AFTER THE ELECTION – GUIDELINES FOR CITY OF SAN DIEGO CANDIDATES

The City's Election Campaign Control Ordinance [ECCO], includes a variety of regulations applicable to City candidates after an election. This fact sheet is designed to offer general guidance to candidates for elective City office as well as their committees and treasurers concerning these post-election regulations. This fact sheet should not be considered a substitute for the actual language contained within San Diego Municipal Code sections 27.2901 through 27. 2991.

Vendor Debt Time Limit (180 days)

- Candidates must pay all their vendor debts within 180 calendar days of the election for which the goods or services were provided. For purposes of this rule, a primary election and a general election are treated as two separate elections.

- If a candidate's committee does not accept enough contributions to pay all of its debts within the 180 day period, the candidate must personally contribute the funds necessary to ensure that all debts are paid within 180 days.

- Loans to a candidate's committee are not considered vendor debt. As set forth below, however, the acceptance of contributions to repay a loan is subject to a 180-day post-election fundraising time limit.

Post-Election Fundraising Time Limit (180 days)

- There is also a 180-day limit on post-election fundraising that starts on the date of the election. Post-election contributions may be accepted only during the 180 days following the election, and such contributions may be used only to pay outstanding debts and loans associated with that election.

- Note that even after the 180 day fundraising period, a candidate may deposit his or her own personal funds into the campaign checking account to pay outstanding debts and ongoing administrative expenses.

- The 180-day fundraising time limit commences only after a candidate's defeat or election to office. This means that if a candidate moves on to the general election, he or she may continue to collect contributions to pay debts and loans associated with the primary and general elections for 180 days after the general election.

- The 180-day fundraising time limit also applies to loans made by a candidate to his or her committee. This means that if any portion of a personal loan is still unpaid 180 days after the candidate's defeat or election to office, then the candidate's only available course of action is to forgive the loan or convert it to a contribution.

Accepting and Returning Contributions

- Candidates may not use any general election contributions to pay debts associated with the primary election. Instead, candidates may continue to raise funds for the primary election from individuals who have not already contributed the maximum amount for the primary election ($1,050 for Citywide races; $550 for district elections). As indicated above, such contributions may only be accepted for 180 days after the candidate's withdrawal, defeat, or election to office.

- If a candidate will not be running in a general election, but has already accepted contributions for the general election, the contributions must be returned to the contributors on a pro rata basis, minus the costs of raising and administering the contributions (e.g., fundraiser fees, treasurer fees).

Leftover Funds and Assets

- If a candidate loses in either the primary or the general election and the candidate has leftover funds or assets, those funds or assets will become "surplus" on the 90th day following the end of the reporting period following the election.

- If a candidate becomes eligible to run in a general election and his or her committee has leftover funds or assets from the primary election, the candidate may "carry over" such funds or assets and use them in the general election.

- If a candidate wins the general election, any leftover funds or assets may be used during the officeholder period for political, legislative, or governmental purposes. They may also be "carried over" and used for a future election to the same elective City Office. For example, a first-term City Councilmember may use leftover campaign signs for his or her re-election to the same office four years later. These leftover funds and assets will not be considered "surplus" until the officeholder leaves office.

- Candidates and campaign staff may not take possession of any leftover campaign supplies or equipment unless they pay the committee the fair market value for each item taken. Such payments must take place before the leftover assets become "surplus."

- When leftover funds and assets become "surplus," they may be used only for the following purposes: to repay campaign debts; to repay contributors; to make contributions to bona fide tax-exempt nonprofit organizations; to make contributions to a political party committee (provided that the funds are not used to support or oppose City candidates); to make contributions to any candidate for federal or state office (other than California) or any ballot measure committee; or to pay for any professional fees, including attorney's fees.

Redesignating the Committee

- If the candidate intends to run again for the same elective office, the existing committee, state identification number, and bank account can be used for the next election for that office, but only if the candidate "redesignates" the committee by filing an amended Form 410 with the Secretary of State and the City Clerk.

- A candidate is allowed to redesignate his or her committee only if the committee has no "surplus" funds or assets. To avoid potential campaign violations, candidates should not redesignate a committee that has outstanding debts (including personal loans); ECCO does not permit candidates to use contributions for an upcoming election to pay debts or loans associated with a prior election.

- Based on the above, therefore, a candidate who wishes to redesignate his or her committee for a future election to the same elective office should do so after eliminating all vendor debts and loans, but before any leftover funds or assets become surplus. In this manner, a candidate may use leftover funds and assets for the next election.

- If a candidate's leftover funds or assets have become "surplus," the candidate may not use those funds or assets for his or her next race. Instead the candidate must dispose of the surplus funds or assets pursuant to the surplus funds rules discussed above. Only then may the candidate redesignate the committee.

- As an alternative to redesignating a committee for a future election to the same elective office, a candidate may decide to create an entirely new committee (by filing a new Form 410). Doing so may simplify recordkeeping and reduce the likelihood of confusion and error. Note that if leftover funds and assets have not become "surplus," they may be carried over to a new committee for the same elective office.

- Note that a candidate may not redesignate his or her committee if seeking election to a different office.

Filing and Recordkeeping Obligations

- As long as a candidate's committee is open, the committee must continue to file campaign statements with the City Clerk. Note that defeated candidates who have not raised or spent more than $1,000 in contributions (Form 470 filers) have no additional filing obligations.

- If a committee has no outstanding debts and a zero cash balance, the committee may be terminated by filing a Form 410 with the Secretary of State and the City Clerk. The City Clerk must also be provided with a "termination" Form 460 disclosing all activity since the committee's most recent filing.

- Questions concerning the filing of campaign statements and termination statements should be directed to the City Clerk's Office at (619) 533-4000.

- All records associated with the campaign must be retained for a period of four years.

For additional information, please contact the Ethics Commission at (619) 533-3476.

Rev. 1/4/17