and may prohibit the officeholder from establishing, maintaining, or operating such a committee or account in the future. This provision ensures that, in addition to monetary penalties, the Commission—acting in accord with due process—may take action to stop misconduct, and to prevent further abuses, if an officeholder commits serious violations of Article 9.

Other Sections of the Berkeley Municipal Code Amended by the Proposed Legislation

In addition to proposing new Article 9, the Commission's and the Council's proposals on regulated officeholder accounts make conforming changes to other sections of the Berkeley Municipal Code, including the Lobbying Registration Act Chapter, 2.09. and the Berkeley Election Reform Act, Article 2 (Definitions). As previously in this memorandum, the following summarizes the provisions of the FCPC's proposal amending other code sections, describes whether the Commission's proposal regarding these code sections differs from the Council's version, and if so, explains the reasons the Commission is recommending its version rather than the Council version.

Lobbyist Registration and Regulation, Chapter 2.09

Both the FCPC and the Council proposals recommend amending the Lobbyist Registration Act to reflect the addition of Article 9. The two proposals, however, take different approaches.

The FCPC proposal recommends replacing subsection A. of section 2.09.220 (restrictions on payments and expenses benefiting public officials) with a new provision that no local government lobbyist or a lobbyist's registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder or candidate for elected city office except as authorized by, and only to the extent permitted by, the Berkeley Election Reform Act and other applicable local or state law. This new provision will ensure that the Lobbyist Registration Act is fully consistent with the new officeholder committee and account provisions and the other provisions of BERA.

By contrast, the Council's proposal would leave subsection A. unchanged except for adding to the list of exceptions to the ordinance's \$240 annual contribution limit a provision that includes "officeholder" contributions that do not exceed the limits imposed by BERA. This sole amendment to subdivision A. is insufficient to ensure that the Lobbyist Registration Act is fully compliance with Article 9. The ordinance would arguable still permit lobbyists who are not natural persons residing in the City of Berkeley to provide gifts with a cumulative value of \$240 in a calendar year to benefit an elected city officeholder. Hence, to avoid inconsistency and fully implement Article 9, the FCPC's proposed amendment to section 2.09 should be adopted rather than the Council version.

Election Reform Act, Definitions

Both the FCPC and Council proposals would provide definitions of "contribution" and "expenditures" for the purposes of Article 9 based on the definitions of these terms for campaign finance purposes. (See sections 2.12.100 and 2.12.130.) The FCPC uses the same broad definitions of the terms as provided in BERA for campaign contributions and expenditures. The Council proposal, however, would significantly narrow the definitions of "contribution" to mean only "a monetary payment," thereby omitting the numerous other forms of contributions (such as loans, advances, pledges, or "anything of value"). Similarly, the council proposal would narrow the definition of "expenditure" to

mean a “payment of money,” thereby omitting many other forms of contributions (such as pledges or promises “of anything of value”).

There is no sound policy reason for restricting the definitions of “contribution” or “expenditures” to transactions involving money. Non-monetary forms of contributions and expenditures, which have a monetary value that could be quite large, can assist and influence public officials and the conduct of public business; they should be reported by officeholders. Hence, the definitions proposed by the FCPC should be adopted.

The FCPC and the Council also both propose definitions of “officeholder committee” (See section 2.12.157.) The FCPC proposal provides that the Mayor and City Council members are the “eligible officeholders” under Article 9. They are the *only* elected officials who may establish officeholder committees and accounts. (Section 2.12.601.A; see also section 2.12.157.A.) All other elected city officials would be prohibited from establishing an officeholder committee or account or from receiving any contributions or making any expenditures associated with holding office. Hence, the FCPC’s proposed definition of “officeholder committee” defines it as a committee established by eligible officeholders—that is, the mayor and City Council members. By contrast, the council’ proposes that “officeholder committee” be defined as one established by any elected official (24 positions) under the Charter of the City of Berkeley. For the reasons explained above, the FCPC does not believe that such a broad authorization of the use of officeholder committees is necessary or desirable.

In addition to recommending defining “officeholder committee” as recommended, the FCPC proposes including in section 2.12.157 a definition of “officeholder account” because this term is used frequently in new Article 9 governing officeholder committees and accounts

Cost of Living Adjustments

A final subject that is addressed in both the FCPC and Council’s proposals is whether to provide for cost-of-living adjustments for the dollar amounts provided in Article 9 for cumulative limits on contributions, individuals contribution limits, and other specified dollar amounts. On this issue, the FCPC and Council are in general agreement that these adjustments are appropriate.

The cost-of-living adjustments are provided for in section 2.12.545. The Council proposal provided for adjustments to the dollar amounts provided in sections 2.12.167, 2.12.500.A.3, 2.12.505.B, 2.12.530.B.3.b, 2.12.167, 2.12.500.A.3, and 2.12.530.B.3.b., and section 2.12.602. The FCPC proposal has added similar adjustments to the dollar amounts specified in section 2.12.603. Providing for these adjustments is important, particularly if inflation continues to be a problem, to ensure that the dollar limits established at this time are still realistic and appropriate in the future, without requiring ongoing legislation to adjust those amounts.

FCPC ACTIONS OR RECOMMENDATIONS

The FCPC, after fully considering the issues, should respond to the reference from the Council. This response should include a recommendation. Based on the discussion so far, it is evident that the FCPC would not simply accept the Council's proposal, as drafted. Instead, the FCPC's might recommend that the Council approve the alternative FCPC proposal for an ordinance regulating officeholder committees and accounts; or, alternatively, the FCPC might develop some other recommendation or recommendations, including reiteration of its previous recommendation to prohibit officeholder accounts or it might recommend changing the approach to D-13 accounts.

Whatever the FCPC recommends, it should be remembered that it will ultimately require a 2/3 majority vote of both the FCPC and the City Council (that is, the "double green light") to amend BERA.

Attachments:

1. Fair Campaign Practices Commission Proposal to Amend BERA to allow for regulated officeholder accounts ("FCPC Proposal").
2. Chart Comparing Council Proposal and FCPC Proposal.

Fair Campaign Practices Commission's Proposed Draft Amendments to the Berkeley Election Reform Act Relating to Officeholder Accounts (Revisions to City Council's Proposed Amendments Approved November 9, 2021)

ORDINANCE NO. -N.S.

AMENDING THE BERKELEY ELECTION REFORM ACT AND
LOBBYIST REGISTRATION ACT TO REGULATE
OFFICEHOLDER COMMITTEES

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code section 2.09.220 is amended to read as follows:

Section 2.09.220 Restrictions on payments and expenses benefiting local public officials.

A. No local government lobbyist or a lobbyist's registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder or candidate for elected city office except as authorized by, and only to the extent permitted by, the Berkeley Election Reform Act and other applicable local or state law. ~~No local government lobbyist or a registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals, in which the cumulative value of such payments or expenses exceeds \$240 during any calendar year. This \$240 limit may be adjusted every four years by the OGC to account for inflation. The payments and expenses specified in subsections 2.09.220(A)-(D) include gifts, honoraria and any other form of compensation but do not include:~~

- ~~1. gifts of food or refreshment worth \$25 or less per occasion, if the local governmental lobbyist is a 501 (c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501 (c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event;~~
- ~~2. payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed;~~

~~3. gifts of food or beverage worth \$25 or less per occasion, if said gift is provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present;~~

~~4. a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code;~~

~~5. informational material;~~

~~6. campaign or contributions not to exceed the limits imposed by the Berkeley Election Reform Act or state law, as applicable; and~~

~~7. salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this section.~~

~~For purposes of the gift limits imposed by subsections (A)–(C), gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may hereafter be amended.~~

B. No lobbyist or a lobbyist's registered client shall make any payment to a third-party for the purpose of making any payment or incurring any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.

C. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal benefit or for the personal benefit of a member of the immediate family of one of these individuals.

D. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the third-party is providing the payment or expense on

behalf of a lobbyist.

Section 2. That Berkeley Municipal Code section 2.12.100 is amended to read as follows:

Section 2.12.100 Contribution.

A. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund- raising events; a candidate's own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term "contribution" further includes any transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars.

B. In the case of an officeholder committee, "contribution" means a monetary payment or other contribution as defined in A above to an officeholder committee to be used for expenses associated with holding City office, and not for campaign purposes, as provided in Article 9 of this Chapter.

Section 3. That Berkeley Municipal Code section 2.12.130 is amended to read as follows:

Section 2.12.130 Expenditure.

A. "Expenditure" means a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for

goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee. "Expenditure" also includes the forgiving of a loan or the repayment of a loan by a third party.

B. In the case of an officeholder committee, "expenditure" means payment of money or other expenditure as defined in A above by an officeholder committee for expenses associated with holding elective office in the City of Berkeley, and not for campaign purposes, as provided in Article 9 of this Chapter.

Section 4. That Berkeley Municipal Code section 2.12.157 is added to read as follows:

Section 2.12.157 Officeholder committee and officeholder account.

A. "Officeholder committee" means a committee established by an officeholder eligible to receive contributions and make expenditures associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter. The eligible officeholders under that Article are the Mayor and Members of the City Council.

B. "Officeholder account" means a bank account maintained by an eligible officeholder or by any person or committee on behalf of an eligible officeholder, and whose funds are used exclusively for expenses associated with holding office and not for direct campaign purposes, as provided in Article 9 of this Chapter.

Section 5. That Berkeley Municipal Code Section 2.12.545 is amended to read as follows:

Section 2.12.545 Cost of living adjustments.

The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.505.B, ~~and 2.12.530.B.3.b, 2.12.602, and 2.12.603.~~ for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3, ~~and 2.12.530.B.3.b, and 2.12.603.B.~~ and one thousand dollars (\$1,000) with respect to

Sections 2.12.505.B and 2.12.602.

Section 6. That Article 9 of Chapter 2.12 of the Berkeley Municipal Code is added to read as follows:

Article 9. Officeholder Committees and Accounts

Section. 2.12.600 Regulation of officeholder committees and accounts.

A. The City of Berkeley hereby enacts a comprehensive ordinance for the purpose of regulating officeholder committees and accounts, including establishing limits on the amounts of contributions to these accounts, as authorized by California Government Code sections 85316, 85702.5. and other applicable state law.

B. The purposes of regulating officeholder committees and accounts include:

1. To provide adequate funds, if needed, for the City of Berkeley's principal elected officials to fully and effectively perform the duties of their office;
2. To ensure transparency and openness in the funding of city government;
3. To prevent the improper influence of private funds on the operations of city business and its officials; and
4. To preserve public confidence in the city and its key officeholders.

Section 2.212.601 Officeholders eligible to establish officeholder committees and accounts.

A. The Mayor and City Council Members are "eligible officeholders" under this Article. They are permitted to establish an officeholder committee and an officeholder account, as defined in section 2.12.157A–B. The Mayor and Council Members are the only elected officeholders in the City of Berkeley authorized to establish, maintain, and use committees and officeholder

accounts for the purposes of this Article.

B. All elected city officials other than the Mayor and City Council Members are not eligible officeholders. They are prohibited from establishing an officeholder committee or an officeholder account or from receiving any contributions or making any expenditures associated with holding elective office in the City, except that non-eligible officeholders may personally contribute incidental expenses, in a value not to exceed two hundred fifty dollars (\$ 250), to the operation of their offices.

C. Nothing in this section shall prohibit the City from providing financial support and assistance to those officeholders who are not eligible to establish officeholder committees or accounts to enable them to perform their duties of office.

D. Nothing in this section shall require an eligible officeholder to open an officeholder committee or, if they have established an officeholder committee, to contribute to their officeholder committee or to spend personal funds on their own officeholder expenses.

Section 2.12.602 Cumulative contribution limits

A. For the office of Mayor, total contributions to an officeholder account from all contributors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year.

B. For each Member of the City Council, total contributions to an officeholder account from all contributors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.

C. The dollar amounts of the cumulative campaign limits provided for in A. and B. shall be adjusted periodically as provided in section 2.12.545.

Section 2.12.603 Individual contributions – Restrictions – Limits on contributions.

A. Only a natural person who is a resident of the City shall make a contribution to an officeholder committee or account. The prohibition against

contributions from organizations and entities to candidates and committees in section 2.12.440 applies to contributions to officeholder committees and accounts under this Article.

B. No individual contributor shall make, and no eligible officeholder shall accept, a contribution per person for the calendar year whose value totals more than the maximum amount of a “qualifying contribution” permitted under section 2.12.167. A “contribution,” for the purposes of this section includes the payment of money or other contribution as defined in section 2.12.100 A–B.

C. The dollar amounts of the individual contribution limits provided for in B. shall be adjusted periodically as provided in section 2.12.545.

D. An eligible officeholder may personally contribute an amount to their officeholder account greater than provided in B. and C. provided:

1. All contributions by the officeholder shall be made through an officeholder committee and shall be placed in an officeholder account, and reports of all contributions and expenditures shall made as provided in this Article; and

2. The total amount contributed by the officeholder and all other contributors per calendar year combined shall not exceed the cumulative contribution limit in section 2.12,602.

[POSSIBLE ALTERNATIVE VERSION OF D.;

D. An eligible officeholder may personally contribute an amount to their officeholder account greater than provided in B. and C., provided;

1. All contributions by the officeholder shall be made through an officeholder committee and shall be placed in an officeholder account, and reports of all contributions and expenditures shall made as provided in this Article; and

2. The total amount an officeholder may personally contribute to their own officeholder account per calendar year is limited to:

a. For the office of Mayor, five thousand dollars (\$5,000), and

b. For the office of City Council Member, two thousand five hundred dollars (\$2,500).

The amounts personally contributed by an eligible officeholder to their own officeholder committee and officeholder account under D.2.a. or b. shall not count towards the cumulative annual contribution limit for that eligible officeholder in section 2.12.602.]

Section 2.12.604 Limits and requirements for contributions and expenditures

All requirements and prohibitions applicable to campaign contributions and expenditures in the Berkeley Election Reform Act shall apply to contributions and expenditures relating to officeholder committees and accounts, including the requirements for a written instrument under section 2.12.300, the prohibitions on contributions from persons using other than their legal name under section 2.12.305, the prohibitions on contributions from persons on behalf of other persons under section 2.12.310, the prohibitions relating to contributions by agents or independent contractors on behalf of a committee under section 2.12.315, and the prohibitions on anonymous contributions under section 2.12.320.

Section 2.12.610 Permissible officeholder expenditures.

An officeholder committee may make expenditures only for the following purposes:

- A. Expenditures for fundraising for the officeholder committee.
- B. Expenditures for office equipment, furnishings and office supplies used for governmental or legislative purposes.
- C. Expenditures for compensation of staff, consultants, or other persons employed by the officeholder for time spent on officeholder activities, provided that such expenditures are not prohibited by Section 2.12.611.D.
- D. Expenditures for research, surveys, photographic, or similar services, provided such services are only for officeholder purposes.
- E. Expenditures for attendance, travel, lodging, meals and other related

expenses which serve a legislative or governmental purpose by the officeholder and members of the officeholder's City staff or others employed by the officeholder to perform duties related to officeholder activities. Such permissible expenditures shall include:

1. Expenditures for attendance at conferences, meetings, receptions, and other events occurring within or outside of the United States, including registration or other attendance fees, travel, lodging, food, and incidentals;
2. Expenditures for membership and participation in programs for civic, service, or professional organizations, if such membership bears a reasonable relationship to a governmental or legislative purpose; and
3. Expenditures for educational courses or events reasonably related to a governmental or legislative purpose.

F. Expenditures for constituent and community communications, including:

1. Mailings, newsletters and other paper, electronic, or other communications which provide information related to community events, an officeholder's governmental duties, an officeholder's position on a particular matter, or other matters of public concern or interest;
2. An officeholder's website and social media;
3. Email and address list management.

The expenditures permitted for communications under 1–3 must be consistent with, and shall not violate, the restrictions on the use of officeholder account funds for communications in section 2.12.612 of this Article.

G. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in their official capacity.

H. Expenditures for payment of tax liabilities incurred as a result of

permissible officeholder committee transactions.

I. Expenditures for accounting, legal, professional, administrative, and similar services provided to the officeholder committee.

Section 2.12.611 Prohibited officeholder expenditures.

An officeholder committee shall not make expenditures for the following purposes:

A. Expenditures in connection with an election for any city, county, regional, state or federal elective office or in connection with a ballot measure,

B. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office or for any other campaign expenditures of any kind.

C. Membership in any athletic, social, fraternal, veterans or religious organization.

D. Supplemental compensation for officeholder staff for performance of duties required or expected of the person in the regular course or hours of their employment as a City official or employee.

E. Expenditures for attorney's fees or for any other costs of litigation, administrative procedures, or other processes arising directly from the officeholder committee's activities or the officeholder's activities, duties, or status and an elected officer; this prohibition includes, but is not limited to, any expenditures for expenses incurred in defending against claims or potential claims of fraud, malfeasance, discrimination, harassment, or abuse.

F. Any expenditure that would violate any provision of the Berkeley Election Reform Act (BMC Chapter 2.12.) or the California Political Reform Act (Cal. Gov. Code § 81000 et seq.), including but not limited to the gift laws pertaining to travel payments, advancements and reimbursements under Government Code section 89506, and provisions related to permissible expenditures which serve legislative or governmental purposes under Government Code sections 89512 through 89519.

Section 2.12.612. Constituent and community communications.

A. Funds from an officeholder account shall be used for constituent and community communications only as permitted by this section.

B. Funds from an officeholder account may be used for constituent and community communications only as follows:

1. No funds from an officeholder account shall be used, directly or indirectly, for any campaign purposes. This means that these funds may not be used in support or opposition to any candidate or ballot measure in the City; and they may not be used to solicit campaign funds, to notify the public about campaign events, to provide information about a candidate, or for any other campaign-related purpose.

2. Communications paid from officeholder accounts should provide constituents and the community with information directly related to the officeholder's governmental duties, the activities of city government, and to announcements of official agency events. These communications must be clearly identified as "Constituent and Community Communications," and shall state that they are being funded by the elected official's officeholder committee.

3. Notwithstanding Government Code section 89002, officeholder communications with constituents may include mass mailings provided that they comply with 1-2 above or, alternatively, with section 89002(b). Copies of all mass mailings under this section shall promptly be sent to the Commission and shall be part of the public record.

C. No funds from an officeholder account shall be spent for mass mailings for any purpose, including for constituent communications, in a calendar year during which the officeholder with such an account runs, intends to run, or is eligible to run for an elective public office in the City.

Section 2.12.620 Prohibitions on transfer or reallocation of funds.

The following restrictions apply to the transfer or reallocation of officeholder funds:

A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any campaign committee for any city, county,

regional, state, or federal elective office or ballot measure, or any other political committee.

B. No funds may be contributed, redesignated, or transferred from an officeholder committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee.

C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure.

D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.

Section 2.12.621 Prohibition on simultaneously maintaining officeholder and campaign committees.

A. An officeholder may not simultaneously maintain an officeholder committee and a campaign committee for any city, county, regional, state, or federal elective office.

B. A candidate who is elected to any elective office in the City must terminate their campaign committee before opening an officeholder committee.

C. An officeholder must terminate any open officeholder committee before filing a Statement of Organization or equivalent initial filing for a campaign committee for any city, county, regional, state, or federal elective office.

For officeholders filing a Statement of Organization with the City Clerk to form a campaign committee for a City of Berkeley office, the Clerk shall provide notice of the need to close any open officeholder committee before accepting the campaign committee Statement of Organization.

Section 2.12.625 Officeholder committees and public financing.

Individuals who have established, maintained, and used an officeholder

committee may participate in the City’s public campaign financing program under Article 8, the Fair Elections Act, provided that they comply with the requirements of this Article, including terminating any open officeholder committee before filing a Statement of Organization for a campaign committee for elective office.

Section 2.12.630 Statement of organization – Committee required to file.

A. Every eligible officeholder who directly or indirectly, from any authorized person or from themselves, receives contributions that cumulatively total more than two hundred fifty dollars (\$250) in a calendar year or makes expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall establish an “officeholder committee” and shall open an “officeholder account” as defined in section 2.12.157.

B. Every officeholder committee shall file with the City Clerk a Statement of Organization for the officeholder committee before accepting contributions.

C. The date on which an officeholder committee is formed by filing a Statement of Organization shall determine the officeholder committee’s obligation to file statements and reports required by this chapter.

