



Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: LEE PRICE, MMC
SUBJECT: COUNCIL SPECIAL EVENTS POLICY
DATE: May 29, 2009

RECOMMENDATION

Recommend to the City Council the adoption of a resolution establishing a new City Council Policy entitled "Council Special Events Policy," repealing Resolution No. 72517 which prohibited special events accounts, to the extent it is inconsistent with the Council Special Events Policy, and rescinding the Special Park Use Policy and refer the matter to the full City Council on June 9, 2009.

BACKGROUND

Over the years, the City Council has taken various actions regarding Council-sponsored special events (day in the park, community festivals, resource fairs, etc.), which are summarized below. The intent of the proposed Council Special Events Policy is to bring all special events related policies under the umbrella of one comprehensive policy.

Special Park Use Policy – 1999:

On October 19, 1999, the City Council approved a "Special Park Use Policy". While this policy was never codified as a part of the Council Policy Manual, it provides that each Council office be entitled annually to one free use of a neighborhood or regional park for the purpose of a community event sponsored and produced by the Council office. With the adoption of the proposed Council Special Events Policy, the Council's 1999 action would be rescinded.

Blue Ribbon Task Force on Ethics - 2004-2005

On January 12, 2005, the City of San Jose Blue Ribbon Task Force recommended that "special events accounts" maintained by Councilmembers for donations for Council special events be disallowed because of the perception that they were established to circumvent the limitations on officeholder accounts in the Municipal Code, Chapter 12.06. On February 1, 2005, the City Council by Resolution No. 72517 prohibited the establishment of special events accounts to receive donations to support special events. Special events included events such as a Council District resource fair, community clean-up event, community summit or town hall meeting or a grand opening event for a new City facility. The City Clerk was directed to transfer any

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remaining balances to the General Fund or the Gift Trust Fund and to designate the funds for the purpose for which they were donated, as appropriate.

The Blue Ribbon Task Force noted that the events serve a valuable community function and suggested that the City Council consider alternative methods to facilitate funding for those events. It is proposed that with approval of the Council Special Events Policy, Resolution No. 72517 be repealed to the extent it is inconsistent with the Policy.

City Hall Free Use Policy - 2006:

On November 14, 2006, the City Council adopted the City Hall Free Use Policy as part of the City Hall Fees and Charges Resolution. The City Hall Free Use Policy, in relevant part, allows the Mayor and each Council Office to have up to five (5) free uses of the City Hall facilities per fiscal year for events of their choice that meet certain criteria. City departments are allotted fewer free uses. No free use events are permitted on Saturday and the policy limits each free use event to ten (10) hours duration and no more than two events in any one week. If the proposed Council Special Events Policy is approved, the City Hall Free Use Policy will be modified to remove the reference to the Mayor and Council Offices as a budget action for FY09-10 presented to the Council on the June 16, 2009 agenda, and the new Council Special Events Policy will be followed.

Council Expenditure and Reimbursement Policy - 2007:

In October 2007, Council Policy 0-38 was adopted and established the Mayor and City Council Expenditure and Reimbursement Policy. The policy contains a reference to the development of a special events policy. The adoption of the Council Special Events Policy will satisfy this requirement and the two policies will be administered by the Office of the City Clerk.

Constituent Outreach Accounts - 2008:

In February 2008, the City Council approved a ban on Officeholder Accounts. Previously Councilmembers were authorized to raise up to \$10,000 per year and the Mayor \$50,000 annually to pay certain expenses that were not authorized City expenditures. Simultaneously, the Council created a Constituent Outreach fund of \$10,000 per district and \$25,000 for the Mayor to support outreach efforts. Some district events have been funded through the use of these funds. The use of Constituent Outreach funds is restricted and expenditures for staff salaries or political activities is not allowed. The Constituent Outreach accounts are appropriated from funds received by the City from the HP Arena Naming Rights

ANALYSIS

Special Events Policy Overview

The Policy defines special events as events that are managed, organized, and coordinated by one or more Councilmembers to benefit the community in a Council District or Citywide location. The Policy includes sections relating to funding, approval procedures, donations and expenditures for special events.

