



CITY OF SAN JOSE, CALIFORNIA

Office of the City Clerk
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City Clerk

CITY OF SAN JOSE POST NOVEMBER 8, 2022 ELECTION INFORMATION FOR CANDIDATES **UPDATED 11/14/2022**

The General election may be over, but all candidates have certain obligations depending on the outcome of the election. This guide is intended to help Unsuccessful and Successful Candidates understand their post-election obligations.

This guide, however, is not a comprehensive summary of every campaign requirement. For example, it does not discuss the requirements related to post-election payment agreements, legal defense funds, or election contests. If you have specific questions, you may email the City Attorney's Office for Campaign Guidance at SJElections@sanjoseca.gov.¹ The Fair Political Practices Commission (FPPC) also provides advice on State law requirements through its advice line at 1-866-ASK-FPPC (1-866-275-3772) or advice@fppc.ca.gov.

This guide, and a list of important dates for the Primary and General election, can be found on the [Election Information](#) section of City Clerk's website.

SECTION 1: UNSUCCESSFUL CANDIDATES

Unsuccessful candidates must e-file campaign statements, retire campaign-related debt, and properly dispose of any remaining surplus campaign funds in accordance with the San José Municipal Code.

Campaign-Related Debts

All campaign-related debt must be retired by the end of the day on May 8, 2023.² Candidates may contribute an unlimited amount from their personal funds until May 8, 2023 to retire their outstanding campaign-related debt.³

Candidates may also fundraise until January 7, 2023 to retire campaign related debt and liabilities.⁴ This period is known as the Debt Retirement Contribution Period. Any money raised during the Debt Retirement Contribution period may only be used to retire campaign-related debts and liabilities.⁵ All solicitations for funds made by a candidate or candidate-controlled committee during the Debt Retirement Contribution period must indicate that the funds will only be used to retire campaign-related debt and liabilities.⁶ The contribution limits applicable during the election carry over into the Debt Retirement Contribution Period, meaning a donor who gave

the maximum amount before the election contribution is not permitted to again during the Debt Retirement Contribution Period.⁷

Any campaign-related debt, including personal loans, still outstanding after May 8, 2023, will be considered a campaign contribution, accepted at the time the debt was incurred, and subject to the City's campaign contribution limits.⁸ It is a violation of the San José Municipal Code for a candidate or creditor to forgive all or part of a loan or debt that exceeds the City's campaign contribution limits.⁹ However, this prohibition does not apply to the forgiveness of any personal loans made by the candidate or to any creditor who has made substantial attempts, in good faith, to collect the money owed from the campaign committee.

Surplus Campaign Funds

Campaign funds can generally be spent in any way so long as the expenditure reasonably relates to a legislative, government, or political purpose.¹⁰ However, there are some limits under the San José Municipal Code. First, city candidates cannot transfer campaign funds to another city or non-city candidate.¹¹ Second, city candidates cannot transfer campaign funds to another campaign fund they may have for their use in a different election, unless there was a written disclosure on all materials printed by the candidate's campaign committee during the campaign that informed potential donors that their contributions could be transferred to the candidate's own city or non-city campaigns, at any time, at the candidate's discretion.¹²

Finally, campaign funds under the control of a candidate will be considered surplus funds on the ninetieth (90th) day after the end of the postelection reporting period following the election in which the candidate was elected or defeated or from which the candidate withdrew. For the November 8, 2022 primary election, remaining campaign funds will be considered surplus on May 1, 2023.

Surplus funds can only be used for:

- The payment of outstanding campaign debts.
- The repayment of contributions.
- Donations to the general fund of the City or to a bona fide charitable, educational, civic, religious, or similar tax-exempt, nonprofit organization where no substantial part of the proceeds will have a material financial effect on the former candidate or elected officer, any member of his or her immediate family, or his or her campaign treasurer.
- Contributions to a political party committee, provided the campaign funds are not used to support or oppose candidates for elective office. Notwithstanding the preceding sentence, the campaign funds may be used by a political party committee to conduct partisan voter registration, partisan get-out-the-vote activities, and slate mailers as that term is defined under the Political Reform Act.
- Contributions to support or oppose a ballot measure.
- The payment for professional services reasonably required by the candidate controlled committee to assist in the performance of its administrative functions, including payment

for attorney's fees and other costs for litigation that arises directly out of a candidate's activities, duties, or status as a candidate, including, but not limited to, an action to enjoin defamation, defense of an action brought for a violation of state or local campaign, disclosure, or election laws, and an action from an election contest or recount.

Terminating Your Committee

The FPPC requires that campaign committees pay an annual fee to the Secretary of State and file semi-annual reports, even if there is no activity. Therefore, it is recommended that candidates terminate their campaign committee once campaign-related debt is retired and surplus campaign funds, if any, are properly distributed.