D. Every eligible officeholder who does not directly or indirectly, from any authorized person or from themselves, receive contributions that cumulatively total more than two hundred fifty dollars (\$ 250) in a calendar year or make expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall file a verified certificate stating that they are not required to establish a committee or open an account because the amounts received or expended, if any, do not exceed the amounts specified in subsection A. above. Every eligible officeholder shall file the certificate required by this subsection on the dates prescribed under section 2.12.650, notwithstanding the fact they are not required to file a complete report under that section.

2.12.631 Statement of organization – Information required.

The statement of organization for an officeholder committee required by Section 2.12.630 shall include:

- A. The name, street address and telephone number of the officeholder committee;
- B. The name of the officeholder;
- C. The full name, street address and telephone number of the treasurer and other principal officers;
- D. The elected office held by the officeholder;
- E. The account number and name of the bank at which the checking account, required by Section 2.12.641, is maintained; if the information required by this section is unavailable at the time of filing the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;
- F. The cash on hand at the time of filing the statement of organization;
- G. Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this Chapter.

Section 2.12.632 Statement of organization – Change of Information – Amendment required.

Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.

Section 2.12.640 Officeholder committee treasurer.

Each officeholder committee shall appoint a committee treasurer and shall comply with all requirements for campaign committee treasurers under section 2.12.245.

Section 2.12.641 Officeholder account – Establishment required – Procedure for use.

An officeholder committee treasurer shall establish and manage a separate checking account exclusively for the purposes of the committee. All

provisions of Section 2.12.250 regarding the establishment and use of campaign accounts shall also apply to the establishment and use of officeholder committee checking accounts, unless otherwise provided in this Article. Consistent with this Article and notwithstanding 2.12.250.D., the treasurer of an officeholder account committee shall not accept any monetary or non-monetary contribution with a value in excess of fifty dollars (\$50) and must retain itemized receipts or vouchers of all contributions.

Section 2.12. 650 Reporting – Officeholder statements – Content – Filing dates.

A. All contributions received for, and all expenditures made from, each officeholder account during a calendar year shall be reported as prescribed in B. and C. below.

B. Officeholder committee statements required by this Article shall include all applicable information required for campaign committee statements by Section 2.12.280.

C. Each eligible officeholder who maintains an officeholder committee and account shall file a statement containing all the required information one or more times each calendar year, as prescribed by the Commission. Unless the Commission prescribes otherwise, each officeholder committee statement shall be filed in accordance with the filing dates prescribed by state law for semi-annual campaign committee statements. If the Commission determines that other dates are more appropriate for the filing of officeholder committee statements, the Commission shall set the necessary filing dates.

Section 2.12.655 Filing requirements.

All reports and statements required to be filed by this Article shall be subject to the filing requirements and other provisions of the Berkeley Election Reform Act relating to the filing of campaign reports and statements, including the signature and verification requirements in section 2.12.025, the provisions on where to file in section 2.12.030, the requirement to file electronically in section 2.12.032, the filing procedures in section 2.12.033, and the provision that no fee or charge shall be collected by the City Clerk for the filing of the statement or report under section 2.12.035.

Section 2.12.658 Requirements for public inspection, preservation, and

City Clerk’s responsibilities.

All reports and statements required by this Article shall be subject to the same provisions for public inspection, preservation, and City Clerk’s responsibilities as provided for campaign reports and statements in sections 2.12.040, 2.12.045, and 2.12.050.

Section 2.12.660 Termination of officeholder committees upon leaving office.

A. An officeholder who does not file a Statement of Organization or equivalent initial filing to seek a subsequent city, county, regional, state, or federal elective office shall terminate their officeholder committee within 90 days of leaving office. The Commission may for good cause extend the termination date.

B. Following the date of leaving office, an officeholder shall not make any new expenditures from their officeholder committee except for the following purposes:

1. Paying for legitimate, outstanding officeholder expenses accrued on or prior to the date of leaving office.
2. Repaying contributions to contributors to the officeholder committee on a pro rata basis.
3. Donating funds to the City’s general fund.

C. The officeholder terminating an officeholder account shall file a statement regarding the disposition of all funds from the account, including the identification of all persons and entities that have received funds from the account and the amounts distributed, The officeholder closing the account must verify the statement and file it electronically no later the date prescribed for the termination of the officeholder account or the approved extension thereof. The Commission may require the statement to be provided on a form prescribed by the Commission.

Section 2.12.670 Records of officeholder accounts.

A. The officeholder and treasurer of an officeholder committee are subject

to record keeping requirements.

B. It is the duty of each officeholder and each treasurer for an officeholder committee to maintain detailed accounts, records, bills, and receipts necessary to prepare officeholder statements, to establish that the statements were accurate and properly filed, and to otherwise comply with the provisions of this Article. Officeholders and treasurers must also maintain records of the cumulative amount of all contributions and expenditures.

C. The detailed accounts, records, bills, and receipts shall be retained by the officeholder and treasurer for a period specified by the Commission. The records shall be retained for a period of at least four years after the adoption of a final audit report or five years from the date of any alleged violation, whichever is less, unless the Commission provides otherwise.

D. In the event that a person alleged to have violated this Article fails to produce documents in response to a court order to produce the records sought by subpoena, the five-year period in C. above shall be tolled for the period of delay from the date of filing of the motion to compel until the date the documents are produced.

E. Officeholders and treasurers shall make available to the Commission and other authorities or their designees specified in section 2.12.250.F, on demand, the details of any account requested and the records supporting it, and shall sign a waiver permitting those authorities or their designees to inspect officeholder account records maintained by the bank in which the officeholder account is opened.

Section 2.12.675 Audits of officeholder committees and accounts.

A. Officeholder committees and officeholder accounts are subject to audits.

B. The City Auditor shall audit all officeholder committees and officeholder accounts every two years beginning in 2024. The audits shall cover the preceding two-year period ending July 1 of every even-numbered year. The final audits shall be publicly filed with the City Clerk and copies shall be sent to the Commission for review no later than October 1 of the even-numbered year when the audits are scheduled to be prepared and filed.

C. In the event that any audit or audits are not completed, finalized, and filed by October 1, the Clerk shall promptly notify the Commission and the affected officeholder and treasurer responsible for the officeholder committee. Upon receipt of this notice, the officeholder committee shall immediately cease operations, including collecting contributions and making expenditures, until the final audit or audits have been filed, copies have been sent to the Commission, and the Commission has approved the audit.

Section 2.12.685 Enforcement.

A. Violations of this article involving the unlawful use of officeholder committees and accounts are subject to the limitations on contributions in Article 6 and the enforcement procedures and penalties in Article 7 of this Chapter. For the purposes of Article 9, section 2.12.435 is modified to provide that, if any person is found guilty of violating the terms of this Article, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available funds in the officeholder account, if any, the amount received in excess of the amount permitted by this Article to the City for deposit in the City's general fund.

B. In addition to the limitations, enforcement procedures, and penalties in Articles 6 and 7, if the Commission determines, after notice and a hearing, that an officeholder has committed a substantial violation of the regulations relating to officeholder accounts, it may suspend or terminate the officeholder's committee and account and may prohibit the officeholder from establishing, maintaining, or operating such a committee or account in the future.

Section	Council Version	FCPC Version	Difference/Rationale
<p>2.09.220 Restrictions on payments and expenses benefiting local public officials.</p>	<p>A. No local government lobbyist or a registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals, in which the cumulative value of such payments or expenses exceeds \$240 during any calendar year. This \$240 limit may be adjusted every four years by the OGC to account for inflation. The payments and expenses specified in subsections 2.09.220(A)-(D) include gifts, honoraria and any other form of compensation but do not include:</p> <ol style="list-style-type: none"> 1. gifts of food or refreshment worth \$25 or less per occasion, if the local governmental lobbyist is a 501 (c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501 (c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event; 2. payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed; 3. gifts of food or beverage worth \$25 or less per occasion, if said gift is provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present; 4. a pass or ticket to a fundraising event for a campaign committee or candidate, or for an 	<p>A. No local government lobbyist or a lobbyist's registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder or candidate for elected city office except as authorized by, and only to the extent permitted by, the Berkeley Election Reform Act and other applicable local or state law.</p>	<p>Both the FCPC and the Council proposals recommend amending the Lobbyist Registration Act to reflect the addition of Article 9. The two proposals, however, take different approaches.</p> <p>The FCPC proposal recommends replacing subsection A. of section 2.09.220 (restrictions on payments and expenses benefiting public officials) with a new provision that no local government lobbyist or a lobbyist's registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder or candidate for elected city office except as authorized by, and only to the extent permitted by, the Berkeley Election Reform Act and other applicable local or state law. This new provision will ensure that the Lobbyist Registration Act is fully consistent with the new officeholder committee and account provisions and the other provisions of BERA.</p> <p>By contrast, the Council's proposal would leave subsection A. unchanged except for adding to the list of exceptions to the ordinance's \$240 annual contribution limit a provision that includes "officeholder" contributions that do not exceed the limits imposed by BERA. This sole amendment to subdivision A.is insufficient to ensure that the Lobbyist</p>

	<p>organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code;</p> <p>5. informational material;</p> <p>6. campaign or officeholder contributions not to exceed the limits imposed by the Berkeley Election Reform Act or state law, as applicable; and</p> <p>7. salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this section. For purposes of the gift limits imposed by subsections (A)-(C), gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may hereafter be amended.</p> <p>B. No lobbyist or a lobbyist's registered client shall make any payment to a third-party for the purpose of making any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.</p> <p>C. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal benefit or for the</p>	<p>B. No lobbyist or a lobbyist's registered client shall make any payment to a third-party for the purpose of making any payment or incurring any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.</p> <p>C. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal</p>	<p>Registration Act is fully compliance with Article 9. The ordinance would arguably still permit lobbyists who are not natural persons residing in the City of Berkeley to provide gifts with a cumulative value of \$240 in a calendar year to benefit an elected city officeholder. Hence, to avoid inconsistency and fully implement Article 9, the FCPC's proposed amendment to section 2.09 should be adopted rather than the Council version.</p>
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	<p>personal benefit of a member of the immediate family of one of these individuals.</p> <p>D. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the third-party is providing the payment or expense on behalf of a lobbyist.</p>	<p>benefit or for the personal benefit of a member of the immediate family of one of these individuals.</p> <p>D. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the third-party is providing the payment or expense on behalf of a lobbyist.</p>	
<p>Section 2.09.100 Contribution.</p>	<p>A. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; a candidate's own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the candidate or committee must otherwise report under the terms of this chapter. The term "contribution" further includes any transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment</p>	<p>A. "Contribution" means a gift, subscription, loan, advance, deposit, pledge, forgiveness of indebtedness, payment of a debt by a third party, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or voter approval of one or more measures. The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies and similar fund-raising events; a candidate's own money or property used on behalf of his or her candidacy; the granting to a candidate or committee of discounts or rebates not available to the general public; and payments for the services of any person serving on behalf of a candidate or committee, when such payments are not made from contributions the</p>	<p>Both the FCPC and Council proposals would provide definitions of "contribution" and "expenditures" for the purposes of Article 9 based on the definitions of these terms for campaign finance purposes. The FCPC uses the same broad definitions of the terms as provided in BERA for campaign contributions and expenditures. The Council proposal, however, would significantly narrow the definitions of "contribution" to mean only "a monetary payment," thereby omitting the numerous other forms of contributions (such as loans, advances, pledges, or "anything of value"). Similarly, the council proposal would narrow the definition of "expenditure" to mean a "payment of money," thereby omitting many other forms of contributions (such as pledges or promises "of anything of value").</p>

	<p>of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars.</p> <p>B. In the case of an officeholder committee, "contribution" means a monetary payment to be used for expenses associated with holding City office, and not for campaign purposes, as provided in Article 9 of this Chapter.</p>	<p>candidate or committee must otherwise report under the terms of this chapter. The term "contribution" further includes any transfer, gift, loan, advance, deposit, forgiveness of indebtedness, payment of a debt by a third party, pledge, contract, agreement, or promise of money or anything of value or other obligation, whether or not legally enforceable, received directly or indirectly by a committee from another committee. The term "contribution" shall not include a gift of service or labor, but shall include service or labor for which a payment is made, nor shall the term "contribution" include a gift of the use of personal or real property where the value of such use is not in excess of fifty dollars, nor shall it include food and beverages the value of which for any one event is no more than fifty dollars.</p> <p>B. In the case of an officeholder committee, "contribution" means a monetary payment or other contribution as defined in A above to an officeholder committee to be used for expenses associated with holding City office, and not for campaign purposes, as provided in Article 9 of this Chapter.</p>	<p>There are no good policy reasons for restricting the definitions of "contribution" or "expenditures" to transactions involving money. Non-monetary forms of contributions and expenditures, which have a monetary value that could be quite large, can assist and influence public officials and the conduct of public business; they should be reported by officeholders just as they are by persons campaigning for public office. Hence, the definitions proposed by the FCPC should be adopted.</p>
<p>Section 2.12.130 Expenditure.</p>	<p>A. "Expenditure" means a payment, pledge or promise of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election of one or more candidates or the qualification for the ballot or</p>	<p>A. "Expenditure" means a payment, pledge or promise of payment of money or anything of value or other obligation, whether or not legally enforceable, for goods, materials, services or facilities in aid of or in opposition to the nomination or election</p>	<p>See difference/rationale explaining the reasons for preferring the FCPC definition of "contribution" instead of the Council definition under section 2.09.100 above.</p>

	<p>adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee. "Expenditure" also includes the forgiving of a loan or the repayment of a loan by a third party.</p> <p>B. In the case of an officeholder committee, "expenditure" means payment of money by an officeholder committee for expenses associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter.</p>	<p>of one or more candidates or the qualification for the ballot or adoption of one or more measures. The term "expenditure" includes any transfer, payment, gift, loan, advance, deposit, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not legally enforceable, made directly or indirectly by one committee to another committee. "Expenditure" also includes the forgiving of a loan or the repayment of a loan by a third party.</p> <p>B. In the case of an officeholder committee, "expenditure" means payment of money or other contribution as defined in A. above by an officeholder committee for expenses associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter.</p>	
<p>Section 2.12.157 Officeholder committee. [Renamed: Officeholder committee and account.]</p>	<p>"Officeholder committee" means a committee established by an Elective Officer of the City of Berkeley, as defined in Article V Section 8 of the Charter of the City of Berkeley, to receive contributions and make expenditures associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter.</p>	<p>A. "Officeholder committee" means a committee established by an officeholder eligible to receive contributions and make expenditures associated with holding elective office in the City of Berkeley as provided in Article 9 of this Chapter. The eligible officeholders under that Article are the Mayor and Members of the City Council.</p> <p>B. "Officeholder account" means a bank account maintained by an eligible officeholder or by any person or committee on behalf of an eligible officeholder, and whose funds are used exclusively for expenses associated</p>	<p>A basic difference between the approach to officeholder accounts proposed by the Council and the approach proposed by the FCPC is that the Council proposes to make the ordinance authorizing and regulating private contributions to officeholder committees and accounts applicable to all 24 elective offices in the City, whereas the FCPC proposes that, if such an ordinance is necessary, it should apply only to the City's nine principal elective officers—that is, the mayor and members of the city council. This difference in the proposed scope of Berkeley's law on officeholder accounts is reflected in</p>

		<p>with holding office and not for direct campaign purposes, as provided in Article 9 of this Chapter.</p>	<p>the different definitions of "officeholder committee" proposed in section 2.12.157.</p> <p>The FCPC is concerned about the influence of private money on American government. Generally, the Commission believes that public offices should be publicly funded. If it is necessary to allow for some private contributions to local public offices, any such funding should be limited in scope and the receipt and expenditure of all such funds should be carefully regulated. Hence, the FCPC does not support expanding the proposed new law to permit the creation of officeholder committees and accounts to any elective city officials except for mayor and members of the Council. No need has been shown for such an expansion; it would create ethical risks and practical problems; and it might impose significant costs on the City of Berkeley to regulate the additional 14 elective offices. If other elected officials need more financial support, the Commission believes the City should provide it.</p> <p>In addition to recommending defining "officeholder committee" as recommended, the FCPC proposes including in section 2.12.157 a definition of "officeholder account" because this term is used frequently in new Article 9 governing officeholder committees and accounts.</p>
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<p>Section 2.12.545 Cost of living adjustments.</p>	<p>The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.505.B and, 2.12.530.B.3.b and 2.12.602 for cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3 and 2.12.505.B (\$1,000) with respect to Sections 2.12.505.B and 2.12.602.</p>	<p>The Commission shall adjust the dollar amounts specified in Sections 2.12.167, 2.12.500.A.3, 2.12.505.B and, 2.12.530.B.3.b, 2.12.602 and 2.12.603 or cost of living changes pursuant to Section 2.12.075 in January of every odd-numbered year following Council implementation. Such adjustments shall be rounded to the nearest ten dollars (\$10) with respect to Sections 2.12.167, 2.12.500.A.3, 2.12.530.B.3.b, and 2.12.603.B. and one thousand dollars (\$1,000) with respect to Sections 2.12.505.B and 2.12.602.</p>	<p>Both the FCPC and Council's proposals provide for cost-of-living adjustments for the dollar amounts provided in Article 9 for cumulative limits on contributions, individuals contribution limits, and other specified dollar amounts. On this issue, the FCPC and Council are in general agreement that these adjustments are appropriate.</p> <p>The cost-of-living adjustments are provided for in section 2.12.545. The Council proposal provided for adjustments to the dollar amounts provided in sections 2.12.167, 2.12.500.A.3, 2.12.505.B, 2.12.530.B.3.b, 2.12.167, 2.12.500.A.3, and 2.12.530.B.3.b., and section 2.12.602. The FCPC proposal has added similar adjustments to the dollar amounts specified in section 2.12.603. Providing for these adjustments is important, particularly if inflation continues to be a problem, to ensure that the dollar limits established at this time are still realistic and appropriate in the future, without requiring ongoing legislation to adjust those amounts.</p>
<p>Article 9. Officeholder Committees [Renamed: Officeholder Committees and Accounts]</p>			<p>The key provisions of both the Council and the FCPC proposals are contained in new Article 9. There are significant differences, however, in the specific provisions of Article 9 as proposed by the two bodies, as explained below.</p>