Key Components of the Special Events Policy

- A. Provides a procedure for City Council approval of events. For each approval requested, the City Clerk is required to submit a memorandum which documents the event, a projection of funds raised (sponsorships and donations) and expenses, and other facts as necessary. The memo should summarize the sponsor's events held year-to-date, with associated costs and donations, the total amount of funds appropriated and the remaining balance in the appropriation for all special events.
- B. Provides a process for funding these activities by creating a Special Events appropriation for the Mayor and each Council office. The process will enable the City to receive and recognize revenues into the City's fiscal system and the Council will authorize appropriations for expenditures for authorized events. Funds may be rebudgeted to subsequent events.
- C. Authorizes the City Clerk to accept donations and enter into sponsorship agreements for Special Events on behalf of the City in an amount not to exceed \$100,000. A written agreement would be required for sponsorships (contributions made in exchange for specific sponsor recognition), but donations (contributions made without expectation of a return or recognition) could be accepted without a formal agreement.
- D. Provides accountability and transparency to special events. The Council will have information about each proposed special event prior to approval of the event, including projected revenues and expenses. By utilizing the existing quarterly Disclosure of Fundraising Report (DFR-1) filed by each Councilmember, all fundraising solicitations and donations will be reported and no new reporting structure is required. The City Clerk will also provide an annual financial report to the Council on the status of each Special Event appropriation.
- E. Requires expenditures for special events to be subject to existing City policies and procedures and includes City costs such as department staff and labor expenses to be included in the costs and expenses paid by the Special Events appropriation.

With the adoption of the Council Special Events Policy, the Council will have established clear parameters governing these events. The new Policy will eliminate the inconsistencies or overlap of various policies and will establish and codify procedures to govern future Council events. Special Events, which have already been approved by the City Council, will not be subject to this Policy. However, all future Council Special Events will be subject to the Policy, including those which are currently scheduled but not yet approved.

Under the current system, City departments have been asked to provide services in support of Council events, including co-sponsored events, without consistent guidelines. As a result, departments have absorbed these unbudgeted expenses, which results in staff deferring or eliminating other activities in order to stay within personal services and non-personal

appropriations. Given the City's diminishing resources, these costs can no longer be absorbed by departments. Staff will assist Council offices to identify and estimate expenses for the special events. This will enable Councilmembers to determine whether there are sufficient resources available to support the event or whether the Council office will need to secure additional resources to pay for the event.

In addition, the Policy would allow Councilmembers to seek donations to support various events in a transparent and accountable manner. Unlike the previous Officeholder accounts, funds raised for Special Events accounts may be used for limited purposes with funded events receiving Council approval prior to the event. The process requires a full disclosure of the revenues and costs for each event as well as identification of donors. In addition, there are no new administrative procedures for fundraising reporting; Councilmembers will use the existing fundraising disclosure requirements and reports to provide the public with information on solicitations made and the funds received by Councilmembers in support of their events.

EVALUATION AND FOLLOW-UP

One year after adoption, the Office of the City Clerk will report to the City Council with an evaluation of the policy and recommendations for any revisions based upon implementation results.

PUBLIC OUTREACH/INTEREST

In accordance with Sunshine requirements, this item will be posted on the Agenda for the Rules and Open Government Committee and City Council prior to the meeting.

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

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COORDINATION

This memorandum and proposed policy has been coordinated with the City Manager's Office; City Attorney's Office; Police, Fire, General Services, Transportation, Library, and Parks, Recreation and Neighborhood Services Departments.

CEQA

Not a Project.

A handwritten signature in cursive script, appearing to read "Lee Price".

LEE PRICE, MMC
City Clerk

For questions, please contact Dennis Hawkins, Assistant City Clerk, at (408) 535-1275

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COUNCIL POLICY

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EFFECTIVE DATE June 2009	REVISED DATE	
APPROVED BY COUNCIL ACTION	[Click HERE and type Council Approval Actions]	

PURPOSE:

The purpose of this policy is to establish guidelines and procedures for the Mayor and individual Council Members to conduct City-sponsored special events to benefit the community in a Council District or City-wide.

SCOPE:

This policy establishes guidelines and procedures for the approval, conduct and funding of special events sponsored by the Mayor and/or Council Members.

