



## CITY OF SAN JOSE, CALIFORNIA

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City Clerk

### CITY OF SAN JOSE POST JUNE 5, 2018 ELECTION INFORMATION FOR CANDIDATES

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

This guide, however, is not a comprehensive summary of every campaign requirement. It does not, for example, 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](mailto:SJElections@sanjoseca.gov).<sup>1</sup> 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](mailto:advice@fppc.ca.gov).

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

#### SECTION 1: UNSUCCESSFUL CANDIDATES

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Unsuccessful candidates must e-file campaign statements, retire campaign-related debt, and properly dispose of any remaining surplus campaign funds.

##### **Campaign-Related Debts**

All campaign-related debt must be retired by the end of the day on December 3, 2018.<sup>2</sup> Although candidate controlled committees may not raise funds after the election to retire campaign-related debt, candidates may contribute an unlimited amount from their personal funds until December 3, 2018 to retire their outstanding campaign-related debt.<sup>3</sup>

Any campaign-related debt, including personal loans, still outstanding after December 3, 2018 will be considered a campaign contribution, accepted at the time the debt was incurred, and subject to the City's campaign contribution limits.<sup>4</sup> 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.<sup>5</sup> 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**

Before the City Council certifies the results of the election, campaign funds can be spent in any way so long as the expenditure reasonably relates to a legislative, government, or political purpose.<sup>6</sup> However, there are two limits under the San José Municipal Code. First, city candidates cannot transfer campaign funds to another city or non-city candidate.<sup>7</sup> 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.<sup>8</sup>

Once the City Council certifies the election results, typically in August, campaign funds in excess of any campaign-related debt become "surplus campaign funds" and are strictly regulated.<sup>9</sup> Surplus campaign funds can only be:

- (1) Returned to contributors on a pro rata basis;
- (2) Turned over to the City of San José General Fund; or
- (3) Used for attorney's fees and other costs in connection with an election contest or recount.

Candidates must distribute their surplus campaign funds in any of the three ways listed above within 180 days of the City Council certifying the election results.<sup>10</sup> Note that for candidates who withdrew before the election, the 180-day period to distribute surplus campaign funds begins from the date of withdrawal, not from the date the City Council certifies the election results.

### **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. 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.

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## **SECTION 2: SUCCESSFUL CANDIDATES**

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Candidates who received more than 50% of the vote in the June Primary are elected and will assume office on January 1, 2019.

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 account <sup>11</sup> 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.

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## **SECTION 3: RUNOFF CANDIDATES**

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If no candidate receives more than 50% of the vote, the top two candidates in the primary election will run against each other as Runoff Candidates in an election on November 6, 2018.

Runoff Candidates may transfer their remaining campaign funds from the primary election and use them for the runoff election.<sup>12</sup> And, assuming the campaign committee is not transferring the funds to a different financial institution, the campaign should continue their campaign reporting as normal with the updated date of election.

### **Runoff Election Campaign Contribution Period**

Runoff Candidates may fundraise from June 6, 2018 through November 5, 2018.<sup>13</sup> The runoff election campaign contribution limit is the same as the primary election—\$600 per person for Council candidates and \$1,200 per person for Mayoral candidates.<sup>14</sup> During the runoff election campaign contribution period, Runoff Candidates may solicit campaign contributions from donors who also contributed to their primary election campaign.<sup>15</sup>

### **After the Runoff Election**

Depending on the outcome of the runoff election, Runoff Candidates should refer to the previous Sections for campaign filing requirements, retiring campaign-related debt, distributing surplus campaign funds, and terminating their campaign committee.

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## **SECTION 4: RESOURCES**

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### **Office of the City Clerk, City of San José**

200 E Santa Clara Street, Tower - 14<sup>th</sup> 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: [elections@sanjoseca.gov](mailto:elections@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 - 16<sup>th</sup> 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](mailto: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](mailto:advice@fppc.ca.gov)  
Website: [www.fppc.ca.gov](http://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](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](mailto:registrar@rov.sccgov.org)  
Website: <http://www.sccgov.org/SITES/ROV/Pages/Registrar-of-Voters.aspx>

**California Secretary of State**

Political Reform Division

1500 11<sup>th</sup> Street

Sacramento, CA 95814

Ph. (916) 653-6224

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

**SouthTech Campaign Disclosure System<sup>16</sup>**

**CampaignDocs HelpDesk** (software-related questions only)

Email both: [campaigndocssupport@southtechsystems.com](mailto:campaigndocssupport@southtechsystems.com)

Website: <http://campaigndocssupport.southtechsystems.com/>

eCampaign Filer Access:

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

View Campaign Forms:

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

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<sup>1</sup> 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.

<sup>2</sup> SJMC § [12.06.710\(B\)](#).

<sup>3</sup> SJMC § [12.06.295\(C\)](#).

<sup>4</sup> SJMC § [12.06.710\(C\)](#).

<sup>5</sup> *Id.* at (D).

<sup>6</sup> Gov. Code §§ [89512](#), [89513](#).

<sup>7</sup> SJMC § [12.06.410](#).

<sup>8</sup> *Id.*

<sup>9</sup> SJMC § [12.06.720](#).

<sup>10</sup> *Id.*

<sup>11</sup> SJMC § [12.06.810](#).

<sup>12</sup> SJMC § [12.06.420\(C\)](#).

<sup>13</sup> SJMC § [12.06.290\(C\)](#).

<sup>14</sup> SJMC § [12.06.210](#), Reso. No. 78371.

<sup>15</sup> *Id.*

<sup>16</sup> City has transitioned to SouthTech effective December 6, 2017.