

RESOLUTION NO. 20-041

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO ADOPTING A VOLUNTARY CAMPAIGN EXPENDITURE LIMIT OF \$30,000 FOR THE NOVEMBER 3, 2020 ELECTION

WHEREAS, the City Council adopted Resolution No. 9854 establishing a voluntary campaign expenditure limit for the 1997 City Council election in order to allow both candidates and officeholders to spend a lesser proportion of their time on fundraising and a greater proportion of their time communicating issues of importance to voters and constituents.

WHEREAS, the City Council has adopted a voluntary campaign expenditure limit each Cupertino election year since 1997, the most recent being Resolution No. 18-018 which established a voluntary campaign expenditure limit of \$29,000 for the November 2018 election.

WHEREAS, on November 3, 2020, a General Municipal Election will be held to fill vacant Council seats, and the City Council wishes to apply a voluntary campaign expenditure limit of \$30,000 to that election.

NOW, THEREFORE, BE IT RESOLVED:

- 1) Candidates for City Council are requested to limit their campaign expenditures to \$30,000 for the 2020 general election.
- 2) Any non-monetary contribution is deemed to be a campaign expenditure made by the receiving committee on the date of receipt, and it counts against the voluntary expenditure limits established by this resolution if an expenditure for equivalent goods or services would have been a campaign expenditure described in Attachment A. The amount of the expenditure shall be the fair market value of the contribution on the date of receipt.
- 3) In the event that any candidate wishes to abide by the campaign contribution limit requested by the City Council, he or she may file with the City Clerk a written notice of his or her intent to limit his or her campaign expenditures to \$30,000 for the 2020 election, and such intent will be indicated in the official voter's pamphlet by a black diamond next to his or her name.

4) The cost of printing and translating Candidate Statements shall not be counted against the voluntary expenditure cap of \$30,000.

5) The provisions of this resolution have no force of law.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 5th day of May, 2020, by the following vote:

Vote Members of the City Council

AYES: Scharf, Paul, Chao, Sinks, Willey

NOES: None

ABSENT: None

ABSTAIN: None

SIGNED: _____ /s/Steven Scharf Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ /s/Kirsten Squarcia Kirsten Squarcia, City Clerk	_____ Date

ATTACHMENT A

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18540. Voluntary Expenditure Ceilings.

(a) For purposes of Government Code section 85400, campaign expenditures shall be allocated to primary, general, special, or runoff elections as follows:

(1) Expenditures related to mailing or distribution of campaign literature, signs, buttons, bumper stickers and similar items, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

(2) Expenditures related to publications in broadcast, print or electronic media shall be allocated to the next election following the date(s) specified in the contract for broadcast, publication, or dissemination or, if the election is held on the date specified for publication, broadcast, or dissemination, to the election held on that date.

(3) Expenditures related to telephone banks, including costs of design and operation, costs of installing or renting telephone lines and equipment, toll charges, personnel costs, rental of office space, and associated consultants' fees, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

(4) Expenditures on professional services, including fees and costs of campaign consultants and pollsters, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. In the event that a contract for professional services allocates specific fees and costs to particular elections, the terms of the contract will govern allocation of expenditures to each election. If a contract provides for a bonus payment should the candidate win a particular election, the bonus payment is an expense of the election whose result triggers the payment obligation.

(5) Overhead expenditures, including expenditures related to the lease of office space, payments for utilities, rental or purchase of office equipment and furnishings, miscellaneous

supplies, costs of internal copying and printing, monthly telephone charges, personnel costs, and candidate or staff travel expenses, shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditures were made, to the election held on that date.

(6) Expenditures related to campaign fundraising shall be allocated to the election for which the funds were raised. If fundraising expenditures cannot be assigned in this manner to a particular election, fundraising expenditures shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expense was incurred, to the election held on that date. Fundraising expenditures for the payment of debts under Government Code section 85316 shall not be counted against the voluntary expenditure ceilings established under Government Code section 85400.

(7) Unless there is a clear indication to the contrary, campaign expenditures not described in subdivisions (a)(1) through (a)(6) of this regulation shall be allocated to the next election following the date(s) on which the expenditures were made or, if the election is held on the date when the expenditure was made, to the election held on that date. Refunds of any expenditure on goods or services not provided to or used by the campaign shall be credited to the election for which the expenditure would otherwise have been allocated.

(8) The candidate shall maintain records establishing that his or her allocation of campaign expenditures under Government Code section 85400 was consistent with the provisions of the Act and of this regulation.

(b) The allocation of expenditures under this regulation shall be reported pursuant to subdivision (c) of 2 Cal. Code Regs. section 18421.4.

(c) A non-monetary contribution is deemed to be a campaign expenditure made by the receiving committee on the date of receipt, which counts against the voluntary expenditure limits prescribed by Government Code section 85400, if an expenditure for equivalent goods or services would have been a campaign expenditure described in subdivision (a) of this regulation. For purposes of Government Code section 85400, the amount of the expenditure shall be the fair market value of the contribution on the date of receipt.

(d) Expenditures not counted against the voluntary expenditure limits prescribed by

Government Code section 85400 include, but are not limited to, contributions to other candidates or committees, costs associated with preparing and filing campaign finance reports required under the Act, candidate filing fees, and costs of ballot pamphlet statements.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82015, 85400 and 85402, Government Code.

HISTORY

1. New section filed 11-26-2001; operative 12-26-2001 (Register 2001, No. 48). For prior history, see Register 92, No. 28.
2. Amendment of subsection (b) filed 9-12-2002 as a change without regulatory effect.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2002, No. 37).