However, about a month after the election the Santa Clara County Registrar of Voters will give the City Clerk a final bill or refund for each candidate campaign statement printed in the County Voter Guide. Candidates who printed a campaign statement should keep their committees open until that bill or refund is received.

To terminate a campaign committee, file an original termination [Form 410](#) with the Secretary of State and file a copy with the City Clerk's Office. This form is also available through [eCampaign](#). Candidates must also [e-file](#) a termination [Form 460](#) with the City Clerk's Office using the eDisclosure system. Both forms are provided by the FPPC on its website. Refer to [FPPC Manual 2, Chapter 11](#) (link in [Resources section](#)) for more information on how to terminate a campaign committee.

SECTION 2: SUCCESSFUL CANDIDATES

Candidates who received more than 50% of the vote in the November General are elected and will assume office on January 1, 2023.

Like Unsuccessful Candidates, Successful Candidates must e-file campaign statements, retire campaign-related debt, and properly distribute any surplus campaign funds as discussed in [Section 1](#), above.

In addition to the limits on campaign funds discussed in Section 1, Successful Candidates also may not convert their campaign committee into an officeholder account¹³ and are advised to terminate their committees as discussed in Section 1.

When Successful Candidates assume office, the City Clerk will provide key Council Policies, an office budget, and work with you to staff and furnish your office. A training session will also be scheduled after the runoff election for all incoming officeholders on Council Policies, the Brown Act, and Code of Conduct.

SECTION 3: RESOURCES

Office of the City Clerk, City of San José

200 E Santa Clara Street, Tower - 14th Floor, San José, CA 95113
Ph. (408) 535-1260 Fax: (408) 292-6207
Open Monday-Friday 8:00 a.m. - 5:00 p.m.
Email: city.clerk@sanjoseca.gov
Website: <http://www.sanjoseca.gov/index.aspx?NID=5694>

Office of the City Attorney, City of San José

200 E Santa Clara Street, Tower - 16th Floor, San José, CA 95113
Ph. (408) 535-1900 Fax: (408) 998-3131
Open Monday-Friday 8:00 a.m. - 5:00 p.m.
Email: SJElections@sanjoseca.gov
Website: <http://www.sanjoseca.gov/index.aspx?NID=4796>

California Fair Political Practices Commission (FPPC)

FPPC Toll-Free Number 1-866-ASK-FPPC (1-866-275-3772)
Open Monday-Thursday, 9:00 a.m. - 11:30 a.m. & 1:30 p.m. - 3:30 p.m.
Email: advice@fppc.ca.gov
Website: www.fppc.ca.gov
FPPC Manual 2: (http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual_2/Final_Manual_2_Entire_Manual.pdf)

Santa Clara County Registrar of Voters

1555 Berger Drive, Building 2, San José, CA 95112
Open Monday - Friday 8:00 a.m. - 5:00 p.m.
General: (408) 299-VOTE [8683]
Election Officers: (408) 299-POLL [7655]
Toll Free: (866) 430-VOTE [8683]
Chinese: (408) 282-3086
Spanish/Español: (408) 282-3095
Tagalog: (408) 535-3916
Vietnamese/TiếngViệt: (408) 282-3097

Mailing Addresses:

General: P.O. Box 611360, San José, CA 95161-1360
Voter Registration: P.O. Box 611300, San José, CA 95161-1300
Vote by Mail: P.O. Box 611750, San José, CA 95161-1750
Precinct Operations: P.O. Box 612350, San José, CA 95161-2350
Email: registrar@rov.sccgov.org
Website: <https://www.sccgov.org/SITES/ROV/Pages/Registrar-of-Voters.aspx>

California Secretary of State

Political Reform Division
1500 11th Street
Sacramento, CA 95814

Ph. (916) 653-6224

Website: <http://www.sos.ca.gov/>

eCampaign

eCampaign Filer Access:

<https://www.southtechhosting.com/SanJoseCity/eCampaign/>

View Campaign Forms:

<https://www.southtechhosting.com/SanJoseCity/CampaignDocsWebRetrieval/>

¹ Although the City Attorney's Office may provide information on State law as it relates to San José's ethics and election laws, the FPPC is ultimately responsible for interpreting its rules. Relying on advice from the City Attorney's Office is not a defense in an inquiry on whether State law has been violated.

² SJMC §[12.06.710.B](#).

³ §[12.06.295.C](#).

⁴ 12.06.290.D

⁵ 12.06.710.A.

⁶ *Id.*

⁷ 12.06.210.C.

⁸ §[12.06.710.C](#).

⁹ *Id.* at (D).

¹⁰ Gov. Code §§ [89512](#), [89513](#).

¹¹ SJMC §[12.06.410](#).

¹² §12.06.720.

¹³ §[12.06.810](#).