<p>Section. 2.12.600 Regulation of officeholder committees. [Renamed: Regulation of officeholder committees and accounts]</p>	<p>A. Elective Officers (the "officeholder" or officeholders") shall each be permitted to establish one officeholder committee, as defined in Section 2.12.157.</p> <p>B. Nothing in this section shall require an officeholder to open an officeholder committee or, if they have established an officeholder committee, to contribute to their officeholder committee to spend personal funds on their own officeholder expenses.</p> <p>C. Expenditures of an officeholder's personal funds for their own officeholder expenses which are not contributed to an officeholder committee are not reportable under this chapter.</p>	<p>A. The City of Berkeley hereby enacts a comprehensive ordinance for the purpose of regulating officeholder committees and accounts, including establishing limits on the amounts of contributions to these accounts, as authorized by California Government Code sections 85316, 85702.5. and other applicable state law.</p> <p>B. The purposes of regulating officeholder committees and accounts include:</p> <ol style="list-style-type: none"> 1. To provide adequate funds, if needed, for the City of Berkeley's principal elected officials to fully and effectively perform the duties of their office; 2. To ensure transparency and openness in the funding of city government; 3. To prevent the improper influence of private funds on the operations of city business and its officials; and 4. To preserve public confidence in the city and its key officeholders. 	<p>The FCPC proposal includes a statement that the purpose of Article 9 is to establish limits on the amounts of contributions to officeholder accounts, as authorized by state law. (Section 2.12.600.A.) It further states that the purposes of the article include (1) providing adequate funds, if needed, for the City of Berkeley's principal elected officials to fully and effectively perform their duties of their office; (2) ensuring transparency and openness of city business and its officials; and (3) preserving public confidence in the city and its key officeholders. (Section 2.12.600.B.)</p> <p>The Council version does not include any general or specific provisions about the purposes of Article 9 comparable to 2.12.600A. and B. The statements of purpose in the FCPC version will assist the public to better understand the ordinance and help persons interpreting it to apply its provisions properly.</p> <p>The Council version of section 2.12.600 also included provisions very broadly defining "officeholder" and exempting officeholders from reporting expenditures of personal funds for their own officeholder accounts. In the FCPC version, these provisions have been deleted from section 2.12.600 and replaced by substantively different provisions elsewhere in BERA, as explained further below. (See sections 2.12.157, 2.12.601, 2.12.603.)</p>
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<p>Section 2.12.601 Officeholders eligible to establish officeholder committees and accounts</p>	<p><i>[The Council proposal does not include a section 2.12.601. Some of the principal issues in its proposed section 2.12.600 are addressed in this new section, but are treated differently.]</i></p>	<p>A. The Mayor and City Council Members are “eligible officeholders” under this Article. They are permitted to establish an officeholder committee and an officeholder account, as defined in section 2.12.157A–B. The Mayor and Council Members are the only elected officeholders in the City of Berkeley authorized to establish, maintain, and use committees and officeholder accounts for the purposes of this Article.</p> <p>B. All elected city officials other than the Mayor and City Council Members are not eligible officeholders. They are prohibited from establishing an officeholder committee or an officeholder account or from receiving any contributions or making any expenditures associated with holding elective office in the City, except that non-eligible officeholders may personally contribute incidental expenses, in a value not to exceed two hundred fifty dollars (\$ 250), to the operation of their offices.</p> <p>C. Nothing in this section shall prohibit the City from providing financial support and assistance to those officeholders who are not eligible to establish officeholder committees or accounts to enable them to perform their duties of office.</p> <p>D. Nothing in this section shall require an eligible officeholder to open an</p>	<p>Unlike the Council proposal, the FCPC proposal provides that the Mayor and City Council members are the “eligible officeholders” under Article 9. They are the <i>only</i> elected officials who may establish officeholder committees and accounts. (Section 2.12.601.A; see also section 2.12.157.A.) All other elected city officials would be prohibited from establishing an officeholder committee or account or from receiving any contributions or making any expenditures associated with holding office, except that these other non-eligible elected officials would be allowed to personally contribute incidental expenses not to exceed \$250 to the operation of their offices.</p> <p>The FCPC proposal differs significantly from the Council’s version in narrowing the number of elected officials eligible to receive private funding to the nine principal elected officials in the city: the mayor and the eight members of the City Council. The Commission does not support the extending the authorization to receive private funding for officeholder operations to include the members of the School Board (5 members) and the Rent Stabilization Board (9 members), and the city auditor (1 person). These 15 additional officials have historically never required such additional private</p>
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		<p>officeholder committee or, if they have established an officeholder committee, to contribute to their officeholder committee or to spend personal funds on their own officeholder expenses.</p>	<p>funding and no need has been shown for authorizing it. Making these elected officials dependent on private funding is not good policy. If they need any additional funding, the City of Berkeley—not private contributors—should provide it. (See section 2.12.601.C. below). These other officials' time should be devoted to their official duties, not to fundraising for their offices. Lastly, including these 15 additional officials in the regulated program would impose undue administrative burdens on the city government and the Commission, which may be costly and time-consuming.</p> <p>In addition to specifying which officeholders are eligible for receiving and expending private funds, section 2.12.601 provides that nothing in it prohibits the City from providing financial support and assistance to officeholders who are not eligible to establish committees or accounts to enable them to perform the duties of their offices. (Section 2.12.601.C.) This is a new provision, not included in the Council proposal. It highlights the point that public funding of officeholders is, and should remain, an option instead of private funding.</p> <p>Finally, section 2.12.601 provides that nothing in the section requires an eligible officeholder to open an officeholder committee, contribute to such a committee, or spend person funds on their own officeholder</p>
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<p>Section 2.12.602 Cumulative contribution limits</p>	<p>A. For each Elected Officer representing a district within the City of Berkeley, total contributions to an officeholder committee from all contributors other than the officeholder shall not exceed five thousand dollars (\$5,000) in the aggregate per calendar year.</p> <p>B. For citywide Elected Officers, total contributions to an officeholder committee from all contributors other than the officeholder shall not exceed in the aggregate per calendar year an amount equal to four times the maximum allowed for elected officers representing districts, as provided in Section 2.12.602.A</p>	<p>A. For the office of Mayor, total contributions to an officeholder account from all contributors shall not exceed ten thousand dollars (\$10,000.00) in the aggregate per calendar year.</p> <p>B. For each Member of the City Council, total contributions to an officeholder account from all contributors shall not exceed five thousand dollars (\$5,000.00) in the aggregate per calendar year.</p> <p>C. The dollar amounts of the cumulative campaign limits provided for in A. and B. shall be adjusted periodically as provided in section 2.12.545.</p>	<p>expenses. (Section 2.12.601.D.) The FCPC believes that these are sound policies, underscoring that officeholding should not be dependent on private funding or the personal financial contributions of officeholders. The Council version included a similar provision in section 2.12.600.B.</p>
			<p>As a preliminary matter, with regard to the Council members' and mayor's offices, the FCPC notes that City provides public funding for those offices through the D-13 accounts. If additional private funding is needed for their support, the cumulative and individual amounts of the private contributions should be strictly limited.</p> <p>The FCPC proposal provides that, for the office of mayor, total contributions to an officeholder account from all contributors shall not exceed \$10,000 in the aggregate for a calendar year. (Section 12.2.602.A.) The proposal further provides that, for each member of the City Council, total contributions to an officeholder account from all contributors shall not exceed \$5,000 in the aggregate per calendar year. (Section 2.12.603.B.) The dollar amounts of these cumulative limits will be adjusted periodically as provided in section 2.12.545. (Section 2.12.602.C.)</p> <p>The establishment of cumulative limits is a reasonable means to</p>

<p>regulate contributions. Similar cumulative limits for officeholder contributions have been enacted for all statewide elected offices, including the Governor, members of the Senate and Assembly, and other offices. (See Cal. Gov. Code, § 85316(b)(2).) The amounts proposed by the FCPC are reasonable and will ensure that the amounts contributed do not exceed what is necessary for conducting local Berkeley officeholder's official business.</p>		
<p>The FCPC's proposal on cumulative contributions for City Council members is similar to the Council's: it provides for a limit of up to \$5,000 annually (to be adjusted under section 2.12.545) for each officeholder account. However, it would allow only up to \$10,000 annually (to be adjusted) for the mayor's officeholder account, instead of the \$20,000 (to be adjusted) proposed by the Council, because there has not been a showing that the mayor's office requires the substantially higher cumulative amount.</p>		
<p>The FCPC proposal also does not authorize any cumulative amounts—or any contributions at all—for the for local elective officers other than the Mayor and Council members, for the reasons explained previously. (The Council proposal would have authorized those elected officials, as citywide elected officials, to receive</p>		

<p>Section 2.12.603 Individual contributions – Restrictions – Limits on contributions.</p>	<p><i>[The Council proposal does not include a section 2.12.603. Its proposals regarding individual limits on contributions and personal contributions by officeholders are located elsewhere (see 2.12.615.A.–C.) and differ significantly from the FCPC proposals in this section.]</i></p>	<p>A. Only a natural person who is a resident of the City shall make a contribution to an officeholder committee or account. The prohibition against contributions from organizations and entities to candidates and committees in section 2.12.440 applies to contributions to officeholder committees and accounts under this Article.</p> <p>B. No individual contributor shall make, and no eligible officeholder shall accept, a contribution per person for the calendar year whose value totals more than the maximum amount of a “qualifying contribution” permitted under section 2.12.167. A “contribution,” for the purposes of this section includes the payment of money or other contribution as defined in section 2.12.100 A–B.</p> <p>C. The dollar amounts of the individual contribution limits provided for in B. shall be adjusted periodically as provided in section 2.12.545.</p>	<p>up to four times the maximum amount allowed for council members representing districts—that is, up to \$20,000 (to be adjusted), a large amount for which there does not appear to be any justification.)</p>
		<p><i>Limits on individual contributors</i> The FCPC’s proposal provides that only a natural person who is a resident of Berkeley shall make a contribution to an officeholder committee or account. In addition, the proposal would make the prohibition against contributions by organizations and entities to candidates and committees in section 2.12.440 applicable to officeholder committees and accounts. (Section 2.12.603.A.)</p> <p>This proposal differs from the Council’s proposal insofar as that proposal contains the prohibition against contributions by organizations and entities but does not prohibit contributions by person who are not residents of Berkeley. (See Council proposal, section 2.12.615.) The FCPC considers the additional requirement of limiting contributions to natural persons residing in Berkeley to be valuable in that it would limit the influence of outsiders on Berkeley officeholders. It is important that Berkeley officeholders</p>	

	<p>D. An eligible officeholder may personally contribute an amount to their officeholder account greater than provided in B. and C. provided:</p> <ol style="list-style-type: none"> 1. All contributions by the officeholder shall be made through an officeholder committee and shall be placed in an officeholder account, and reports of all contributions and expenditures shall be made as provided in this Article; and 2. The total amount contributed by the officeholder and all other contributors per calendar year combined shall not exceed the cumulative contribution limit in section 2.12.602. <p>[POSSIBLE ALTERNATIVE VERSION OF D];</p> <p>D. An eligible officeholder may personally contribute an amount to their officeholder account greater than provided in B. and C., provided;</p> <ol style="list-style-type: none"> 1. All contributions by the officeholder shall be made through an officeholder committee and shall be placed in an officeholder account, and reports of all contributions and expenditures shall be made as provided in this Article; and 2. The total amount an officeholder may personally contribute to their own officeholder account per calendar year is limited to: <ol style="list-style-type: none"> a. For the office of Mayor, five thousand dollars (\$5,000), and 	<p>be responsible first and foremost to their own citizens. Restricting private contributions from non-residents will help promote this goal and avoid undue outside influence.</p> <p><i>Limits on the amounts of contributions</i></p> <p>The FCPC's proposal provides that no individual contributor shall make, and no eligible officeholder shall accept, a contribution per person for the calendar year whose value totals more than the maximum amount of a "qualifying contribution" permitted under section 2.12.167 (\$50), as adjusted periodically as provided in section 2.12.545. (Section 2.12.603.B.) This amount is currently set at \$60. This proposed limit on individual contributions is significantly less than that proposed by the Council. The Council would use the \$250 campaign contribution limit in section 2.12.415 as the limit on individual contributions to officeholder accounts. (See Council Proposal, section 2.12.615.A.)</p> <p>The FCPC's proposed lower limit on individual contributions is based on sound public policy and should result in fairer results. The lower contribution limit will ensure that no single private individual can unduly influence—or appear to unduly influence—any principal elected official of the City. Also, this lower limit will help level the playing field; it will enable all eligible elected officials</p>
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		<p>b. For the office of City Council Member, two thousand five hundred dollars (\$2,500).</p> <p>The amounts personally contributed by an eligible officeholder to their own officeholder committee and officeholder account under D.2.a. or b. shall not count towards the cumulative annual contribution limit for that eligible officeholder in section 2.12.602.]</p>	<p>alike to be able to collect small contributions from numerous constituents, rather than enabling a few members from wealthier districts to collect larger contributions from wealthier constituents and thereby reap the benefits of establishing officeholder committees and accounts. If a regulated approach to officeholder accounts is to be enacted, it must not create disparities in the resources available to different Council members based on the wealth of their districts or of their constituents.</p> <p><i>Restrictions on officeholders' personal contributions</i></p> <p>The FGPC proposal would place limits on the amount that an officeholder can personally contribute to their own officeholder committee and expend on officeholding business; and it would require officeholders to report all their contributions and expenditures.</p> <p>Specifically, new section 2.12.603.D.1. provides that all contributions by an officeholder shall be made through an officeholder committee and placed in an officeholder account, and these contributions shall be reported like all other contributions.</p> <p>New section 2.12.603.D.2. provides that the total amount contributed by an eligible officeholder and all other contributors per calendar year</p>
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		<p>combined shall not exceed the cumulative contribution limit in section 2.12.602. [An alternative version of 2.12.603.D.2, which the Commission should discuss, would allow for a personal annual contribution by the mayor of up to \$5,000, and by a Council Member of up to \$2,500. In this version, the amounts contributed annually by an eligible officeholder would not count towards the cumulative annual contribution limit for that officeholder in section 2.12.602.]</p> <p>The FCPC proposal to restrict the amount that an officeholder can contribute personally to their own account and require officeholders to report their contributions and expenditures differs significantly from the Council version. In the Council proposal, there would be no limits on the amount that an officeholder could contribute to their own officeholder committee or spend on officeholder expenses, either through or not through an officeholder committee. (Council proposal, section 2.12.615.C.) Also, the Council's proposal would exempt officeholders from reporting on their personal contributions and expenditures. (Council proposal, section 2.12.600.C.)</p> <p>The FCPC proposal is based on better public policy, will be much more transparent, and will produce fairer results. In previous discussions,</p>
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			<p>members of the City Council have repeated stated that they believe that one important reason for authorizing officeholder accounts is to level the playing field among council members and districts. But the specific provisions in the Council's draft ordinance allowing officeholders to spend unlimited personal funds on their offices would have the opposite effect. These provisions would allow more affluent council members to contribute unlimited amounts for the purpose of maintaining their offices, while less economically privileged members would not be able to afford such expenditures. Furthermore, by exempting members from reporting their own contributions and expenditures, the public would be deprived of the ability to know how the public's business is being financed and managed. Hence, the FCPC proposal establishing limits on personal contributions and expenditures and requiring reporting by all, including incumbent officeholders, is preferable.</p>
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<p>New Section 2.12.604 Limits and requirements for contributions and expenditures</p>	<p><i>[The Council proposal does not include this version of section 2.12.604. However, the issues addressed in this section were addressed in the Council's proposal in section 2.12.615.D.]</i></p>	<p>All requirements and prohibitions applicable to campaign contributions and expenditures in the Berkeley Election Reform Act shall apply to contributions and expenditures relating to officeholder committees and accounts, including the requirements for a written instrument under section 2.12.300, the prohibitions on contributions from persons using other than their legal name under section 2.12.305, the prohibitions on contributions from persons on behalf of other persons under section 2.12.310, the prohibitions relating to contributions by agents or independent contractors on behalf of a committee under section 2.12.315, and the prohibitions on anonymous contributions under section 2.12.320.</p>	<p>Both the FCPC and City Council's proposals provide that various provisions in BERA—such as those prohibiting contributions from persons except in their legal name and prohibiting anonymous contributions—shall apply to officeholder committees and accounts under Article 9. The FCPC version has revised the section for clarity and relocated it from section 2.12.615.D. to section. 2.12.604.</p>
<p>Section 2.12.604 Prohibited officeholder expenditures [Renumbered as section 2.12.611]</p>	<p>An officeholder committee shall not make expenditures for the following purposes:</p> <ul style="list-style-type: none"> A. Expenditures in connection with an election for any city, county, regional, state or federal elective office or in connection with a ballot measure. B. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office. C. Membership in any athletic, social, fraternal, veterans or religious organization. D. Supplemental compensation for officeholder staff for performance of duties required or expected of the person in the regular course or 	<p>An officeholder committee shall not make expenditures for the following purposes:</p> <ul style="list-style-type: none"> A. Expenditures in connection with an election for any city, county, regional, state or federal elective office or in connection with a ballot measure, B. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office or for any other campaign expenditures of any kind. C. Membership in any athletic, social, fraternal, veterans or religious organization. 	<p>This section contains a list of prohibited officeholder expenses. It is important that officeholders have this list so that they will know what kinds of expenditures they are prohibited from making from officeholder accounts.</p> <p>The FCPC version is section is similar to the Council's. However, it has been renumbered and relocated (from section 2.12.604 to 2.12.611). Also, it contains two significant changes.</p> <p>First, in the FCPC proposal, subsection B. prohibiting expenditures for campaign consulting, research, etc. has the additional words "or for any other</p>

	<p>hours of their employment as a City official or employee.</p> <p>E. Any expenditure that would violate any provision of the Berkeley Election Reform Act (BMC Chapter 2.12.) or the California Political Reform Act (Cal. Gov. Code § 81000 et seq.), including but not limited to the gift laws pertaining to travel payments, advancements and reimbursements under Government Code section 89506 and provisions related to permissible expenditures which serve legislative or governmental purposes under Government Code sections 89512 through 89519.</p>	<p>D. Supplemental compensation for officeholder staff for performance of duties required or expected of the person in the regular course or hours of their employment as a City official or employee.</p> <p>E. Expenditures for attorney's fees or for any other costs of litigation, administrative procedures, or other processes arising directly from the officeholder committee's activities or the officeholder's activities, duties, or status and an elected officer; this prohibition includes, but is not limited to, any expenditures for expenses incurred in defending against claims or potential claims of fraud, malfeasance, discrimination, harassment, or abuse.</p> <p>F. Any expenditure that would violate any provision of the Berkeley Election Reform Act (BMC Chapter 2.12.) or the California Political Reform Act (Cal. Gov. Code § 81000 et seq.), including but not limited to the gift laws pertaining to travel payments, advancements and reimbursements under Government Code section 89506, and provisions related to permissible expenditures which serve legislative or governmental purposes under Government Code sections 89512 through 89519.</p>	<p>campaign expenditures of any kind" added at the end of the sentence. This clarifies that <u>no</u> officeholder funds may be used for <u>any kind of</u> campaign purposes. The basic premise of Article 9 is that officeholder accounts are not campaign accounts and can never be used for campaign purposes. Officeholder funds should be used solely for legitimate expenses for operating an office. The added words in subsection B. underscore that all campaign funds should be entirely separate and should be strictly regulated by other provisions in BERA and state law.</p> <p>Second, new subsection E. has been added that prohibits the use of officeholder funds for attorney's fees and costs of litigation. As explained below under section 2.12.606 [renumbered as 2.12.610], the use of officeholder accounts to pay for attorney's fees and cost is not appropriate and should be expressly prohibited.</p>
<p>Section 2.12.606 Permissible officeholder expenditures</p>	<p>An officeholder committee may make expenditures only for the following purposes:</p> <p>A. Expenditures for fundraising for the officeholder committee.</p>	<p>An officeholder committee may make expenditures only for the following purposes:</p>	<p>This section provides a list of permissible officeholder expenditures. This is important so that officeholders will know clearly what kinds of</p>