A "Special Event" is defined for purposes of this policy as a City event managed, organized, and coordinated by the Mayor and/or one or more Council Members to serve the community by providing district- or city-wide benefits such as:

1. fostering civic involvement; community outreach and engagement and constituent services including meetings including community summits, town hall meetings or related to specific issues;
2. building and supporting neighborhood and community identity;
3. promoting business and economic development;
4. promoting environmental awareness;
5. providing public education and awareness on matters of public health, safety or concern;
6. providing information about City programs and services;
7. promoting the general health and safety of residents and businesses; and
8. promoting multi-culturalism.

Special Events may be held in a specific Council District intended to primarily serve residents of that District or on a citywide basis. Examples of Special Events are a Council District's Day in the Park, the Mayor's Community Resource Fair, and the annual State of the City event. Events which are independently planned and produced by third parties, including nonprofit organizations, schools, service clubs, business and community groups, are not Special Events under this policy. However, if a Special Event is co-sponsored by the Office of the Mayor or a Council Member with or through a third party, the Special Event is still subject to this policy.

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Meetings convened by the Mayor or a Council Member to discuss official City business, such as City policies, programs or services, and pending legislation and actions, with constituents, that involve no more than one hundred (100) attendees and the use of tables, chairs, a podium, audio visual equipment and light refreshments, and that do not involve use of Special Event funds, are not Special Events under this policy.

Special Events are a form of "Constituent Outreach" as defined in Council Policy 0-38, "City Council Expenditure and Reimbursement Policy" and expenditures incurred in producing such events are authorized expenditures, subject to the requirements of Council Policy 0-38. As set forth in Council Policy 0-38, "Constituent Outreach" means communications with constituents to promote civic involvement and public awareness of City operations, services, programs, policies, and matters pending before the City Council and to elicit input from constituents regarding such matters. This policy shall apply if the Special Event is funded by Special Event Funds, as described below, or other City source.

COORDINATION WITH OTHER CITY POLICIES AND PROCEDURES:

All Special Events are to be conducted in compliance with applicable City laws, policies and procedures, as may be added or amended, including but not limited to:

Council Policy 0-38: Council Expenditure and Reimbursement Policy

Council Policy 7-2: City Hall Facility Use Policy

San Jose Municipal Code Section 12.16.020: Disclosure of Fund-Raising Solicitations

Fees and Charges Resolutions

Administrative policies and procedures established by the City Manager or designees, including those established by various departments

BACKGROUND:

As part of its comprehensive review of the City's ethics ordinances and practices, the 2004-05 City of San José Blue Ribbon Task Force on Ethics found that special events accounts as then handled by individual elected City officials to finance their Council District or City-wide events, appeared to circumvent the limitations established for officeholder accounts in Chapter 12.06 of the San José Municipal Code. Because donations deposited in special events accounts were solicited by officials from area businesses and individuals, and at the time there was no policy in effect authorizing special events accounts, these accounts appeared to operate as unauthorized

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officeholder accounts. On January 12, 2005, the Blue Ribbon Task Force recommended that these special events accounts be disallowed. On February 1, 2005 the San José City Council unanimously adopted Resolution No. 72517 prohibiting the establishment of special events accounts for the purpose of receiving donations for special events. The City Clerk was directed to transfer any remaining balances in existing special events accounts to the General Fund or Gift Trust Fund and designate those funds for the purpose for which they were donated, as appropriate. The adoption of the Council Special Events Policy supersedes Resolution 72517 to the extent it is inconsistent with this Policy.

PROCEDURES FOR APPROVAL OF A SPECIAL EVENT:

Overview: Approval by the City Council is required for any Special Event funded through the Mayor and City Council Special Events Funds or other City source.

Coordination with the Office of the City Clerk: Each elected official who wishes to sponsor a Special Event funded by the City or through their Special Event appropriation will coordinate with the Office of the City Clerk to bring the request for approval of the event to the Rules and Open Government Committee (Rules Committee) and the full Council. The request will include:

- a description of the event and its purpose;
- the proposed date and location of the event, including confirmation of facility reservation;
- the name(s) of any co-sponsoring entities;
- the expected costs, revenues and donations to be collected for the event including the cost of personnel or other services to be provided by City departments and/or the value of any services or in-kind donations received from any source; and
- updated financial information regarding the balance available in the sponsor's Special Events fund.

Time Frame for Council Review and Approval: In order to provide maximum time for event planning, fundraising, securing facility reservations and to coordinate other arrangements, requests for Special Event authorization will be placed on the City Council agenda prior to the event and, if applicable, prior to any fundraising, donation solicitations, or procurements related to the event. Council district community wide events or multi-district events must be placed on the Council agenda and approved a minimum of 90 days prior to the event; the Council must consider citywide events a minimum of 180 days prior to the event. The Council will review the request and determine the appropriate action.

