

**City Councilmember Candidates' Frequently Asked Questions  
for the November 8, 2016 General Election  
(also known as Run-off Election)**

- Campaign Contributions
- Transfer of Campaign Funds; Leftover / Surplus Campaign Funds
- Debt Retirement
- Voluntary Spending Limits / Voluntary Campaign Expenditure Limits Program (VELP)
- Campaign Committees

**Campaign Contributions**

- 1. What is the campaign contribution period for the November 8, 2016 General Election?**

Answer:

The campaign contribution period for the November 2016 General Election begins June 8, 2016 and ends at 11:59 p.m. on November 7, 2016. (SJMC § 12.06.290 (C)).

- 2. Can a campaign donor contribute \$600 to my City Council candidate campaign for the June 2016 Primary Election and another \$600 to my City Council candidate campaign for the November 2016 General Election?**

Answer:

Yes, pursuant to San José Municipal Code Sections 12.06.210 (A) and (C).

**Transfer of Campaign Funds;  
Leftover / Surplus Campaign Funds**

- 3. Can leftover funds from the June 2016 Primary Election be carried over to the November 2016 General Election?**

Answer:

Yes. Effective December 18, 2015, under San Jose Municipal Code Section 12.06.420 (C), a candidate who becomes eligible to run in the November 2016 General Election may transfer and use any remaining funds from the June 2016 Primary Election in the November 2016 General Election.

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**4. What is the limit which can be transferred from one candidate-controlled committee to a city council committee?**

Answer:

The San José Municipal Code only regulates transfers from a City campaign fund. If the transfer is from a non-City campaign fund, there are no Municipal Code restrictions. However, the Fair Political Practices Commission (FPPC) has applicable restrictions. Please see FPPC Form 460 Schedules E and I and refer to the Political Reform Act and FPPC regulations for further information.

**5. Can any leftover campaign funds be used for the following and are there any limits as to how much can be spent on them:**

**A. Donations to other council campaigns?**

**B. Donations to non-profits?**

**C. Donations to fund ballot measures?**

Answer:

The ability to expend leftover campaign funds depends on when the expenditure is made.

San Jose Municipal Code (SJMC) Section 12.06.720 designates any remaining campaign funds in excess of expenses incurred for allowable expenses as specified under the Political Reform Act to be deemed surplus campaign funds. Within one hundred eighty days after withdrawal, defeat, or election to office, the surplus campaign funds shall be returned to the contributors on a pro rata basis, or turned over to the general fund of the city.

Prior to campaign funds becoming “surplus” campaign funds, the City and State law restrictions are as follows:

A. Donation to other Council Campaigns: While State law allows candidates to make contributions to other candidates and committees, SJMC Section 12.06.410 prohibits the transfer of any city campaign funds to any other person’s city campaign funds or to any other candidate’s non-city campaign fund.

B. Donation to non-profits: The SJMC is silent on the transfer of City campaign funds to nonprofit organizations and therefore, State law applies. State law allows for campaign funds to be used to make donations to bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organizations as long as the donation

is reasonably related to a political, legislative, or governmental purpose. In addition, the donation may not personally benefit the officeholder, candidate, committee treasurer, or any individual with authority to approve the expenditure of campaign funds, or any such person's immediate family member. Please refer to guidelines of the Fair Political Practices Commission for further information.

- C. Donations to fund ballot measures: The SJMC does not limit or prohibit the transfer of City campaign funds to ballot measure committees or the expenditure of campaign funds to support the qualification of measures for the ballot. State law does not prohibit the use of City campaign funds to support ballot measures or ballot measure committees. The FPPC has concluded that at a minimum, expenditures of campaign funds must be reasonably related to a political, legislative, or governmental purpose.

Prior to the campaign funds becoming "surplus", they can be donated to a nonprofit organization and to a ballot measure campaign, but not to another council campaign. After the funds are deemed surplus, the SJMC provides that the surplus campaign funds shall be returned to the contributors on a pro rata basis or turned over to the general fund of the city. Campaign funds are deemed surplus funds once a candidate withdraws, is defeated or elected to office. A candidate is defeated or elected when the results of the election are certified.

### **Debt Retirement**

- 6. When does the 180 days to retire debt start if I go to the November 2016 General Election?**

Answer:

San Jose Municipal Code Section 12.06.710 (B) provides that a candidate must retire all campaign-related debts, including loans, within one hundred eighty (180) days after the date of the election. Therefore, for the November 8, 2016 General Election, the 180 days for a candidate to retire all campaign-related debts, including loans, begins on November 9, 2016 and ends on May 8, 2017.

**Voluntary Spending Limits / Voluntary Campaign Expenditure Limits  
Program (VELP)**

- 7. After the City Council amended the San José Municipal Code eliminating the Voluntary Spending Limits Program at the end of 2015, is it necessary to file a form or take some action to rescind the earlier commitment to accept the voluntary campaign expenditure ceiling?**

Answer:

The elimination of the Voluntary Spending Limits Program applies to the 2016 City Elections. Therefore, any Form 500 which was previously filed is now void and there is no need for further action to rescind the filing.

**Committees**

- 8. Is the contribution receipt threshold in the definition of “committee” in San José Municipal Code Section 12.06.040 (A) \$1,000 or \$2,000?**

Answer:

The San José Municipal Code Section 12.06.040 (A) will be updated in June 2016 to be consistent with the California Political Reform Act’s definition of committee, and will read, in relevant part, as follows:

“‘Committee’ means any person or combination of persons who, directly or indirectly, does any of the following:

- A. Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar year.  
...”

See Cal. Govt. Code § 82013.

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Key: SJMC = San José Municipal Code