<p>[Renumbered as section 2.12.610]</p>	<p>B. Expenditures for office equipment, furnishings and office supplies used for governmental or legislative purposes.</p> <p>C. Expenditures for compensation of staff, consultants, or other persons employed by the officeholder for time spent on officeholder activities, provided that such expenditures are not prohibited by Section 2.12.604.D.</p> <p>D. Expenditures for research, surveys, photographic, or similar services, provided such services are only for officeholder purposes.</p> <p>E. Expenditures for attendance, travel, lodging, meals and other related expenses which serve a legislative or governmental purpose by the officeholder and members of the officeholder's City staff or others employed by the officeholder to perform duties related to officeholder activities. Such permissible expenditures shall include but not be limited to:</p> <ol style="list-style-type: none"> 1. Expenditures for attendance at conferences, meetings, and other events occurring within or outside of the United States, including but not limited to registration or other attendance fees, travel, lodging, food, and incidentals; 2. Expenditures for membership and participation in programs for civic, service, or professional organizations, if such membership bears a reasonable relationship to a governmental or legislative purpose; and 	<p>A. Expenditures for fundraising for the officeholder committee.</p> <p>B. Expenditures for office equipment, furnishings and office supplies used for governmental or legislative purposes.</p> <p>C. Expenditures for compensation of staff, consultants, or other persons employed by the officeholder for time spent on officeholder activities, provided that such expenditures are not prohibited by Section 2.12.611.D.</p> <p>D. Expenditures for research, surveys, photographic, or similar services, provided such services are only for officeholder purposes.</p> <p>E. Expenditures for attendance, travel, lodging, meals and other related expenses which serve a legislative or governmental purpose by the officeholder and members of the officeholder's City staff or others employed by the officeholder to perform duties related to officeholder activities. Such permissible expenditures shall include:</p> <ol style="list-style-type: none"> 1. Expenditures for attendance at conferences, meetings, receptions, and other events occurring within or outside of the United States, including registration or other attendance fees, travel, lodging, food, and incidentals; 2. Expenditures for membership and participation in programs for civic, service, or professional organizations, if 	<p>expenditures that they may lawfully make.</p> <p>The FCPC version is section is similar to the Council's. However, it has been renumbered and relocated (from section 2.12.606 to 2.12.610). Also, importantly, the FCPC has deleted the council's proposed subpart J, which would have permitted officeholders to expend officeholder funds for attorney's fees and other costs relating to litigation, administrative procedures, or other similar processes.</p> <p>Attorney's fees and costs are not appropriate expenditures to be made from officeholder accounts. Other state and local laws do not include these in this category for good reasons. The raising and expenditure of funds for legal defense purposes are not ordinary office expenses, raise many complex legal and ethical issues, and require careful, detailed provisions if they are to be lawful and appropriate. The use of officeholder funds for legal defense purposes may result in abuse. Hence, attorney's fees and costs should not be listed as permissible officeholder expenses in section 2.12.610.</p>
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	<p>3. Expenditures for educational courses or events reasonably related to a governmental or legislative purpose.</p> <p>F. Expenditures for constituent and community communications, including but not limited to:</p> <ol style="list-style-type: none"> 1. Mailings, newsletters and other paper, electronic, or other communications which provide information related to community events, an officeholder's governmental duties, an officeholder's position on a particular matter, or any other matter of public concern or interest; 2. An officeholder's website and social media; 3. Email and address list management. <p>G. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in their official capacity.</p> <p>H. Expenditures for payment of tax liabilities incurred as a result of permissible officeholder committee transactions.</p> <p>I. Expenditures for accounting, legal, professional, administrative, and similar services provided to the officeholder committee.</p> <p>J. Expenditures for attorneys' fees and other costs related to litigation, administrative procedures, or other processes arising directly from the officeholder committee's activities or</p>	<p>such membership bears a reasonable relationship to a governmental or legislative purpose; and</p> <p>3. Expenditures for educational courses or events reasonably related to a governmental or legislative purpose.</p> <p>F. Expenditures for constituent and community communications, including:</p> <ol style="list-style-type: none"> 1. Mailings, newsletters and other paper, electronic, or other communications which provide information related to community events, an officeholder's governmental duties, an officeholder's position on a particular matter, or any other matter of public concern or interest; 2. An officeholder's website and social media; 3. Email and address list management. <p>G. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in their official capacity.</p> <p>H. Expenditures for payment of tax liabilities incurred as a result of permissible officeholder committee transactions.</p> <p>I. Expenditures for accounting, legal, professional, administrative, and similar</p>	
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<p>Section 2.12.608 Prohibitions on transfer or reallocation of funds [Renumbered as 2.12.620]</p>	<p>the officeholder's activities, duties, or status as an elected officer.</p>	<p>services provided to the officeholder committee.</p>	<p>The FCPC version is the same as the Council's section 2.12.608, renumbered as section 2.12.620. The proposed restrictions keep campaign and officeholder contributions and funds separate, and prevent the comingling of funds.</p>
<p>The following restrictions apply to the transfer or reallocation of officeholder funds: A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. B. No funds may be contributed, redesignated, or transferred from an officeholder committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure. D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.</p>	<p>The following restrictions apply to the transfer or reallocation of officeholder funds: A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. B. No funds may be contributed, redesignated, or transferred from an officeholder committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure. D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.</p>	<p>The following restrictions apply to the transfer or reallocation of officeholder funds: A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. B. No funds may be contributed, redesignated, or transferred from an officeholder committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure. D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.</p>	<p>The following restrictions apply to the transfer or reallocation of officeholder funds: A. No funds may be contributed, redesignated, or transferred to an officeholder committee from any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. B. No funds may be contributed, redesignated, or transferred from an officeholder committee to any candidate or campaign committee for any city, county, regional, state, or federal elective office or ballot measure, or any other political committee. C. No officeholder committee may be redesignated as a campaign committee for any city, county, regional, state, or federal elective office or ballot measure. D. No campaign committee for any city, county, regional, state, or federal elective office or ballot measure may be redesignated as an officeholder committee.</p>

<p>Section 2.12.610 Prohibition on simultaneously maintaining officeholder and campaign committees [Renumbered as section 2.12.621]</p>	<p>A. An officeholder may not simultaneously maintain an officeholder campaign committee and a campaign committee for any city, county, regional, state or federal elective office.</p> <p>B. A candidate who is elected to any elective office in Berkeley must terminate their campaign committee before opening an officeholder committee.</p> <p>C. An officeholder must terminate any open officeholder committee prior to filing a Statement of Organization or equivalent initial filing for a campaign committee for any city, county, regional, state, or federal elective office.</p> <p>For officeholders filing a Statement of Organization with the City Clerk to form a campaign committee for a City of Berkeley office, the Clerk shall provide notice of the need to close any open committee prior to accepting the campaign committee Statement of Organization.</p>	<p>A. An officeholder may not simultaneously maintain an officeholder committee and a campaign committee for any city, county, regional, state, or federal elective office.</p> <p>B. A candidate who is elected to any elective office in the City must terminate their campaign committee before opening an officeholder committee.</p> <p>C. An officeholder must terminate any open officeholder committee before filing a Statement of Organization or equivalent initial filing for a campaign committee for any city, county, regional, state, or federal elective office.</p> <p>For officeholders filing a Statement of Organization with the City Clerk to form a campaign committee for a City of Berkeley office, the Clerk shall provide notice of the need to close any open officeholder committee before accepting the campaign committee Statement of Organization.</p>	<p>The FCPC version is the same as the Council's section 2.12.610, renumbered as section 2.12.621 and with a few minor stylistic changes. The proposed restrictions keep campaign and officeholder committees separate and prevent overlaps in activities and financing.</p>
<p>[New] Section 2.12.612 Constituent and community communications</p>	<p>[No section on this subject exists in the Council proposal.]</p>	<p>A. Funds from an officeholder account shall be used for constituent and community communications only as permitted by this section.</p> <p>B. Funds from an officeholder account may be used for constituent and community communications only as follows:</p>	<p>This new section will ensure that constituent communications funded by officeholder accounts are used exclusively for legitimate officeholder purposes, and never for campaign purposes.</p>

		<p>1. No funds from an officeholder account shall be used, directly or indirectly, for any campaign purposes. This means that these funds may not be used in support or opposition to any candidate or ballot measure in the City; and they may not be used to solicit campaign funds, to notify the public about campaign events, to provide information about a candidate, or for any other campaign-related purpose.</p> <p>2. Communications paid from officeholder accounts should provide constituents and the community with information directly related to the officeholder's governmental duties, the activities of city government, and to announcements of official agency events. These communications must be clearly identified as "Constituent and Community Communications," and shall state that they are being funded by the elected official's officeholder committee.</p> <p>3. Notwithstanding Government Code section 89002, officeholder communications with constituents may include mass mailings provided that they comply with 1-2 above or, alternatively, with section 89002(b). Copies of all mass mailings under this section shall promptly be sent to the Commission and shall be part of the public record.</p> <p>C. No funds from an officeholder account shall be spent for mass mailings for any purpose, including for</p> <p>This provision—like the comparable provision in Los Angeles' Campaign Finance Ordinance—is intended to</p>
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<p>Section 2.12.612 Termination of officeholder committees upon leaving office [Renumbered as 2.12.660]</p>	<p>A. An officeholder who does not file a Statement of Organization or equivalent initial filing to seek a subsequent city, county, regional, state, or federal elective office shall terminate their officeholder committee within 90 days of leaving office.</p> <p>B. Following the date of leaving office, an officeholder shall not make any new expenditures from their officeholder committee except for the following purposes:</p> <ol style="list-style-type: none"> 1. Paying for legitimate, outstanding officeholder expenses accrued on or prior to the date of leaving office. 2. Repaying contributions to contributors to the officeholder committee on a pro rata basis. 3. Donating funds to the City's general fund. 	<p>constituent communications, in a calendar year during which the officeholder with such an account runs, intends to run, or is eligible to run for an elective public office in the City.</p> <p>A. An officeholder who does not file a Statement of Organization or equivalent initial filing to seek a subsequent city, county, regional, state, or federal elective office shall terminate their officeholder committee within 90 days of leaving office. The Commission may for good cause extend the termination date.</p> <p>B. Following the date of leaving office, an officeholder shall not make any new expenditures from their officeholder committee except for the following purposes:</p> <ol style="list-style-type: none"> 1. Paying for legitimate, outstanding officeholder expenses accrued on or prior to the date of leaving office. 2. Repaying contributions to contributors to the officeholder committee on a pro rata basis. 3. Donating funds to the City's general fund. <p>C. The officeholder terminating an officeholder account shall file a statement regarding the disposition of all funds from the account, including the identification of all persons and entities that have received funds from</p>	<p>ensure that incumbents do not gain an unfair advantage in an election year by providing information to constituents and the public about their activities using their officeholder accounts to send out mass mailings.</p> <p>Section 2.12.612 has been renumbered as section 2.12.660, which contains some additional new provisions.</p> <p>Under A., both the Council and the FCPC provide a similar 90-day time period for terminating an officeholder committee after leaving office, but the FCPC allows for an extension of the deadline for good cause. This provides more flexibility.</p> <p>The FCPC proposal adds a requirement that an officeholder terminating a committee and an account must file a statement regarding the disposition of all funds from the account. This will assist assuring that the funds were properly disposed of and that he public is aware of the disposition of the funds.</p>
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<p>2.12.615 Limits and requirements for contributions and expenditures</p>	<p>A. The limit on cumulative contributions to an officeholder committee by a person other than the officeholder in a calendar year shall be the same as the limit on contributions to a candidate with respect to a single election under Section 2.12.415.</p> <p>Contributions to a candidate shall not be counted against the limit on contributions to an officeholder committee in the same calendar year.</p> <p>B. Officeholder committees shall be subject to the limits on contributions from organizations and entities to candidates and committees under Section 2.12.440.</p> <p>C. Nothing in this Article shall limit the amount an officeholder may contribute to their own officeholder committee or spend on officeholder expenses either through or not through an officeholder committee.</p> <p>D. All requirements and prohibitions for campaign contributions and expenditures under Sections 2.12.300, 2.12.305, 2.12.310, 2.12.315, and 2.12.320 shall apply to officeholder committees.</p>	<p>the account and the amounts distributed, The officeholder closing the account must verify the statement and file it electronically no later the date prescribed for the termination of the officeholder account or the approved extension thereof. The Commission may require the statement to be provided on a form prescribed by the Commission.</p> <p><i>[This section has been deleted and replaced by other new sections, which generally address the issues differently.]</i></p>	
			<p>A. The Council and FCPC proposals differ significantly with respect to the amount of annual contributions that private individuals can make to officeholders. The Council proposal in this section would allow individuals to contribute as much as an individual can make to a privately funded campaign under section 2.12.415—\$250 annually (adjusted for cost of living). The FCPC proposal in section 2.12.603 would limit the amount of the contribution that individuals can make to the amount of a “qualifying contribution” under section 2.12.167—\$50 (adjusted). The FCPC thinks that limiting officeholder contributions to the lower amount is better public policy because it will ensure that no individual can unduly influence—or appear to influence—any principal elected official in the city. The lower limit will also level the playing field among Council members by enabling all eligible elected officials to be able to collect small contributions from numerous constituents rather than enabling a few members from wealthier districts to collect larger contributions from</p>

<p>wealthier constituents. The current legislation should not create disparities in the resources available to different Council members based on the wealth of their districts or their constituents.</p>		
<p>B. Both the Council in B. of this section and the FCPC in section 2.12.603 would prohibit contributions to officeholders from corporations and other entities. But only the FCPC proposal would limit contributions to natural residents of Berkeley. This will limit outside influences on local government business and ensure that elected officials are primarily responsible to their own citizens.</p>		
<p>C. The Council proposal would permit officeholders to contribute unlimited amounts to their own officeholder committee and to spend unlimited amounts for their own office. The FCPC proposal in section 2.12.603.D. would limit the amount an officeholder can contribute and spend; and it would require officeholders to regularly report all contributions and expenditures, including their own. The FCPC's approach would result in greater fairness and transparency.</p>		
<p>D. Both the Council and the FCPC versions would make various requirements of the BERA concerning contributions and expenditures applicable to officeholder committees and accounts. The content of</p>		

<p>2.12.625 Officeholder committees and public financing</p>	<p>[No section on this subject exists in the Council proposal.]</p>	<p>Individuals who have established, maintained, and used an officeholder committee may participate in the City's public campaign financing program under Article 8, the Fair Elections Act, provided that they comply with the requirements of this Article, including terminating any open officeholder committee before filing a Statement of Organization for a campaign committee for elective office.</p>	<p>2.12.615.D. has been relocated to 2.12.604 of the FCPC proposal.</p> <p>This new section clarifies that a candidate participating in the City's public financing program may, if elected as an eligible officeholder, create an officeholder committee and account, provided that they comply with the requirements of Article 9.</p>
<p>2.12.645 Officeholder Committee Treasurer [Renumbered as section 2.12.640]</p>	<p>Each officeholder committee shall appoint a committee treasurer and shall comply with all requirements for campaign committee treasurers under section 2.12.245.</p>	<p>Each officeholder committee shall appoint a committee treasurer and shall comply with all requirements for campaign committee treasurers under section 2.12.245.</p>	<p>The FCPC version is the same as the Council's section 2.12.645, renumbered as section 2.12.640. This provision on treasurers is consistent with the BERA on other types of committees.</p>
<p>2.12.650 Officeholder expenditure and contribution account – Establishment required – Procedure for use [Renumbered as section 2.12.641 and renamed Officeholder</p>	<p>An officeholder committee treasurer shall establish and manage a checking account. All provisions of Section 2.12.250 regarding the establishment and use of campaign accounts shall also apply to the establishment and use of officeholder committee checking accounts, unless otherwise provided in this Article.</p>	<p>An officeholder committee treasurer shall establish and manage a separate checking account exclusively for the purposes of the committee. All provisions of Section 2.12.250 regarding the establishment and use of campaign accounts shall also apply to the establishment and use of officeholder committee checking accounts, unless otherwise provided in this Article. Consistent with this Article and notwithstanding 2.12.250.D., the treasurer of an officeholder committee shall not accept any monetary or non-</p>	<p>Both the FCPC and Council proposals contain this section that requires the treasurer to establish and manage a checking account. The FCPC proposal has modified the provision to clarify that the checking account must be a separate account used exclusively for the purposes of the officeholder committee. The FCPC version also adds a clarification that the treasurer of an officeholder committee shall not accept any monetary or non-monetary contribution with a value in</p>

<p>account – Establishment required – Procedure for use.]</p>		<p>monetary contribution with a value in excess of fifty dollars (\$50) and must retain itemized receipts or vouchers of all contributions.</p>	<p>excess of fifty dollars (\$50) and must retain itemized receipts or vouchers of all contributions. The FCPC version section has also been renumbered.</p>
<p>2.12.655 Statement of organization – Committee required to file. [Renumbered as section 2.12.630]</p>	<p>A. Every officeholder committee shall file with the City Clerk a statement of organization before accepting contributions. B. The date on which an officeholder committee is formed by filing a statement of organization shall determine the officeholder committee's obligation to file statements and reports required by this chapter.</p>	<p>A. Every eligible officeholder who directly or indirectly, from any authorized person or from themselves, receives contributions that cumulatively total more than two hundred fifty dollars (\$250) in a calendar year or makes expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall establish an "officeholder committee" and shall open an "officeholder account" as defined in section 2.12.157. B. Every officeholder committee shall file with the City Clerk a Statement of Organization for the officeholder committee before accepting contributions. C. The date on which an officeholder committee is formed by filing a Statement of Organization shall determine the officeholder committee's obligation to file statements and reports required by this chapter. D. Every eligible officeholder who does not directly or indirectly, from any authorized person or from themselves, receive contributions that cumulatively total more than two hundred fifty dollars (\$ 250) in a calendar year or make</p>	<p>The FCPC and Council's proposals both contain the provisions that (1) every officeholder shall file a statement of organization with the City Clerk before accepting contributions, and (2) the date an officeholder committee is formed by filing the statement of organization shall determine the officeholder committee's obligations to file statements and reports. (Section 2.12.630.B and C.) The FCPC proposal would also add two subsections. The first new subsection provides that every eligible officeholder who directly or indirectly, from any authorized person or from themselves, receives contributions that cumulatively total more than two hundred fifty dollars (\$ 250) in a calendar year or makes expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall establish an "officeholder committee" and shall open an "officeholder account" as defined in section 2.12.157. (Section 2.12.630.A.) This new provision is consistent with the approach to establishing a committee for</p>

		<p>expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall file a verified certificate stating that they are not required to establish a committee or open an account because the amounts received or expended, if any, do not exceed the amounts specified in subsection A. above. Every eligible officeholder shall file the certificate required by this subsection on the dates prescribed under section 2.12.650, notwithstanding the fact they are not required to file a complete report under that section.</p>	<p>campaign purposes under BERA, section 2.12.095.</p> <p>The second new subsection provides that every eligible officeholder who does not directly or indirectly, from any authorized person or from themselves, receive contributions that cumulatively total more than two hundred fifty dollars (\$250) in a calendar year or make expenditures exceeding two hundred fifty dollars (\$250) in a calendar year for expenses related to holding office shall file a verified certificate stating that they are not required to establish a committee or open an account because the amounts received or expended, if any, do not exceed the amounts specified in subsection A. above. (Section 2.12.630.D.) The certificates required by that subsection shall be filed on the dates prescribed by section 2.12.650. This new provision is consistent with the reporting requirements for campaign candidates who raise or expend only small amounts and are allowed to file a short form statement rather than a complete campaign statement. (See section 2.12.270.C.)</p> <p>These two new provisions should make it easier for officeholders who receive or expend only minimal amounts and do not intend to raise funds for officeholder purposes to comply with the law, while requiring them to publicly report those facts by</p>
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<p>2.12.660 Statement of organization – information required [Renumbered as section 2.12.631]</p>	<p>The statement of organization required by Section 2.12.655 shall include:</p> <p>A. The name, street address and telephone number of the officeholder committee;</p> <p>B. The name of the officeholder;</p> <p>C. The full name, street address and telephone number of the treasurer and other principal officers;</p> <p>D. The elected office held by the officeholder;</p> <p>E. The account number and name of the bank at which the checking account, required by Section 2.12.650, is maintained; if the information required by this section is unavailable at the time of filing the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;</p> <p>F. The cash on hand at the time of filing the statement of organization;</p> <p>G. Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this chapter.</p>	<p>The statement of organization for an officeholder committee required by Section 2.12.630 shall include:</p> <p>A. The name, street address and telephone number of the officeholder committee;</p> <p>B. The name of the officeholder;</p> <p>C. The full name, street address and telephone number of the treasurer and other principal officers;</p> <p>D. The elected office held by the officeholder;</p> <p>E. The account number and name of the bank at which the checking account, required by Section 2.12.641, is maintained; if the information required by this section is unavailable at the time of filing the statement of organization, the filer shall promptly submit an amended statement after such information becomes available;</p> <p>F. The cash on hand at the time of filing the statement of organization;</p> <p>G. Such other information as shall be required by the rules or regulations of the commission consistent with the purposes and provisions of this Chapter.</p>	<p>regularly filing the appropriate certification.</p> <p>The Council and the FCPC proposals on this section are the same, except for the renumbering and changes in the cross-references.</p>
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<p>Section 2.12.665 Statement of organization-- Change of information-- Amendment Required. [Renumbered as section 2.12.632]</p>	<p>Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.</p>	<p>Whenever there is a change in any of the information contained in the statement of organization, an amendment shall be filed within ten days to reflect the change.</p>	<p>The Council and the FCPC proposals on this section are the same, except for the renumbering.</p>
<p>Section 2.12.670 Officeholder statements – Filing requirements [Renumbered as 2.12.650 and renamed as Reporting - Officeholder statements – Content – Filing dates.]</p>	<p>Each officeholder committee statement shall be filed in accordance with the filing dates prescribed by state law for campaign committee statements. If state law does not establish the filing dates for campaign statements, the commission shall set the necessary filing dates.</p>	<p>A. All contributions received for, and all expenditures made from, each officeholder account during a calendar year shall be reported as prescribed in B. and C. below.</p> <p>B. Officeholder committee statements required by this Article shall include all applicable information required for campaign committee statements by Section 2.12.280.</p> <p>C. Each eligible officeholder who maintains an officeholder committee and account shall file a statement containing all the required information one or more times each calendar year, as prescribed by the Commission. Unless the Commission prescribes otherwise, each officeholder committee statement shall be filed in accordance with the filing dates prescribed by state law for semi-annual campaign committee statements. If the Commission determines that other dates are more appropriate for the filing of officeholder committee statements, the Commission shall set the necessary filing dates.</p>	<p>Under the FCPC proposal, this section requires that all contributions received and expenditures made from an officeholder account must be reported and the committee statements must provide all the information required by section 2.12.280 for campaign statements. While the Council proposal may have assumed these requirements, the FCPC proposal makes them explicit, which will improve the clarity, implementation, and enforcement of the ordinance.</p> <p>The FCPC proposal also modifies the Council proposal regarding the time of filing officeholder committee statements, to provide that each statement shall be filed in accordance with the filing dates prescribed by state law for <u>semi-annual</u> campaign statements, unless the <u>Commission</u> determines that other dates are <u>more appropriate</u>. (The underlined provisions are new.) The FCPC's proposed changes to this section improve it by (1) making the timing of filing of officeholder statements</p>