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Time Sensitive Events: Occasionally, the Mayor or a Council District may need to plan and conduct an event with less than 30 days' notice occasioned by news or affairs coming into public knowledge less than 30 days prior to the event. In these instances, the elected official should coordinate with the Office of the City Clerk and the affected city department(s) as soon as they become aware of the need for the event. The request for approval of a time sensitive event should be submitted for Council consideration as soon as practical and should conform to the same process outlined above. In these cases, the requesting office may use either District or Constituent Outreach funds or remaining balance in their Special Events appropriation, but the request may not include retroactive approval of fundraising or solicitations for the event.

Co-sponsorship of Special Events by Multiple Council Offices: The Mayor and Council Members may co-sponsor Special Events. In such cases, the sponsoring Council Members shall jointly seek Council approval of the event and jointly report on the costs, revenues, and donations solicited and/or received for the event. Each sponsoring member will be responsible for reporting all solicitations made and donations received. In the event sufficient funds are not available in the sponsoring members' Special Events accounts for any event, any deficit shall be divided and paid from the sponsoring members' office budgets as determined by agreement between the sponsoring offices.

Event Type	Description	Council Approval Timeline
Neighborhood or Small community meeting	A meeting sponsored by the Mayor or a Councilmember(s) to discuss official City business with constituents that involve no more than one hundred (100) attendees and the use of tables, chairs, a podium and audio visual equipment, and light refreshments. Examples may include a neighborhood or district meeting on a development proposal, or a budget town hall meeting.	Exempt if no Special Event funds utilized; otherwise 30 days
Community meeting	A meeting sponsored by the Mayor or a Councilmember(s) to discuss official City business with constituents that involve more than one hundred (100) attendees, or the use of equipment in addition to tables, chairs, a podium and audio visual equipment, or more than light refreshments.	30 days

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Event Type	Description	Council Approval Timeline
Neighborhood or Small community event	An event sponsored by the Mayor or a Councilmember(s) which has a targeted or limited audience with less than two hundred (200) attendees in a neighborhood park, community center or other facility. Limited staff support required from one or two City departments. Limited facility or equipment needs such as audiovisual equipment, light refreshments. Event does not require special equipment such as booths, canopies, staging, portable toilets, etc.	60 days
Ceremonial event	An event sponsored by the Mayor or a Councilmember(s) to celebrate or memorialize a cultural, historic or community event or date, acknowledge an organization or event serving San Jose residents and businesses, recognize a trade or cultural delegation including Sister City delegations, or other ceremonial events held at City Hall or other City facility, which involves no more than one hundred (100) attendees, and the use of tables, chairs, a podium and audio visual equipment, and light refreshments.	Exempt if no Special Event funds utilized; otherwise 30 days
Council district neighborhood or community-wide event	An event sponsored by the Mayor or a Councilmember(s) focused on a specific neighborhood, area of a district or district-wide, may be held in a neighborhood or regional park or facility. Typically, held in a neighborhood or regional park or facility with larger attendance than a meeting and with City services provided by multiple departments including information booths provided by City departments and others; provision of food and beverage; activity areas and entertainment; other services such as power, staging, sound systems, canopies and/or booths, portable toilets, etc. required.	90 days

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Event Type	Description	Council Approval Timeline
Multi-district or City-wide community event	An event sponsored by multiple Council Districts and/or the Mayor for a multi-district or Citywide audience. Event typically held in a larger venue (i.e., regional park or facility, History Park, Discovery Meadow) with significant attendance; broad range and significant support by City staff and services by multiple departments; provision of food and beverage; activity areas and entertainment; other equipment and services required such as power, staging, sound systems, canopies and/or booths, portable toilets; information booths and/or services provided by external entities.	180 days

CITY FUNDING FOR SPECIAL EVENTS:

Appropriation: Annually, a Special Event appropriation shall be established for the Mayor and each Council Office. Each approved Special Event and the associated revenues and expenses will be funded from each office's Special Events appropriation. Any unspent funds in any Special Event appropriation may be rebudgeted to the next fiscal year to support future Special Events for that office. In the event sufficient funds are not available in the sponsor's Special Events account, any deficit shall be paid from the sponsor's office budget.