<p>Section 2.12.675 Officeholder statements – Verification [Renumbered as 2.12.655 and renamed Filing requirements.]</p>	<p>A. Reports and statements required by this Article shall be subject to the filing requirement of Sections 2.12.025, 2.12.030, 2.12.032, 2.12.033, 2.12.035, 2.12.040, 2.12.045 and 2.12.050.</p> <p>B. An officeholder shall verify his or her officeholder statement. The verification shall be in accordance with the provisions of Section 2.12.025 except that it shall state that they have made reasonable inquiry into the truthfulness and completeness of such officeholder statement and that to the best of their knowledge, the treasurer of the officeholder committee used all reasonable diligence in the preparation of the committee's statement. This section does not relieve the treasurer of any officeholder committee from the obligation to verify each officeholder statement filed pursuant to Section 2.12.025.</p>	<p>All reports and statements required to be filed by this Article shall be subject to the filing requirements and other provisions of the Berkeley Election Reform Act relating to the filing of campaign reports and statements, including the signature and verification requirements in section 2.12.025, the provisions on where to file in section 2.12.030, the requirement to file electronically in section 2.12.032, the filing procedures in section 2.12.033, and the provision that no fee or charge shall be collected by the City Clerk for the filing of the statement or report under section 2.12.035.</p>	<p>clearer because there are many different possible dates for filing campaign statements, many of which would seem to be inapplicable, and (2) giving the Commission the discretion to adjust the filing dates if another date or dates prove to be more appropriate for officeholder statements than the semi-annual campaign filing dates.</p> <p>The FCPC proposal retains the same filing requirements as the Council proposal in subsection A. but explains them in a little more detail. This should be helpful to persons reading the ordinance.</p> <p>The specific verification requirements proposed in 2.12.675.B. have been omitted because verification is already required under revised section 2.12.655. The version there is simpler and consistent with section 2.12.025, which prescribes the verification requirements for all statements and reports filed under BERA. There is no reason for creating different verification requirements for officeholder committee statements and reports.</p>
<p>Section 2.12.680 Officeholder Statement – Information required</p>	<p>Officeholder committee statements required by this article shall include all applicable information required for campaign committee statements by Section 2.12.280.</p>	<p><i>[Section 2.12.680 has been deleted and its contents have been relocated to new section 2.12.650.B.]</i></p>	<p>The Council and the FCPC proposals both contain the same provisions regarding the required contents of officeholder statements, though located in different sections. This requirement is consistent with the requirements for the content of campaign committee statements under BERA.</p>

<p>Section 2.12.658 Requirements for public inspection, preservation, and City Clerk's responsibilities.</p>	<p><i>[No section on this subject exists in the Council proposal.]</i></p>	<p>All reports and statements required by this Article shall be subject to the same provisions for public inspection, preservation, and City Clerk's responsibilities as provided for campaign reports and statements in sections 2.12.040, 2.12.045, and 2.12.050.</p>	<p>The FCPC proposal adds this section to ensure that officeholder statements and reports are subject to the same provisions for public inspection, preservation, and City Clerk's responsibilities as statements and reports under the rest of BERA.</p>
<p>Section 2.12.670 Records of officeholder accounts.</p>	<p><i>[No section on this subject exists in the Council proposal.]</i></p>	<p>A. The officeholder and treasurer of an officeholder committee are subject to record keeping requirements. B. It is the duty of each officeholder and each treasurer for an officeholder committee to maintain detailed accounts, records, bills, and receipts necessary to prepare officeholder statements, to establish that the statements were accurate and properly filed, and to otherwise comply with the provisions of this Article. Officeholders and treasurers must also maintain records of the cumulative amount of all contributions and expenditures. C. The detailed accounts, records, bills, and receipts shall be retained by the officeholder and treasurer for a period specified by the Commission. The records shall be retained for a period of at least four years after the adoption of a final audit report or five years from the date of any alleged violation,</p>	<p>The FCPC proposal adds a new section on record-keeping requirements. First, these provisions provide, among other things, that it is the duty of officeholders and treasurers to maintain detailed accounts, records, bills, and receipts necessary to prepare officeholder statements and to establish that the statements are accurate and properly filed. These provisions are consistent with state and local law relating to recordkeeping. (See Gov't Code § 84104; 2 Cal. Code Reg. § 18401; BERA, section 2.12.250.D.–E.) Second, the section provides that records relating to officeholder accounts shall be retained for a period of at least four years after the adoption of a final audit report or five years from the date of any violation. This is consistent with state and local law. (See 2 Cal. Code Reg. §§ 18401 and 18531.62; BERA, section 2.12.250.D.–F.)</p>

		<p>whichever is less, unless the Commission provides otherwise.</p> <p>D. In the event that a person alleged to have violated this Article fails to produce documents in response to a court order to produce the records sought by subpoena, the five-year period in C. above shall be tolled for the period of delay from the date of filing of the motion to compel until the date the documents are produced.</p> <p>E. Officeholders and treasurers shall make available to the Commission and other authorities or their designees specified in section 2.12.250.F, on demand, the details of any account requested and the records supporting it, and shall sign a waiver permitting those authorities or their designees to inspect officeholder account records maintained by the bank in which the officeholder account is opened.</p>	<p>Finally, the section provides that officeholders and treasurers shall make available to the Commission and other authorities or their designees specified in section 2.12.250, on demand, the details of any officeholder account requested and the records supporting it. This is consistent with state and local law. (See Gov't Code § 90001(i); 2 Cal. Regs. § 18401; BERA, section 2.12.250.F.)</p>
<p>Section 2.12.675 Audits of officeholder committees and accounts.</p>	<p><i>[No section on this subject exists in the Council proposal.]</i></p>	<p>A. Officeholder committees and officeholder accounts are subject to audits.</p> <p>B. The City Auditor shall audit all officeholder committees and officeholder accounts every two years beginning in 2024. The audits shall cover the preceding two-year period ending July 1 of every even-numbered year. The final audits shall be publicly filed with the City Clerk and copies shall be sent to the Commission for review no later than October 1 of the</p>	<p>The FCPC proposal provides for regular audits of officeholder committees and accounts. It provides that the City Auditor shall audit all officeholder committees and accounts every two years beginning in 2024. The audits shall cover the preceding two-year period ending July of every even numbered year. The final audits shall be publicly filed with the Clerk and copies shall be sent to the FCPC for review not later than October 1 of the even year when the audits were</p>

		<p>even-numbered year when the audits are scheduled to be prepared and filed.</p> <p>C. In the event that any audit or audits are not completed, finalized, and filed by October 1, the Clerk shall promptly notify the Commission and the affected officeholder and treasurer responsible for the officeholder committee. Upon receipt of this notice, the officeholder committee shall immediately cease operations, including collecting contributions and making expenditures, until the final audit or audits have been filed, copies have been sent to the Commission, and the Commission has approved the audit.</p>	<p>scheduled to be prepared and filed. (Section 2.12.685.A.)</p> <p>The FCPC proposal further provides that, if any audit or audits are not completed, finalized, and filed by October 1, the Clerk shall promptly notify the Commission and the affected officeholder and treasurer. Upon receipt of this notice, the officeholder committee shall immediately cease operations, including collecting contributions and making expenditures, until the final audit or audits have been filed, copies sent to the Commission, and the Commission has approved the audits. (section 2.12.685.B.)</p> <p>Unlike the FCPC proposal, the Council proposal does not include any provision regarding audits. Providing for regular audits of officeholder committees and accounts is good practice, ensures compliance with the law, and is consistent with state law relating to the regulation of officeholder committees and accounts. (See Gov't Code § 90001; 2 Cal. Code Reg. § 18531.62(c)(4).) The state's requirement for regular audits of officeholder accounts is superior to the current provision in BERA for auditing campaign accounts (see BERA, section 2.12.250.G), which has proven ineffective. In most instances, BERA is more rigorous than state law; with regard to the auditing of officeholder</p>
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<p>Section 2.12.685 Enforcement</p>	<p>Violations of this article involving the unlawful use of officeholder committees are subject to the enforcement procedures and penalties in Article 7 of this chapter.</p>	<p>A. Violations of this article involving the unlawful use of officeholder committees and accounts are subject to the limitations on contributions in Article 6 and the enforcement procedures and penalties in Article 7 of this Chapter. For the purposes of Article 9, section 2.12.435 is modified to provide that, if any person is found guilty of violating the terms of this Article, each campaign treasurer who received part or all of the contribution or contributions which constitute the violation shall pay promptly, from available funds in the</p>	<p>committees and accounts, it should also be at least as rigorous.</p> <p>Finally, with respect to the cost of audits, these should be minimal. At least until recently, only one Member of the Council has maintained an officeholder account. Even if other members and the mayor establish such accounts in the future, the burden of auditing these few additional accounts every two years should not be substantial and would be outweighed by the benefits of creating greater public confidence in the city's principal officeholders by assuring that all private contributions to them are being properly regulated. Naturally, if the authorization to establish officeholder committees were to be expanded to all elected city officials, as proposed by the Council, that would greatly increase the costs of auditing; but that is not proposed by the Commission.</p>
			<p>Both the FCPC and the Council proposals provide that the violations of Article 9 involving the unlawful use of officeholder committees are subject to the enforcement procedures and penalties in Article 7 of BERA. (Section 2.12.685.A.) The FCPC proposal also makes the limitations on contributions in Article 6 explicitly applicable to Article 9. This means that, if any person is found guilty of violating the terms of the chapter, the treasurer who received part or all of the contributions which</p>

		<p>officerholder account, if any, the amount received in excess of the amount permitted by this Article to the City for deposit in the City's general fund.</p> <p>B. In addition to the limitations, enforcement procedures, and penalties in Articles 6 and 7, if the Commission determines, after notice and a hearing, that an officerholder has committed a substantial violation of the regulations relating to officerholder accounts, it may suspend or terminate the officerholder's committee and account and may prohibit the officerholder from establishing, maintaining, or operating such a committee or account in the future.</p>	<p>constitute the violation shall pay promptly, from available officerholder account funds, if any, the amount received by such persons in excess of the amount permitted by the chapter for deposit in the general fund,</p> <p>In addition, the FCPC proposal adds a provision that, if the Commission determines, after notice and a hearing, that an officerholder has committed a substantial violation of the regulations relating to officerholder accounts, it may suspend or terminate the officerholder's committee and account and may prohibit the officerholder from establishing, maintaining, or operating such a committee or account in the future. This provision ensures that, in addition to monetary penalties, the Commission—acting in accord with due process—may take action to stop misconduct, and to prevent further abuses, if an officerholder commits serious violations of Article 9.</p>
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City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Stephen Murphy for Berkeley City Council 2020

Treasurer Stephen Murphy (smurphy@crstoreydelasalle.org)

Candidate Same as above

Statement Information

Filing Due Date January 30, 2022

Reporting Period Start Date July 1, 2021

Reporting Period End Date December 31, 2021

Notifications to Filer

Date 1/7/2022 Type 1st Notification (letter & email)

Date 1/25/2022 Type 1st Reminder (email)

Date 1/31/2022 Type Email conversation about filing

Date 2/4/2022 Type 1st Notice of Non-Filing (letter & email)

Date 3/7/2022 Type 2nd Notice of Non-Filing (certified letter & email)

Additional Information

Filer has two additional non-filed statements for the following reporting periods:

1) 7/1/20-12/31/20 (Referred to the Fair Political Practices Commission for enforcement on April 1, 2021).

2) 1/1/21-6/30/21.



City Clerk Department

January 7, 2022

Linda Perry, Treasurer
Stephen Murphy for Berkeley City Council 2020
1527 139th Avenue
San Leandro, CA 94578

Dear Linda:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of July 1-December 31, 2021. The statement is due no later than **Monday, January 31, 2022**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Annual Filing Fee

Pursuant to Government Code § 84101.5, open committees must pay an annual \$50 fee to the Secretary of State by January 15 (unless the committee was created and paid an initial \$50 fee in October, November, or December of the prior calendar year). Failure to pay the fee by the deadline will incur a \$150 penalty from the Secretary of State.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the applicable Campaign Disclosure Manual provided by the State for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a copy is filed with the City of Berkeley.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at www.cityofberkeley.info/elections/) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission
Stephen Murphy, Candidate

From: Rome, Leslie on behalf of [Elections](#)
To: [Elections](#)
Cc: [Richardson, April](#); [Bunting, Sarah K.](#)
Bcc: aidan4berkeley@gmail.com; alejandrosotovigil@gmail.com; apvasudeo@gmail.com; daiebi@aol.com; andykelley@gmail.com; bahmanrsb@gmail.com; bartlett@cjandassociatesinc.com; godzilinda@gmail.com; semirm143@gmail.com; ehalpernxx@gmail.com; campaign@campaignlawyers.com; danmcdunn@gmail.com; esfandiarimani@gmail.com; kadijahbrown@gmail.com; leah4rentboard@gmail.com; runwithmike2020@gmail.com; sowens@seowenscompany.com; alejandrosotovigil@gmail.com; soulmaz@redoakrealty.com; lindajperry@hotmail.com; greenlisastephens@gmail.com; kleesnowden@gmail.com; b@isserl.is; stephenmmurphy2791@gmail.com
Subject: Semi-Annual Campaign Statement Filing Reminder Due January 31, 2022
Date: Tuesday, January 25, 2022 3:59:00 PM

Dear Committee Officers:

The treasurer of an active campaign committee is required to file a second semi-annual campaign statement, Form 460, covering the period of July 1, 2021 through December 31, 2021. This statement is due no later than Thursday, January 31, 2022.

Most campaign statements must be filed electronically. If you require assistance completing the electronic filing process, please contact our office.

Pursuant to Government Code section 84101.5, a \$50 fee is required to be paid to the Secretary of State by January 15 of each year unless the committee ceases activity prior to December 31 of the previous year and provides the terminating paperwork to the Secretary of State and the City Clerk prior to January 31 of that year. Failure to pay the fee or close the committee will result in a penalty of \$150. Your filing and payment obligations will continue until your committee has terminated.

You may choose to terminate the committee if there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge any debt. To terminate your committee, you must file a hard copy Terminating Form 410 and an electronic Terminating Form 460.

As you know, Berkeley's campaign disclosure requirements under the Berkeley Election Reform Act (BERA) differ from state law. Campaign filers should consult the BERA regulations when completing the state forms to ensure full compliance with local law. Failure to file this form by January 31, 2022 may result in fines and penalties as required under the state Political Reform Act and the Berkeley Election Reform Act.

Please contact our office at 981-6908 or elections@cityofberkeley.info with any questions.

Sincerely,

Leslie S. Rome
Assistant Management Analyst
City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
Ph. (510) 981-6908
elections@cityofberkeley.info

From: [Rome, Leslie](#) on behalf of [Elections](#)
To: [Stephen Murphy](#); [Elections](#)
Subject: RE: Campaign Committee
Date: Monday, January 31, 2022 1:20:17 PM
Attachments: [image001.jpg](#)

Hi Stephen –

A Zoom call would work as well. I'll send you an invite for 1:30 on Wednesday.

Best,

Leslie S. Rome

Assistant Management Analyst

City Clerk Department

2180 Milvia Street

Berkeley, CA 94704

Ph. (510) 981-6908 Fax (510) 981-6901

elections@cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Monday, January 31, 2022 10:05 AM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Campaign Committee

Perfect. What number should I call? My cell # is 510-513-3184. Would a Zoom call help if you, or I, need to share docs?

On Mon, Jan 31, 2022 at 10:02 AM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen - would 1:30 on Wednesday work for you?

Leslie S. Rome

Assistant Management Analyst

City Clerk Department

2180 Milvia Street

Berkeley, CA 94704

Ph. (510) 981-6908 Fax (510) 981-6901

elections@cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Sunday, January 30, 2022 7:07 PM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Campaign Committee

OK. I haven't. Can we talk via phone Wednesday at 1pm?

On Thu, Jan 27, 2022 at 8:34 AM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen –

Your call. Have you been in the NetFile user portal, other than using the signature module to approve filings?

Leslie

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Wednesday, January 26, 2022 6:03 PM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Campaign Committee

Leslie,

I'd love to set up a time to discuss how to NetFile. If you think coming in would be best then I can do that. If you think we can accomplish it over phone or Zoom then let's do that. You'd know best.

Let me know what you think.

Thanks,

Stephen

On Wed, Jan 26, 2022 at 3:17 PM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen –

You will need to e-file the information in the attached Form 460s, as electronic filing is required for most Berkeley candidates. These usually don't go to the state unless they've requested them specifically.

As for the 410s, the qualification date is off, on the amendment, but the committee name is now correct. I don't know if the State will accept a terminating form 410 with a future termination date, but you will need to dispose of your surplus funds before you can terminate.

As you have now been made treasurer, you would sign in NetFile as both treasurer and candidate. We're happy to walk you through the process on the phone or you can make an appointment to come in and work on the computer in our public room. You'll need to make sure that your information as treasurer is added to your committee set-up in NetFile before you can sign as treasurer. Please let us know how we can assist.

Best,

Leslie S. Rome

Assistant Management Analyst

City Clerk Department

2180 Milvia Street

Berkeley, CA 94704

Ph. (510) 981-6908 Fax (510) 981-6901

elections@cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Tuesday, January 18, 2022 4:18 PM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Campaign Committee

Hello Sarah,

Let's try this again. I'm hoping I have it right this time. I am submitting the following documents to the Secretary of State. I'm sending them to the Political Reform Division 1500 11th Street, Room 495 Sacramento, CA 95814. I'm sending the following documents which are attached.

1. Form 460 covering July 1 to December 31, 2020
2. Form 460 covering January 1 to June 30, 2021
3. Form 460 covering July 1 to December 31, 2021
4. Form 410 amending to make me treasurer
5. Form 410 terminating my committee

Four questions.

1. Did I do this right?
2. If so is it OK I sent them all in at the same time?
3. How will I confirm they are received and processed?
4. What do you need from me in order for me to close my account?

Thank you VERY much for your help.

Sincerely,

Stephen

On Mon, Jan 10, 2022 at 10:01 AM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen,

Also, on the terminating Form 410 that you file with the Secretary of State (with a copy to the City), please note that your campaign committee's name and ID # are as follows:

Name: Stephen Murphy for Berkeley City Council 2020

ID #: 1379609

The Form 410 you sent on January 8 had a different committee name, and didn't include the ID#.

Sincerely,

Sarah K. Bunting

Assistant City Clerk

City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

P | (510) 981-698

E | elections@cityofberkeley.info

From: Elections

Sent: Monday, January 10, 2022 9:49 AM

To: Stephen Murphy <smurphy@crstoreydelasalle.org>

Cc: Elections <elections@cityofberkeley.info>

Subject: RE: Campaign Committee

Hi Stephen,

Thanks for sending this. You can terminate your committee by filing two forms:

1. A terminating Form 410
2. A terminating Form 460 showing an ending cash balance of \$0

The most recent Form 460 filed with our office covered the period of 1/1/20-6/30/20.

You're a little behind on your filings, so the below statements are currently due:

- 7/1/20-12/31/20
- 1/1/21-6/30/21
- 7/1/21-12/31/20

If you need more information, please let us know. We're at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Sarah K. Bunting

Assistant City Clerk

City of Berkeley

2180 Milvia Street, 1st Floor

Berkeley, CA 94704

P | (510) 981-6908

E | elections@cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Saturday, January 8, 2022 11:19 AM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Campaign Committee

Hi Leslie,

See attached. Hallelujah, I was able to get bank info. I'm attaching the document I mailed to

Secretary of State

Political Reform Division

1500 11th Street, Room 495

Sacramento, CA 95814

I'm guessing once this is received I can file to terminate the committee? Can I file that now?

Thank you for all of your help.

Sincerely,

Stephen

On Mon, Nov 22, 2021 at 12:57 PM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen –

Your committee ID # is 1379609. When I look up your committee on the State website, I see your 2016 committee name, so it's possible the State never got the form 410 amendment you filed 2017 changing the committee name, or the one you subsequently sent the state naming yourself as treasurer. Additionally, as you stated that what you sent us was a draft, we did not upload it into NetFile or enter the changed information.

The most recent Form 410 we have on file for you indicates that the committee has an account with US Bank in San Leandro I've attached the form with the information. Hopefully you are able to retrieve your bank information. If you did change banks at any point, we did not receive an updated 410. Your most recent Form 460, for the period ending June 30, 2020, shows a balance of \$1,213.41 still in the account.

You may wish to contact the Secretary of State's office directly to confirm that they have not received any of the more recent 410s you submitted.

You will likely need to submit another Form 410 with the most current information; please make sure our office receives a copy of whatever you send to the state. Once we have received that, we can enter you as Treasurer and you can submit your outstanding filings in NetFile and close your committee once any remaining funds have been addressed.

Best,

Leslie S. Rome

Assistant Management Analyst

City Clerk Department

2180 Milvia Street
 Berkeley, CA 94704
 Ph. (510) 981-6908 Fax (510) 981-6901
elections@cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Monday, November 22, 2021 9:25 AM

To: Elections <elections@cityofberkeley.info>

Subject: Re: Fwd:

Hello Leslie,

I need to get your advice. I have contacted over and over again Linda Perry who seems to have disappeared. I asked a few of my former colleagues like Lori Droste who say they haven't seen her. I went to Mechanics Bank who said they do not have records of my account information. And to top all of this off I do not have any records of my Committee ID #. I mailed in my 410 to the state and stated my Bank Account was closed but I did not include an ID number. Should I resubmit?

Also, I'm not sure how this works. Do I get the forms back and send them to you? By sending them in and you getting a copy can I then become my own treasurer and then close my account? It appears I no longer have a Bank Account open.

Sorry for the mess and all the questions.

Sincerely,

Stephen

On Wed, Jun 9, 2021 at 8:48 AM Elections <elections@cityofberkeley.info> wrote:

Hi Stephen –

I realized I forgot to note that you need to include your committee ID number in your Form 410.

Best,

Leslie S. Rome

Assistant Management Analyst

City Clerk Department

(510) 981-6908

From: City Clerk

Sent: Monday, June 07, 2021 10:01 AM

To: Elections <elections@cityofberkeley.info>

Subject: FW: Fwd:

FYI.

Tony Benado | Office Specialist III

City of Berkeley | Department of the City Clerk

2180 Milvia Street, 1st Floor, Berkeley, CA 94704

Direct: (510) 981-6908 | Fax: (510) 981-6901

tbenado@cityofberkeley.info | www.cityofberkeley.info

From: Stephen Murphy <smurphy@crstoreydelasalle.org>

Sent: Monday, June 7, 2021 8:49 AM

To: City Clerk <clerk@cityofberkeley.info>

Subject: Fwd:

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hello City Clerk's Office,

I ran for office in 2016 and I have an open election account. My treasurer is Linda Perry. She is not answering any of my emails or texts. I'd like to swap me in as the Treasurer and close out my account. I called your office last week and I was informed I needed to fill out Form 410. I'm attaching a draft and I'm hoping you can take a quick look at it before I send off to Sacramento. I don't have my ID # or Bank Account #.

Thank you for your help and let me know a good time to call you if this requires a phone call. My cell # is 510-513-3184.

Sincerely,
Stephen

----- Forwarded message -----

From: <Scanner1@cristoreydelasalle.org>

Date: Mon, Jun 7, 2021 at 8:28 AM

Subject:

To: <smurphy@cristoreydelasalle.org>

CS 3552ci
[00:17:c8:4e:0c:a7]

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Stephen Murphy

President and CEO

Cristo Rey De La Salle East Bay High School

St. Elizabeth Campus

1530 34th Ave. Oakland. CA 94601

Cell: (510) 423 - 8339

cristoreydelasalle.org

--
Stephen Murphy
President and CEO
Cristo Rey De La Salle East Bay High School
St. Elizabeth Campus
1530 34th Ave. Oakland. CA 94601

Cell: (510) 513-3184
cristoreydelasalle.org

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Stephen Murphy
President and CEO
Cristo Rey De La Salle East Bay High School
St. Elizabeth Campus
1530 34th Ave, Oakland, CA 94601
Cell: (510) 513-3184
cristoreydelasalle.org

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St. Elizabeth Campus
1530 34th Ave, Oakland, CA 94601
Cell: (510) 513-3184
cristoreydelasalle.org

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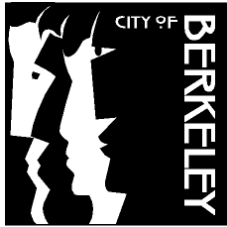
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Cell: (510) 513-3184
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Stephen Murphy
President and CEO
Cristo Rey De La Salle East Bay High School
St. Elizabeth Campus
1530 34th Ave, Oakland, CA 94601
Cell: (510) 513-3184
cristoreydelasalle.org



City Clerk Department

February 4, 2022

VIA Email and U.S. Mail

Stephen Murphy, Treasurer
Stephen Murphy for Berkeley City Council 2020
1937 Cedar Street
Berkeley, CA 94709

FIRST NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Stephen:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

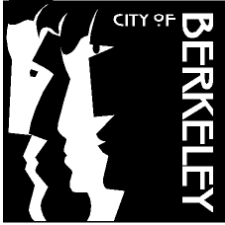
2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			



City Clerk Department

March 7, 2022

VIA Email and U.S. Mail

Stephen Murphy, Treasurer
Stephen Murphy for Berkeley City Council 2020
1937 Cedar Street
Berkeley, CA 94709

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Stephen:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.



REQUEST FOR WAIVER OF LIABILITY

ITEM 7a

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6909
(510) 981-6901 fax
www.cityofberkeley.info/clerk

FILER NAME		
TREASURER NAME (IF ANY)	COMMITTEE ID NUMBER	
ADDRESS	PHONE NO. WITH AREA CODE	
CITY	STATE	ZIP CODE
PERIOD COVERED	FORM TYPE	
AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (IF NEEDED):		

(Continue of reverse side, if needed)

I declare under penalty of perjury that the foregoing information on this request for waiver is true and correct. I hereby request that the liability for failing to file a statement required by the Political Reform Act on time be waived.

Executed on _____, 20____, at _____, _____
(Month, Day) (City) (State)

(Signature)

(Type or Print Name)

(Signature)

(Type or Print Name)

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2 _____ _____ _____		
Reduced (Amt.) _____			
Waiver Denied _____			

**Statement of Organization
Recipient Committee**

Statement Type

- Initial
- Not yet qualified
or
- Date qualification threshold met

Amendment
Date qualification threshold met
2 / 9 / 2022

Termination - See Part 5
Date of termination
/ /

RECEIVED
JAN 18 2022
CITY OF BERKELEY
CITY CLERK DEPARTMENT

CALIFORNIA
FORM 410
For Official Use Only

1. Committee Information I.D. Number 1379609 (if applicable)

NAME OF COMMITTEE
Stephen Murphy for Berkeley City Council 2020

NAME OF TREASURER
Stephen Murphy

STREET ADDRESS (NO P.O. BOX)
1937 Cedar Street

CITY
Berkeley

STATE
CA

ZIP CODE
94709

AREA CODE/PHONE
(510) 423-8339

FULL MAILING ADDRESS (IF DIFFERENT)

E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)
smurphy@cristoreydelasalle.org

COUNTY OF DOMICILE
Alameda

JURISDICTION WHERE COMMITTEE IS ACTIVE
Berkeley, CA

STREET ADDRESS (NO P.O. BOX)
1937 Cedar Street

CITY
Berkeley

STATE
CA


ZIP CODE
94709

AREA CODE/PHONE
(510) 423-8339

Attach additional information on appropriately labeled continuation sheets.

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 1/10/2022 By  SIGNATURE OF TREASURER/ASSISTANT TREASURER
Executed on 1/10/2022 By _____ SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent
Executed on _____ By _____ SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent
Executed on _____ By _____ SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent

**Statement of Organization
Recipient Committee**

INSTRUCTIONS ON REVERSE

**CALIFORNIA
FORM 410**

Page 2

I.D. NUMBER

1379609

COMMITTEE NAME
Stephen Murphy for Berkeley City Council 2020

- All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION

U.S. Bank

AREA CODE/PHONE

(800) 872-2657

BANK ACCOUNT NUMBER

157508225248

ADDRESS

1585 E 14th Street, San Leandro, CA 94577

CITY

STATE

ZIP CODE

4. Type of Committee Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent

Stephen Murphy

ELECTIVE OFFICE SOUGHT OR HELD
(INCLUDE DISTRICT NUMBER IF APPLICABLE)

Stephen Murphy for Berkeley City Council 2020

YEAR OF
ELECTION

2020

PARTY
CHECK ONE

Nonpartisan	Partisan	(list political party below)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Democrat
Nonpartisan	Partisan	(list political party below)
<input type="checkbox"/>	<input type="checkbox"/>	

Primarily Formed Committee

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)
IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.

Stephen Murphy

Berkeley City Council

CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION
(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)

CHECK ONE

SUPPORT	OPPOSE
<input checked="" type="checkbox"/>	<input type="checkbox"/>
SUPPORT	OPPOSE
<input type="checkbox"/>	<input type="checkbox"/>



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Stephen Murphy for Berkeley City Council 2020

Treasurer Stephen Murphy (smurphy@crstoreydelasalle.org)

Candidate Same as above

Statement Information

Filing Due Date January 30, 2022

Reporting Period Start Date July 1, 2021

Reporting Period End Date December 31, 2021

Notifications to Filer

Date 1/7/2022 Type 1st Notification (letter & email)

Date 1/25/2022 Type 1st Reminder (email)

Date 1/31/2022 Type Email conversation about filing

Date 2/4/2022 Type 1st Notice of Non-Filing (letter & email)

Date 3/7/2022 Type 2nd Notice of Non-Filing (certified letter & email)

Additional Information

Filer has two additional non-filed statements for the following reporting periods:

1) 7/1/20-12/31/20 (Referred to the Fair Political Practices Commission for enforcement on April 1, 2021).

2) 1/1/21-6/30/21.



City Clerk Department

March 31, 2021

Todd Andrew
1547 Hopkins Street #6
Berkeley CA 94707

RE: Repayment of Unspent Funds from Public Finance Program Participants

Dear Todd:

As a Participating Candidate in the City of Berkeley's Public Finance Program during the November 3, 2020 election, you were required to return unspent funds to the City of Berkeley no later than January 2, 2021. My office contacted you on November 16, 2020 and January 11, 2021 regarding this requirement.

As previously conveyed, although we received a check from your committee in the amount of \$6,149.41, we are unable to process your return of funds until the committee's ending cash balance can be verified. Please take steps to remedy this immediately by providing a draft Form 460 showing the committee's ending cash balance of \$6,149.41 as of the date of your last transaction. Alternatively, if your ending cash balance reported on the draft Form 460 is different from the check you previously provided, the draft may be accompanied by a new check matching the actual ending cash balance.

Failure to submit the required remittance is a violation of BMC 2.12.505 (H). If the above issues are not resolved by April 14, 2021, the matter will be referred to the Fair Campaign Practices Commission for enforcement.

Please do not hesitate to contact me at (510) 981-6900 or elections@cityofberkeley.info if you have any questions.

Sincerely,

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission
Donald Irie, Treasurer, Andrew for Berkeley Council 2020



City Clerk Department

January 7, 2022

Donald Irie, Treasurer
Andrew for Berkeley Council 2020
1224 Queens Road
Berkeley, CA 94708

Dear Donald:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of July 1-December 31, 2021. The statement is due no later than **Monday, January 31, 2022**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Annual Filing Fee

Pursuant to Government Code § 84101.5, open committees must pay an annual \$50 fee to the Secretary of State by January 15 (unless the committee was created and paid an initial \$50 fee in October, November, or December of the prior calendar year). Failure to pay the fee by the deadline will incur a \$150 penalty from the Secretary of State.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the applicable Campaign Disclosure Manual provided by the State for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a copy is filed with the City of Berkeley.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at www.cityofberkeley.info/elections/) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission
Todd Andrew, Assistant Treasurer

From: Rome, Leslie on behalf of [Elections](#)
To: [Elections](#)
Cc: [Richardson, April](#); [Bunting, Sarah K.](#)
Bcc: aidan4berkeley@gmail.com; alejandrosotovigil@gmail.com; apvasudeo@gmail.com; daiebi@aol.com; andykelley@gmail.com; bahmanrsb@gmail.com; bartlett@cjandassociatesinc.com; godzilinda@gmail.com; semirm143@gmail.com; ehalpernxx@gmail.com; campaign@campaignlawyers.com; danmcdunn@gmail.com; esfandiarimani@gmail.com; kadijahbrown@gmail.com; leah4rentboard@gmail.com; runwithmike2020@gmail.com; sowens@seowenscompany.com; alejandrosotovigil@gmail.com; soulmaz@redoakrealty.com; lindajperry@hotmail.com; greenlisastephens@gmail.com; kleesnowden@gmail.com; b@isserl.is; stephenmmurphy2791@gmail.com
Subject: Semi-Annual Campaign Statement Filing Reminder Due January 31, 2022
Date: Tuesday, January 25, 2022 3:59:00 PM

Dear Committee Officers:

The treasurer of an active campaign committee is required to file a second semi-annual campaign statement, Form 460, covering the period of July 1, 2021 through December 31, 2021. This statement is due no later than Thursday, January 31, 2022.

Most campaign statements must be filed electronically. If you require assistance completing the electronic filing process, please contact our office.

Pursuant to Government Code section 84101.5, a \$50 fee is required to be paid to the Secretary of State by January 15 of each year unless the committee ceases activity prior to December 31 of the previous year and provides the terminating paperwork to the Secretary of State and the City Clerk prior to January 31 of that year. Failure to pay the fee or close the committee will result in a penalty of \$150. Your filing and payment obligations will continue until your committee has terminated.

You may choose to terminate the committee if there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge any debt. To terminate your committee, you must file a hard copy Terminating Form 410 and an electronic Terminating Form 460.

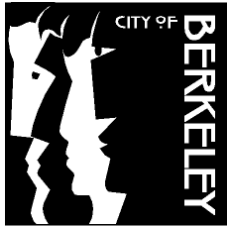
As you know, Berkeley's campaign disclosure requirements under the Berkeley Election Reform Act (BERA) differ from state law. Campaign filers should consult the BERA regulations when completing the state forms to ensure full compliance with local law. Failure to file this form by January 31, 2022 may result in fines and penalties as required under the state Political Reform Act and the Berkeley Election Reform Act.

Please contact our office at 981-6908 or elections@cityofberkeley.info with any questions.

Sincerely,

Leslie S. Rome
Assistant Management Analyst
City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
Ph. (510) 981-6908
elections@cityofberkeley.info



City Clerk Department

February 4, 2022

VIA Email and U.S. Mail

Donald Irie, Treasurer
Andrew for Berkeley Council 2020
1224 Queens Road
Berkeley CA 94708

FIRST NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Donald:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Todd Andrew, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.



REQUEST FOR WAIVER OF LIABILITY

ITEM 7b

City Clerk Department
2180 Milvia Street
Berkeley, CA 94704
(510) 981-6909
(510) 981-6901 fax
www.cityofberkeley.info/clerk

FILER NAME		
TREASURER NAME (IF ANY)	COMMITTEE ID NUMBER	
ADDRESS	PHONE NO. WITH AREA CODE	
CITY	STATE	ZIP CODE
PERIOD COVERED	FORM TYPE	
<p>AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (IF NEEDED):</p>		

(Continue on reverse side, if needed)

I declare under penalty of perjury that the foregoing information on this request for waiver is true and correct. I hereby request that the liability for failing to file a statement required by the Political Reform Act on time be waived.

Executed on _____, 20____, at _____, _____
(Month, Day) (City) (State)

(Signature)

(Type or Print Name)

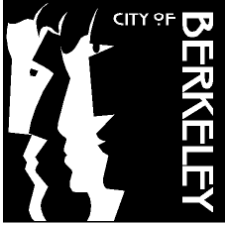
(Signature)

(Type or Print Name)

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			



City Clerk Department

March 7, 2022

VIA Email and U.S. Mail

Donald Irie, Treasurer
Andrew for Berkeley Council 2020
1224 Queens Road
Berkeley, CA 94708

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Donald:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at (510) 981-6908 or elections@cityofberkeley.info if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Todd Andrew, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			

**Statement of Organization
Recipient Committee**

**CALIFORNIA 410
FORM**

For Official Use Only

Statement Type Initial Amendment

Not yet qualified
or
 Date qualification threshold met

____/____/____
Date qualification threshold met

Termination - See Part 5

____/____/____
Date of termination

Date Stamp
CITY OF BERKELEY
CITY CLERK DEPT
2020 JUL 21 PM 2:15

1. Committee Information I.D. Number
(if applicable)

NAME OF COMMITTEE		NAME OF TREASURER	
ANDREW FOR BERKELEY COUNCIL 2020		DONALD IRIE	
STREET ADDRESS (NO P.O. BOX)		STREET ADDRESS (NO P.O. BOX)	
1547 HOPKINS STREET, APT. 6		1224 QUEENS ROAD	
CITY	STATE	CITY	STATE
BERKELEY	CA	BERKELEY	CA
ZIP CODE	AREA CODE/PHONE	ZIP CODE	AREA CODE/PHONE
94707	510.919.2004	94708	510.529.9112
FULL MAILING ADDRESS (IF DIFFERENT)		NAME OF ASSISTANT TREASURER, IF ANY	
1547 HOPKINS STREET, APT. 6		TODD ANDREW	
E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)		STREET ADDRESS (NO P.O. BOX)	
ANDREW4BERKELEY@GMAIL.COM		1547 HOPKINS STREET, APT. 6	
COUNTY OF DOMICILE	JURISDICTION WHERE COMMITTEE IS ACTIVE	CITY	STATE
ALAMEDA	BERKELEY	BERKELEY	CA
STREET ADDRESS (NO P.O. BOX)		ZIP CODE	AREA CODE/PHONE
		94707	510.919.2004

2. Treasurer and Other Principal Officers

Attach additional information on appropriately labeled continuation sheets.

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on	7/21/20	DATE	BY		SIGNATURE OF TREASURER OR ASSISTANT TREASURER
Executed on	7/21/20	DATE	BY		SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT
Executed on	____	DATE	BY	____	SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT
Executed on	____	DATE	BY	____	SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

INSTRUCTIONS ON REVERSE

COMMITTEE NAME
 ANDREW FOR BERKELEY COUNCIL 2020

All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION MECHANICS BANK	AREA CODE/PHONE 510.559.2626	BANK ACCOUNT NUMBER 3505 111 250
ADDRESS 1801 SOLANO AVENUE	CITY BERKELEY	STATE CA
		ZIP CODE 94707

4. Type of Committee Complete the applicable sections.

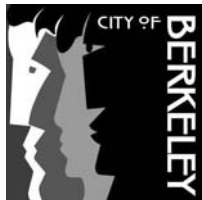
Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable.
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY CHECK ONE	(list political party below)
TODD ANDREW	BERKELEY CITY COUNCIL DISTRICT 5	2020	Nonpartisan <input checked="" type="checkbox"/>	Partisan
			Nonpartisan	Partisan

Primarily Formed Committee Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER) IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.	CHECK ONE
	SUPPORT
	OPPOSE



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Stephen Murphy for Berkeley City Council 2020

Treasurer Stephen Murphy (smurphy@crstoreydelasalle.org)

Candidate Same as above

Statement Information

Filing Due Date January 30, 2022

Reporting Period Start Date July 1, 2021

Reporting Period End Date December 31, 2021

Notifications to Filer

Date 1/7/2022 Type 1st Notification (letter & email)

Date 1/25/2022 Type 1st Reminder (email)

Date 1/31/2022 Type Email conversation about filing

Date 2/4/2022 Type 1st Notice of Non-Filing (letter & email)

Date 3/7/2022 Type 2nd Notice of Non-Filing (certified letter & email)

Additional Information

Filer has two additional non-filed statements for the following reporting periods:

1) 7/1/20-12/31/20 (Referred to the Fair Political Practices Commission for enforcement on April 1, 2021).

2) 1/1/21-6/30/21.



City Clerk Department

January 7, 2022

Richard Genirberg, Treasurer
Bahman Ahmadi for Berkeley Rent Board 2022
2342 Shattuck Avenue, Ste. 224
Berkeley, CA 94704

Dear Richard:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of July 1-December 31, 2021. The statement is due no later than **Monday, January 31, 2022**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Annual Filing Fee

Pursuant to Government Code § 84101.5, open committees must pay an annual \$50 fee to the Secretary of State by January 15 (unless the committee was created and paid an initial \$50 fee in October, November, or December of the prior calendar year). Failure to pay the fee by the deadline will incur a \$150 penalty from the Secretary of State.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the applicable Campaign Disclosure Manual provided by the State for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a copy is filed with the City of Berkeley.

Differences in State and Local Law

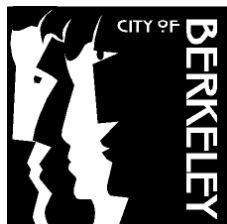
Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at www.cityofberkeley.info/elections/) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission
Bahman Ahmadi, Assistant Treasurer



City Clerk Department

February 4, 2022

VIA Email and U.S. Mail

Richard Genirberg, Treasurer
Bahman Ahmadi for Berkeley Rent Board 2022
2342 Shattuck Avenue, Ste. 224
Berkeley, CA 94704

FIRST NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Richard:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Bahman Ahmadi, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

2. Unique Reasons

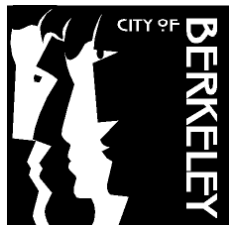
Other unique reasons. These include compelling reasons beyond the filer's control.

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

Large empty rectangular box for providing reasons for late filing and supporting documentation.

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			



City Clerk Department

March 7, 2022

VIA Email and U.S. Mail

Richard Genirberg, Treasurer
Bahman Ahmadi for Berkeley Rent Board 2022
2342 Shattuck Avenue, Ste. 224
Berkeley, CA 94704

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

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Sincerely,

Mark Numainville
City Clerk

Encl.

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Bahman Ahmadi, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

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Other unique reasons. These include compelling reasons beyond the filer's control.

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(Continue of reverse side, if needed)

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Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			

Statement of Organization Recipient Committee

Statement Type [initials]

Not yet qualified or

Date qualified as committee 09/09/2020

Amendment [checked]

Date qualified as committee / / Date of termination / /

Termination - See Part 5

CITY OF BERKELEY CITY CLERK DEPT 2021 JAN 14 PM 4:06

CALIFORNIA FORM 410

For Official Use Only

2. Treasurer and Other Principal Officers

1. Committee Information I.D. Number (if applicable) 1431231

NAME OF COMMITTEE

NAME OF TREASURER

Bahman Ahmadi for Berkeley Rent Board 2020 2022

Richard Genirberg

STREET ADDRESS (NO P.O. BOX)

1721 Marin Ave

2342 Shattuck Ave, Ste. 224

Berkeley

Berkeley

STATE CA

STATE CA

ZIP CODE 94707

ZIP CODE 94704

AREA CODE/PHONE (510) 527-7289

AREA CODE/PHONE (404) 377-9999

E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL)

bahmanrbb@gmail.com

COUNTY OF DOMICILE

Alameda

JURISDICTION WHERE COMMITTEE IS ACTIVE

Berkeley

STREET ADDRESS (NO P.O. BOX)

Attach additional information on appropriately labeled continuation sheets.

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 1/14/2021 By Richard Genirberg SIGNATURE OF TREASURER OR ASSISTANT TREASURER
Executed on 1/14/2021 By Bahman Ahmadi SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROPONENT
Executed on 1/14/2021 By Bahman Ahmadi SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROPONENT
Executed on DATE By SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROPONENT

**Statement of Organization
Recipient Committee**

INSTRUCTIONS ON REVERSE

**CALIFORNIA
FORM 410**

Page 2 Page 2 of 3

I.D. NUMBER

1431231

COMMITTEE NAME

Bahman Ahmadi for Berkeley Rent Board ~~2020~~ **2022**

- All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION

Bank of America N.A.

AREA CODE/PHONE

(800) 432-1000

BANK ACCOUNT NUMBER

325145558503

ADDRESS

100 N Tryon St

CITY

Charlotte

STATE

NC

ZIP CODE

28202

4. Type of Committee Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable.
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent

Bahman Ahmadi

ELECTIVE OFFICE SOUGHT OR HELD
(INCLUDE DISTRICT NUMBER IF APPLICABLE)

Rent Stabilization Board Berkeley: City of Berkeley

YEAR OF ELECTION

2022
~~2020~~

PARTY

CHECK ONE

Partisan	Nonpartisan
	X
Partisan (list political party below)	Nonpartisan (list political party below)
	Nonpartisan

Primarily Formed Committee

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)
IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.

CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION
(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)

	CHECK ONE	
	SUPPORT	OPPOSE

B.A.R.S.

Statement of Organization Recipient Committee

INSTRUCTIONS ON REVERSE

CALIFORNIA FORM 410

Page 3 of 3

I.D. NUMBER

1431231

COMMITTEE NAME

Bahman Ahmadi for Berkeley Rent Board 2020 2022

4. Type of Committee (Continued)

General Purpose Committee

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:
CITY Committee
COUNTY Committee
STATE Committee
Political Party/Central Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Sponsored Committee

List additional sponsors on an attachment.

NAME OF SPONSOR

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS

NO. AND STREET

CITY

STATE

ZIP CODE

AREA CODE/PHONE

Small Contributor Committee

Date qualified

5. Termination Requirements

By signing the verification, the treasurer, assistant treasurer and/or candidate, officeholder, or proponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
This committee does not anticipate receiving contributions or making expenditures in the future;
This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
This committee has no surplus funds; and
This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.
There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.
Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.

Handwritten signature



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Stephen Murphy for Berkeley City Council 2020

Treasurer Stephen Murphy (smurphy@crstoreydelasalle.org)

Candidate Same as above

Statement Information

Filing Due Date January 30, 2022

Reporting Period Start Date July 1, 2021

Reporting Period End Date December 31, 2021

Notifications to Filer

Date 1/7/2022 Type 1st Notification (letter & email)

Date 1/25/2022 Type 1st Reminder (email)

Date 1/31/2022 Type Email conversation about filing

Date 2/4/2022 Type 1st Notice of Non-Filing (letter & email)

Date 3/7/2022 Type 2nd Notice of Non-Filing (certified letter & email)

Additional Information

Filer has two additional non-filed statements for the following reporting periods:

1) 7/1/20-12/31/20 (Referred to the Fair Political Practices Commission for enforcement on April 1, 2021).

2) 1/1/21-6/30/21.



City Clerk Department

January 7, 2022

Richard Genirberg, Treasurer
Soulmaz Panahi for Berkeley Rent Board 2022
2342 Shattuck Avenue, Ste. 224
Berkeley, CA 94704

Dear Richard:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of July 1-December 31, 2021. The statement is due no later than **Monday, January 31, 2022**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Annual Filing Fee

Pursuant to Government Code § 84101.5, open committees must pay an annual \$50 fee to the Secretary of State by January 15 (unless the committee was created and paid an initial \$50 fee in October, November, or December of the prior calendar year). Failure to pay the fee by the deadline will incur a \$150 penalty from the Secretary of State.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the applicable Campaign Disclosure Manual provided by the State for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a copy is filed with the City of Berkeley.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at www.cityofberkeley.info/elections/) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Mark Numainville
City Clerk

cc: Fair Campaign Practices Commission
Soulmaz Panahi, Assistant Treasurer

From: Rome, Leslie on behalf of [Elections](#)
To: [Elections](#)
Cc: [Richardson, April](#); [Bunting, Sarah K.](#)
Bcc: aidan4berkeley@gmail.com; alejandrosotovigil@gmail.com; apvasudeo@gmail.com; daiebi@aol.com; andykelley@gmail.com; bahmanrsb@gmail.com; bartlett@cjandassociatesinc.com; godzilinda@gmail.com; semirm143@gmail.com; ehalpernxx@gmail.com; campaign@campaignlawyers.com; danmcdunn@gmail.com; esfandiarimani@gmail.com; kadijahbrown@gmail.com; leah4rentboard@gmail.com; runwithmike2020@gmail.com; sowens@seowenscompany.com; alejandrosotovigil@gmail.com; soulmaz@redoakrealty.com; lindajperry@hotmail.com; greenlisastephens@gmail.com; kleesnowden@gmail.com; b@isserl.is; stephenmmurphy2791@gmail.com
Subject: Semi-Annual Campaign Statement Filing Reminder Due January 31, 2022
Date: Tuesday, January 25, 2022 3:59:00 PM

Dear Committee Officers:

The treasurer of an active campaign committee is required to file a second semi-annual campaign statement, Form 460, covering the period of July 1, 2021 through December 31, 2021. This statement is due no later than Thursday, January 31, 2022.

Most campaign statements must be filed electronically. If you require assistance completing the electronic filing process, please contact our office.

Pursuant to Government Code section 84101.5, a \$50 fee is required to be paid to the Secretary of State by January 15 of each year unless the committee ceases activity prior to December 31 of the previous year and provides the terminating paperwork to the Secretary of State and the City Clerk prior to January 31 of that year. Failure to pay the fee or close the committee will result in a penalty of \$150. Your filing and payment obligations will continue until your committee has terminated.

You may choose to terminate the committee if there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge any debt. To terminate your committee, you must file a hard copy Terminating Form 410 and an electronic Terminating Form 460.

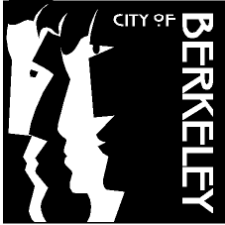
As you know, Berkeley's campaign disclosure requirements under the Berkeley Election Reform Act (BERA) differ from state law. Campaign filers should consult the BERA regulations when completing the state forms to ensure full compliance with local law. Failure to file this form by January 31, 2022 may result in fines and penalties as required under the state Political Reform Act and the Berkeley Election Reform Act.

Please contact our office at 981-6908 or elections@cityofberkeley.info with any questions.

Sincerely,

Leslie S. Rome
Assistant Management Analyst
City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
Ph. (510) 981-6908
elections@cityofberkeley.info



City Clerk Department

February 4, 2022

VIA Email and U.S. Mail

Richard Genirberg, Treasurer
Soulmaz Panahi for Berkeley Rent Board 2022
2342 Shattuck Avenue, Ste. 224
Berkeley CA 94704

FIRST NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

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Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Soulmaz Panahi, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

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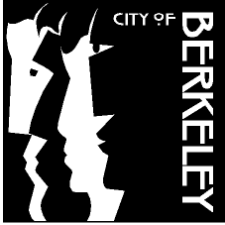
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AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type	Date Due	Date Filed	Fine (Liability)
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			



City Clerk Department

March 7, 2022

VIA Email and U.S. Mail

Richard Genirberg, Treasurer
Soulmaz Panahi for Berkeley Rent Board 2022
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Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Soulmaz Panahi, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

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(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
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Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			

Statement of Organization Recipient Committee

Statement Type [X] Initial

[O] Not yet qualified or

[X] Date qualified as committee 09 / 09 / 2020

[X] Amendment [O] Termination - See Part 5

Date qualified as committee / / Date of termination

CITY OF BERKELEY CITY CLERK DEPT. CALIFORNIA 410 FORM For Official Use Only 2021 JAN 14 PM 11:06

1. Committee Information I.D. Number (if applicable) 1431229 2. Treasurer and Other Principal Officers

NAME OF COMMITTEE

Soulmaz Panahi for Berkeley Rent Board 2020

NAME OF TREASURER

Richard Genirberg

STREET ADDRESS (NO P.O. BOX)

1891 Solano Ave

STREET ADDRESS (NO P.O. BOX)

2342 Shattuck Ave, Ste. 224

CITY

Berkeley

CITY STATE ZIP CODE AREA CODE/PHONE

Berkeley CA 94704 (404) 377-9999

Berkeley

CA 94707 (510) 566-5060

MAILING ADDRESS (IF DIFFERENT)

E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL) soulmaz@readoakreality.com

AREA CODE/PHONE (510) 566-5060

COUNTY OF DOMICILE

Alameda

JURISDICTION WHERE COMMITTEE IS ACTIVE

STREET ADDRESS (NO P.O. BOX)

Attach additional information on appropriately labeled continuation sheets.

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 1/14/2021 By Richard Genirberg SIGNATURE OF TREASURER OR ASSISTANT TREASURER
Executed on 1/14/2021 By Soulmaz Panahi SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE OR STATE MEASURE PROponent
Executed on 1/14/2021 By Soulmaz Panahi SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROponent
Executed on By SIGNATURE OF CONTROLLING OFFICER/HOLDER, CANDIDATE, OR STATE MEASURE PROponent

**Statement of Organization
Recipient Committee**
INSTRUCTIONS ON REVERSE

CALIFORNIA FORM 410

Page 2 Page 2 of 3

I.D. NUMBER

1431229

COMMITTEE NAME
Soulmaz Panahi for Berkeley Rent Board 2020 2022

- All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION
Bank of America N.A.
ADDRESS
100 N Tryon St
CITY
Charlotte
STATE
NC
ZIP CODE
28202

AREA CODE/PHONE
(800) 432-1000

BANK ACCOUNT NUMBER
325145563161

4. Type of Committee Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable.
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	CHECK ONE	
			Nonpartisan	Partisan (list political party below)
Soulmaz Panahi	Rent Stabilization Board Berkeley Berkeley	2022	X	
			Nonpartisan	Partisan (list political party below)

Primarily Formed Committee

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER)
IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.

CANDIDATE(S) OFFICE SOUGHT OR HELD OR MEASURE(S) JURISDICTION
(INCLUDE DISTRICT NO., CITY OR COUNTY, AS APPLICABLE)

	CHECK ONE	
	SUPPORT	OPPOSE

S.P. R. G.

Statement of Organization
Recipient Committee

INSTRUCTIONS ON REVERSE

CALIFORNIA 410
FORM

Page 3 Page 3 of 3

I.D. NUMBER

1431229

COMMITTEE NAME

Soulmaz Panahi for Berkeley Rent Board 2020 2022

4. Type of Committee (Continued)

General Purpose Committee

Not formed to support or oppose specific candidates or measures in a single election. Check only one box:

- CITY Committee
- COUNTY Committee
- STATE Committee
- Political Party/Central Committee

PROVIDE BRIEF DESCRIPTION OF ACTIVITY

Sponsored Committee

List additional sponsors on an attachment.

NAME OF SPONSOR

INDUSTRY GROUP OR AFFILIATION OF SPONSOR

STREET ADDRESS NO. AND STREET

CITY

STATE

ZIP CODE

AREA CODE/PHONE

Small Contributor Committee

_____ / _____
Date qualified

5. Termination Requirements

By signing the verification, the treasurer, assistant treasurer and/or candidate, officerholder, or proponent certify that all of the following conditions have been met:

- This committee has ceased to receive contributions and make expenditures;
- This committee does not anticipate receiving contributions or making expenditures in the future;
- This committee has eliminated or has no intention or ability to discharge all debts, loans received, and other obligations;
- This committee has no surplus funds; and
- This committee has filed all campaign statements required by the Political Reform Act disclosing all reportable transactions.

-- There are restrictions on the disposition of surplus campaign funds held by elected officers who are leaving office and by defeated candidates. Refer to Government Code Section 89519.

-- Leftover funds of ballot measure committees may be used for political, legislative or governmental purposes under Government Code Sections 89511 - 89518, and are subject to Elections Code Section 18680 and FPPC Regulation 18521.5.

S.P.R. &



City Clerk's Office

Non-Filer Referral to the Fair Campaign Practices Commission

Non-filer Information

Committee Stephen Murphy for Berkeley City Council 2020

Treasurer Stephen Murphy (smurphy@crstoreydelasalle.org)

Candidate Same as above

Statement Information

Filing Due Date January 30, 2022

Reporting Period Start Date July 1, 2021

Reporting Period End Date December 31, 2021

Notifications to Filer

Date 1/7/2022 Type 1st Notification (letter & email)

Date 1/25/2022 Type 1st Reminder (email)

Date 1/31/2022 Type Email conversation about filing

Date 2/4/2022 Type 1st Notice of Non-Filing (letter & email)

Date 3/7/2022 Type 2nd Notice of Non-Filing (certified letter & email)

Additional Information

Filer has two additional non-filed statements for the following reporting periods:

1) 7/1/20-12/31/20 (Referred to the Fair Political Practices Commission for enforcement on April 1, 2021).

2) 1/1/21-6/30/21.



City Clerk Department

January 7, 2022

Kathy Snowden, Treasurer
 Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2022
 1428 Arch Street
 Berkeley, CA 94708

Dear Kathy:

This letter is notice that open campaign committees must file a semi-annual campaign statement (Form 460) covering the period of July 1-December 31, 2021. The statement is due no later than **Monday, January 31, 2022**. Failure to file by the deadline may result in enforcement actions or fines under the Political Reform Act and the Berkeley Election Reform Act (BERA). Additional information regarding your filing obligations is below.

Annual Filing Fee

Pursuant to Government Code § 84101.5, open committees must pay an annual \$50 fee to the Secretary of State by January 15 (unless the committee was created and paid an initial \$50 fee in October, November, or December of the prior calendar year). Failure to pay the fee by the deadline will incur a \$150 penalty from the Secretary of State.

Termination

Filing obligations continue until the committee has terminated. You may terminate when there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge debt. To terminate the committee, file a terminating Form 410 and Form 460. Refer to the applicable Campaign Disclosure Manual provided by the State for detailed information on these requirements. Remember that the original Form 410 is filed with the Secretary of State, and a copy is filed with the City of Berkeley.

Differences in State and Local Law

Berkeley's campaign disclosure requirements differ from state law. Consult the Fair Campaign Practices Commission's regulations and campaign filing manual (available on our website at www.cityofberkeley.info/elections/) to ensure full compliance with the law.

Most campaign statements must be filed electronically. If you need help with the electronic filing system, please contact my staff at (510) 981-6908 or elections@cityofberkeley.info.

Sincerely,

Mark Numainville
 City Clerk

cc: Fair Campaign Practices Commission
 Wendy Hood, Assistant Treasurer



City Clerk Department

January 7, 2022

Kathy Snowden, Treasurer
 Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2022
 1428 Arch Street
 Berkeley, CA 94708

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Sincerely,

Mark Numainville
 City Clerk

cc: Fair Campaign Practices Commission
 Wendy Hood, Assistant Treasurer

From: Rome, Leslie on behalf of [Elections](#)
To: [Elections](#)
Cc: [Richardson, April](#); [Bunting, Sarah K.](#)
Bcc: aidan4berkeley@gmail.com; alejandrosotovigil@gmail.com; apvasudeo@gmail.com; daiebi@aol.com; andykelley@gmail.com; bahmanrsb@gmail.com; bartlett@cjandassociatesinc.com; godzilinda@gmail.com; semirm143@gmail.com; ehalpernxx@gmail.com; campaign@campaignlawyers.com; danmcdunn@gmail.com; esfandiarimani@gmail.com; kadijahbrown@gmail.com; leah4rentboard@gmail.com; runwithmike2020@gmail.com; sowens@seowenscompany.com; alejandrosotovigil@gmail.com; soulmaz@redoakrealty.com; lindajperry@hotmail.com; greenlisastephens@gmail.com; kleesnowden@gmail.com; b@isserl.is; stephenmmurphy2791@gmail.com
Subject: Semi-Annual Campaign Statement Filing Reminder Due January 31, 2022
Date: Tuesday, January 25, 2022 3:59:00 PM

Dear Committee Officers:

The treasurer of an active campaign committee is required to file a second semi-annual campaign statement, Form 460, covering the period of July 1, 2021 through December 31, 2021. This statement is due no later than Thursday, January 31, 2022.

Most campaign statements must be filed electronically. If you require assistance completing the electronic filing process, please contact our office.

Pursuant to Government Code section 84101.5, a \$50 fee is required to be paid to the Secretary of State by January 15 of each year unless the committee ceases activity prior to December 31 of the previous year and provides the terminating paperwork to the Secretary of State and the City Clerk prior to January 31 of that year. Failure to pay the fee or close the committee will result in a penalty of \$150. Your filing and payment obligations will continue until your committee has terminated.

You may choose to terminate the committee if there are no surplus funds, no outstanding loans or unpaid bills, or there is inability to discharge any debt. To terminate your committee, you must file a hard copy Terminating Form 410 and an electronic Terminating Form 460.

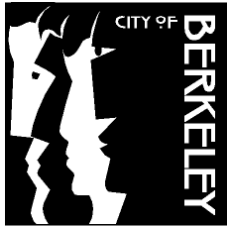
As you know, Berkeley's campaign disclosure requirements under the Berkeley Election Reform Act (BERA) differ from state law. Campaign filers should consult the BERA regulations when completing the state forms to ensure full compliance with local law. Failure to file this form by January 31, 2022 may result in fines and penalties as required under the state Political Reform Act and the Berkeley Election Reform Act.

Please contact our office at 981-6908 or elections@cityofberkeley.info with any questions.

Sincerely,

Leslie S. Rome
Assistant Management Analyst
City Clerk Department

2180 Milvia Street
Berkeley, CA 94704
Ph. (510) 981-6908
elections@cityofberkeley.info



City Clerk Department

February 4, 2022

VIA Email and U.S. Mail

Kathy Snowden, Treasurer
Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2022
1428 Arch Street
Berkeley, CA 94708

FIRST NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Kathy:

As a campaign treasurer for an open campaign committee, you were required to complete and file a semi-annual campaign statement (Form 460) for the period July 1, 2021-December 31, 2021 with the City Clerk no later than January 31, 2022. A review of your file indicates that you have not yet filed this statement.

The Political Reform Act prohibits filing officers from extending filing deadlines. Please file your late statement immediately. If you wish to have any applicable late fines waived, also include an explanation for your late filing by completing the enclosed Request for Waiver of Liability form.

According to Government Code § 91013, a fine of \$10 per day may be assessed for the late filing of a required campaign statement. Please file immediately to avoid increased penalties. If you have discharged the committee's surplus funds in accordance with the Political Reform Act and BERA regulations and your committee is no longer active, you must file a Form 410 and Form 460 to terminate your committee.

Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Wendy Hood, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

Waiver Request

A request for waiver must be submitted on a Request for Waiver of Liability Form. The waiver request must be signed by the person(s) required to file the particular statement or report upon which the late filing fee was assessed.

There are two categories of "good cause" for waiving late filing fees. These causes must relate to the person required to file the report or statement.

First Category of Good Cause

1. Incapacitation for Medical Reasons

Adequate documentation consists of a doctor's, psychologist's, therapist's, chiropractor's, or other medical provider's statement giving the nature of the incapacitation, the date(s) thereof, and the individual's name.

2. Hospitalization

Adequate documentation consists of a copy of the hospital bill or doctor's statement showing the patient's name and the date(s) of the hospitalization.

3. Accident Involvement

If medical attention is provided and results in the late filing, a copy of the hospital bill, emergency room service, or doctor's statement, showing the patient's name and date(s) and time(s) of medical attention, is adequate documentation. If the accident involvement results in delay or vehicle disablement which causes the late filing, adequate documentation consists of a police report showing the individual's name, the date and time of the accident, and, if applicable, whether or not the vehicle was disabled.

4. Death

Adequate documentation consists of a copy of the death certificate or an obituary notice.

Second Category of Good Cause

The second category is defined as other unique, unintentional factors beyond the filer's control not stemming from a negligent act or non action. The factors are:

1. Loss or Unavailability of Records

The loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation shall consist of a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

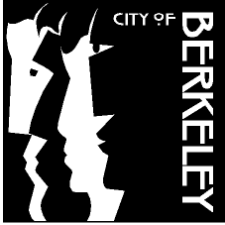
2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			



City Clerk Department

March 7, 2022

VIA Email and U.S. Mail

Kathy Snowden, Treasurer
Wendy Saenz Hood Neufeld for Berkeley Rent Stabilization Board 2022
1428 Arch Street
Berkeley, CA 94708

2nd NOTICE OF NON-FILING OF CAMPAIGN STATEMENT

Dear Kathy:

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Please do not hesitate to contact my staff at elections@cityofberkeley.info or (510) 981-6908 if you have questions or need assistance.

Sincerely,

Mark Numainville
City Clerk

Encl.

cc: Fair Campaign Practices Commission
Wendy Hood, Assistant Treasurer



SECRETARY OF STATE GOOD CAUSE GUIDELINES

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2. Unique Reasons

Other unique reasons. These include compelling reasons beyond the filer's control.

AFTER REVIEWING "GOOD CAUSE" WAIVER RESTRICTIONS, IDENTIFY AND EXPLAIN REASON FOR LATE FILING AND SUPPLY SUPPORTING DOCUMENTATION (CONTINUED):

(Continue of reverse side, if needed)

CITY CLERK DEPARTMENT USE ONLY			
FILING DETAIL			
Period Covered _____			
Form Type _____	Date Due _____	Date Filed _____	Fine (Liability) _____
WAIVER ACTION			
Waived _____	Action Justification/Comment (circle one) F1 F2 F3 F4 S1 S2		
Reduced (Amt.) _____			
Waiver Denied _____			

Statement of Organization Recipient Committee

CALIFORNIA 410 FORM
For Official Use Only

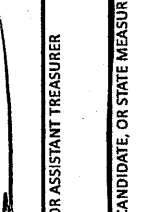
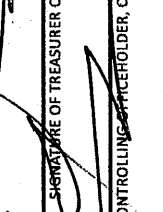
<input type="checkbox"/> Initial <input type="radio"/> Not yet qualified or <input type="radio"/> Date qualification threshold met		<input type="checkbox"/> Termination - See Part 5 Date of termination _____/_____/____	
<input checked="" type="checkbox"/> Amendment Date qualification threshold met <u>08/10/20</u>		Date Stamp CITY OF BERKELEY CITY CLERK DEPT 2021 MAR 31 AM 5:13	

2. Treasurer and Other Principal Officers

1. Committee Information I.D. Number <u>1432145</u> (if applicable)	
NAME OF COMMITTEE <u>Wendy Greenz Hood Newkild for Berkeley Rent Stabilization Board 2022</u>	NAME OF TREASURER <u>Kathryn Swauden</u>
STREET ADDRESS (NO P.O. BOX) <u>1320 Summit Rd</u>	STREET ADDRESS (NO P.O. BOX) <u>2115 West St.</u>
CITY <u>Berkeley CA</u>	CITY <u>Berkeley CA</u>
STATE <u>CA</u>	STATE <u>CA</u>
ZIP CODE <u>94708</u>	ZIP CODE <u>94702</u>
AREA CODE/PHONE _____	AREA CODE/PHONE _____
FULL MAILING ADDRESS (IF DIFFERENT) _____	FULL MAILING ADDRESS (IF DIFFERENT) _____
E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL) <u>newkildforrent@gmail.com</u>	E-MAIL ADDRESS (REQUIRED) / FAX (OPTIONAL) _____
COUNTY OF DOMICILE <u>Alameda</u>	COUNTY OF DOMICILE _____
JURISDICTION WHERE COMMITTEE IS ACTIVE <u>Berkeley</u>	JURISDICTION WHERE COMMITTEE IS ACTIVE _____
Attach additional information on appropriately labeled continuation sheets.	

3. Verification

I have used all reasonable diligence in preparing this statement and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on <u>March 29 2021</u>	SIGNATURE OF TREASURER OR ASSISTANT TREASURER 
Executed on <u>March 29 2021</u>	SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent 
Executed on _____	SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent _____
Executed on _____	SIGNATURE OF CONTROLLING OFFICERHOLDER, CANDIDATE, OR STATE MEASURE PROponent _____

**Statement of Organization
Recipient Committee**

INSTRUCTIONS ON REVERSE

**CALIFORNIA 410
FORM**

Page 2

COMMITTEE NAME
 WINDY SANCHEZ HOOD NEWFIELD FOR BRSB 2022
 I.D. NUMBER
 1432145

All committees must list the financial institution where the campaign bank account is located.

NAME OF FINANCIAL INSTITUTION
 Wells Fargo
 AREA CODE/PHONE
 510 647-0282
 BANK ACCOUNT NUMBER
 3544300829
 ADDRESS
 1095 University Ave
 Berkeley CA 94710
 CITY STATE ZIP CODE

4. Type of Committee Complete the applicable sections.

Controlled Committee

- List the name of each controlling officeholder, candidate, or state measure proponent. If candidate or officeholder controlled, also list the elective office sought or held, and district number, if any, and the year of the election.
- List the political party with which each officeholder or candidate is affiliated or check "nonpartisan." Stating "No party preference" is acceptable
- If this committee acts jointly with another controlled committee, list the name and identification number of the other controlled committee.

NAME OF CANDIDATE/OFFICEHOLDER/STATE MEASURE PROponent	ELECTIVE OFFICE SOUGHT OR HELD (INCLUDE DISTRICT NUMBER IF APPLICABLE)	YEAR OF ELECTION	PARTY CHECK ONE		(list political party below)
			Nonpartisan	Partisan	
WINDY SANCHEZ HOOD NEWFIELD BERKELEY RENT STABILIZATION BOARD 2022		2022	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
			<input type="checkbox"/>	<input type="checkbox"/>	

Primarily Formed Committee

Primarily formed to support or oppose specific candidates or measures in a single election. List below:

CANDIDATE(S) NAME OR MEASURE(S) FULL TITLE (INCLUDE BALLOT NO. OR LETTER) IF A RECALL, STATE "RECALL" IN FRONT OF THE OFFICEHOLDER'S NAME.	CHECK ONE	
	SUPPORT	OPPOSE

THE BROWN ACT



THE BROWN ACT - OPEN AND PUBLIC



Ralph M. Brown

Photo courtesy The Modesto Bee

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.” California Government Code §54950.

HISTORY OF THE BROWN ACT



- ▶ In 1952 SF Chronicle exposed secret meetings conducted by local governments.
- ▶ Example: San Jose City Council left chambers to settle a matter "in private" - "just being practical."
- ▶ League of California Cities drafted a new open meeting law which was sponsored by Assemblymember Ralph M. Brown and signed by Gov. Earl Warren in 1953.

BASICS OF THE ACT

- ▶ Purpose: To ensure the Public's business is done in public.
- ▶ All Meetings of legislative bodies:
 - ▶ Open to the public
 - ▶ Adequately noticed
 - ▶ Stick to agenda
 - ▶ Allow the public to speak on agenda items (before action is taken) and on any non-agenda item within the jurisdiction of the legislative body.

WHO IS COVERED BY THE BROWN ACT?

- ▶ All “legislative bodies” of the City are covered by the Brown Act:
 - ▶ City Council
 - ▶ Council Committees
 - ▶ Commissions and boards
 - ▶ “Includes just about every type of decision-making body”

KEY QUESTION: WHAT IS A MEETING?

- ▶ A meeting occurs whenever a **quorum** of members of a legislative body gather to discuss **business within their jurisdiction**.
- ▶ Quorum = a majority of the members of the legislative body
- ▶ Any gathering of a majority of the legislative body can become a “meeting”
 - ▶ Social gatherings
 - ▶ Meetings of other legislative bodies
 - ▶ Retreats, forums, workshops
- ▶ Serial meetings . . .

SERIAL MEETINGS

- ▶ One of the most challenging aspects of the Brown Act
- ▶ Serial meeting: when the majority of a legislative body uses a series of communications, either directly or through intermediaries, to “discuss, deliberate, or take action on any item within the subject matter jurisdiction of the legislative body.”
- ▶ Serial meetings deprive the public of the right to observe and participate in legislative decision-making.

TYPES OF SERIAL MEETINGS

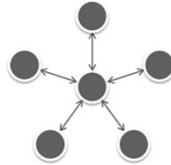
Daisy chain meeting



- ▶ Example: Councilmember A calls Councilmember B to talk about a City issue. Councilmember B then calls Councilmember C who calls Councilmember D etc., until a quorum of Council has discussed, deliberated or taken action on the issue.

TYPES OF SERIAL MEETINGS

Hub and spoke meeting



- ▶ Example 1: Councilmember A calls B and discusses a City issue to get his or her opinion. Councilmember A then separately calls Councilmembers B, then C, etc., telling each what the other has said. Eventually a quorum of the Council has discussed, deliberated or taken action on the issue.
- ▶ Example 2: A city employee or officer (e.g., commission secretary or department head) who is not a member of the legislative body serves as the "hub." When briefing legislative body members, staff should take care not to disclose other members' views or positions.

SERIAL MEETINGS (CONT.)

- ▶ Technology:
 - ▶ Emails, texts, and various forms of online communication can turn into a "meeting" under the Brown Act.
 - ▶ "Reply All" button should be used thoughtfully. Staff should use Bcc when emailing members of a legislative body.
- ▶ Social Media:
 - ▶ Serial meetings can occur through tweeting, liking, and commenting on blogs, posts and forums.
 - ▶ AB 992 (2020): Officials can communicate with the public through social media but cannot engage with content of their fellow members (e.g., commenting, sharing, "liking")
- ▶ Contact the City Attorney's office with questions or concerns

MEETINGS EXCEPTIONS

Several exceptions to the definition of “meeting”

- ▶ Individual contacts – A member of a legislative body can meet with any other person, including another member of the legislative body.
 - ▶ But be careful of serial meetings
- ▶ Attending a conference or “open and public” meeting hosted by a private person or organization, but must not talk about City business outside of the scheduled program.
- ▶ Social or ceremonial gathering provided a majority does not discuss matters within their jurisdiction.
- ▶ Open meeting of another body – provided a majority does not discuss among themselves, other than as part of the scheduled meeting, matters within their jurisdiction.

CLOSED SESSION

- ▶ Legislative bodies can meet in closed session for certain matters:
 - ▶ Existing or anticipated litigation
 - ▶ Personnel matters or negotiations with bargaining units
 - ▶ Real property negotiations
- ▶ Closed session items still must be briefly described on the posted agenda, which must identify the exemption for each item

ENFORCEMENT

- ▶ Demand to cure or correct
- ▶ Complaints to OGC
- ▶ Lawsuits
- ▶ Criminal

CONFLICTS OF INTEREST

City of Berkeley
Office of the City Attorney

CONFLICTS OF INTEREST

- ▶ Core principles of conflict of interest law:
 - ▶ Public officials may not use their offices for personal financial gain
 - ▶ Holding public office does not entitle one to personal “advantages or perks”
 - ▶ Transparency promotes public trust and confidence
 - ▶ Merit-based decision-making based on fair processes produce the best results for the public.

SOURCES OF CONFLICT OF INTEREST LAW

- ▶ California Political Reform Act
- ▶ Government Code Section 1090 (conflicts in government contracts)
- ▶ Local conflict provisions
- ▶ Common law conflicts

POLITICAL REFORM ACT

- ▶ The California Political Reform Act prohibits conflicts of interest for state and local officials and employees:
 - ▶ “No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.” (Cal. Gov. Code sec. 87100.)
 - ▶ An official is barred from participating in a governmental decision which will have a “**reasonably foreseeable material financial effect**” on the official’s financial interests. (2 CCR Sec. 18700.)
- ▶ In other words . . .
 - ▶ You are barred from participating in a governmental decision if it is foreseeable that the decision will have a financial impact on your personal finances or other financial interests.

POLITICAL REFORM ACT

▶ What types of interests can create a conflict?

- ▶ Business entities
 - ▶ In which you have an investment of \$2,000 or more or for which you are a director, officer, partner, trustee, employee or manager
- ▶ Real property
 - ▶ Real property in which you have an interest of \$2,000 or more
- ▶ Sources of income
 - ▶ Individual or entity from whom you have received \$500 in the past 12 months.
 - ▶ Includes community property interest in a spouse's income
- ▶ Sources of gifts
 - ▶ Sources of gifts aggregating \$500 or more in the past 12 months
- ▶ Personal finances
 - ▶ Expenses, income, assets and liabilities, including those of immediate family members

POLITICAL REFORM ACT

“Foreseeable material financial effect”

- ▶ You are disqualified from a governmental decision if the effect on your financial interest is foreseeable and significant enough to be “material.”
- ▶ Generally, if the financial interest (e.g., the business entity) is explicitly involved in the governmental decision, the effect is foreseeable and material.
 - ▶ Example: you own a plot of land for which the City is considering approval of a development.
- ▶ Where the interest is not “explicitly involved,” a complex set of statutes and regulations govern whether a financial effect is “foreseeable and material.”
 - ▶ Example: You own a plot of land two blocks down the street from where the City is considering approval of a development.
- ▶ “Public Generally” analysis - The official may participate in the decision if the effect on their financial interest is indistinguishable from the effect on the public generally
 - ▶ Example: a new law applying to all residential properties in the City

CONFLICTS IN PUBLIC CONTRACTS (SECTION 1090)

- ▶ Government Code section 1090 prohibits City officers and employees from having a financial interest in any contract made by them in their official capacity.
 - ▶ Example: PAB member own a consulting firm hired by the City to perform a study.
- ▶ A Section 1090 conflict can invalidate a City contract.
- ▶ Recusal by the conflicted official may or may not be sufficient to allow the agency to enter into the contract.
 - ▶ Requires complete recusal from discussion and votes

SECTION 1090

- ▶ "Making a contract" includes more than just voting or approving.
 - ▶ Discussions
 - ▶ Planning
 - ▶ Advisory and budgetary decisions
- ▶ Section 1090 violations can carry harsh penalties, including criminal prosecution
- ▶ A 1090 conflict can exist in addition to a Political Reform Act conflict.

LOCAL CONFLICT OF INTEREST LAWS

- ▶ No member of the [FCPC] . . . shall hold or seek election to any other public office, serve as an officer of any political party or partisan organization or participate in or contribute to a Berkeley municipal election campaign. No member of the commission shall endorse, support, oppose or work on behalf of or against any candidate or measure in a Berkeley election. Each member of the commission shall use his or her best efforts to remain independent of candidates and measures in Berkeley elections. (BMC sec. 2.12.195.)
- ▶ [E]ach member of the commission shall use his or her best efforts to be independent of and impartial in relation to any person during the time such person is the subject of an investigation by or proceeding before the commission. (BMC sec. 2.12.196.)

COMMON LAW CONFLICTS OF INTEREST

- ▶ Even where an official or employee does not have a conflict of interest under the Political Reform Act, Section 1090, or City law, a court may find that a conflict exists.
- ▶ The “common law” conflicts may be based purely on non-financial (i.e., “personal”) interests and can even be based on the mere “appearance of impropriety.”
- ▶ “A public officer is impliedly bound to exercise the powers conferred on him with disinterested skill, zeal and diligence and primarily for the benefit of the public.” (*Noble v. City of Palo Alto* (1928) 89 Cal. App. 47, 51.)

THE RIGHT TO AN UNBIASED DECISIONMAKER

- ▶ A person or entity appearing before a City body has a due process right to a fair and unbiased decisionmaker.
 - ▶ Applies when the City body is acting in a quasi-judicial or adjudicatory capacity (e.g., approval of a development application)
- ▶ An official is barred from participating if they are biased in favor or against the party, has a personal interest in the decision, or has prejudged the matter.

RECUSAL

- ▶ Generally, officials who determine that they have a conflict of interest must recuse themselves from the governmental decision.
 - ▶ This usually entails leaving the room and refraining from any discussion of the matter with other members of the governmental body.
- ▶ Certain disclosure and public notification procedures may apply as well.
- ▶ For 1090 conflicts, recusal may be insufficient and the agency may be barred with contracting with the party posing the conflict.

ENFORCEMENT AND PENALTIES

- ▶ Enforcement actions against violators of the conflict rules can take several forms depending on the type and severity of the violation.
- ▶ The California Fair Political Practices Commission (FPPC) can initiate investigations and levy fines for violations.
- ▶ Civil actions can be brought by the local District Attorney, City Attorney or by City residents.
- ▶ The City can take disciplinary measures against City employees.
- ▶ Government decisions made in violation of the conflict rules can be voided.
- ▶ A knowing or willful violation can result in criminal prosecution.

DISCLOSURE OF FINANCIAL INTERESTS (FORM 700)

- ▶ Every City official or employee who makes or influences governmental decisions is required to file a "Statement of Economic Interests" (Form 700) with the City Clerk
- ▶ Provides information to the public about the official's financial interests
- ▶ Serves to remind officials of their potential conflicts of interest
- ▶ Generally, Form 700s are filed when the official takes office, annually thereafter, and upon leaving office
- ▶ The information required for each official's Form 700 can vary based on the official's position

WHO FILES A FORM 700?

- ▶ California Government Code Section 87200 filers:
 - ▶ Mayor
 - ▶ City Councilmembers
 - ▶ City Manager
 - ▶ City Attorney
 - ▶ City Treasurer
 - ▶ CAOs
 - ▶ Planning Commissioners
 - ▶ Officials who manage investment
- ▶ City Conflict of Interest Code filers
 - ▶ For employees not listed in Section 87200.
 - ▶ The amount of information required is tailored to reflect the specific types of governmental decisions in which each employee is involved.