Limitations on Use of Special Event Funds: Consistent with the Council Expenditure and Reimbursement Policy, no Special Event funds, including Donations (defined below), may be used to support religious, political or campaign activities. Consistent with Constituent Outreach funding, no excess Special Events funds may be used or transferred for general office purposes or district operating expenses, including salaries.

FUNDRAISING AND SOLICITATION:

The Mayor and Council Members may solicit cash and in-kind donations to defray the cost of producing approved a Special Event. The following guidelines for fundraising and solicitation of donations shall apply to Special Events.

Definitions: For purposes of this policy, the following definitions shall apply:

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- **Fundraising:** Any activity conducted with the intent of soliciting contributions to defray the cost of producing, fund, or support any Special Event. Fundraising activities may include, but are not limited to, contacting individuals, companies, foundations, or other entities with the primary purpose of receiving financial support (cash and in-kind) for the Special Event.

- **Contribution:** A contribution may consist of a donation or a sponsorship. Contributions include both cash and in-kind contributions. Any cash or in-kind contributions received (supplies, materials, equipment, or other goods) or items purchased from contributed funds shall be deemed the property of the City.

- **Donation:** A contribution to the City for a Special Event that is made without expectation of a significant return or recognition. Donations include both cash and in-kind donations.

- **Sponsorship:** A contribution to the City for a Special Event that is made in exchange for sponsorship recognition.

- **In-Kind Donations:** A contribution of an item or object other than cash, which would serve a useful purpose in the production of a Special Event. Examples of in-kind donations may include equipment, materials, services, or event space.

- **Donor:** A company or individual who provides the City with goods, services, or cash without expectation of significant return or recognition.

- **Sponsor:** A company or individual who provides the City with financial support (including goods, services, or cash) for a Special Event in the form of a sponsorship and expects recognition in return.

- **Sponsorship Agreement:** An agreement between the City and an entity or individual whereby the entity or individual makes a contribution to City in cash, products, services or a combination thereof, for sponsor recognition related to a Special Event.

City Benefit: Fundraising and solicitation activity must be for the benefit of the City, and not for a third party entity.

Net Benefit: The City may accept Contributions if they enhance or reduce costs the City would incur in the absence of their acceptance, or if they otherwise benefit the City in a manner that provides a net savings to the City, or provides a significant enhancement to the City. The sponsoring Council Member or Mayor or his/her designee shall evaluate the net benefit to the City or Council District of a Contribution. For In-Kind Sponsorships,

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the Risk Manager shall be consulted to determine whether any insurance or other requirements are necessary.

Disclosure of Fundraising Solicitations: Consistent with San Jose Municipal Code Section 12.16.020: Disclosure of Fund-Raising Solicitation, all solicitations and Donations from any entity or individual to assist in funding a Special Event must be disclosed by the Mayor or Council Member through the Disclosure of Fundraising Report Form (DFR-1). Each solicitation shall be reported regardless of whether or not any funds, goods, or services resulted from the solicitation.

Sponsorship Agreements: For Sponsorships, the respective obligations of the Sponsor and City shall be set forth in a written Sponsorship Agreement approved as to form by the City Attorney.

Donation Terms: Donations do not require a formal written agreement. However, each Donor shall be provided a donation terms form stating the terms under which the Donation is accepted by the City. This form shall be approved as to form by the City Attorney.

Authority to Accept Contributions and Fiscal Accounting: The City Clerk shall be authorized to accept Contributions and enter into Sponsorship Agreements for Special Events on behalf of the City in an amount not to exceed \$100,000. All financial Contributions received from any entity or individual must be submitted to and accounted for by the Office of the City Clerk, and deposited into the City's Treasury. All In-Kind Donations of supplies, materials, equipment, goods or services or other items disclosed and accounted for in accordance with SJMC Section 12.16.020 will be acknowledged by the Office of the City Clerk. The City Clerk, in coordination with the City Administration, will submit for Council approval actions to recognize revenues and appropriate funds in the Mayor and City Council Special Events Funds as necessary to support such Special Events. The City Clerk will track the revenue received and the actual costs incurred for each Special Event.

Excess Funds: Fundraising shall be for a specific Special Event. Any excess funds raised for a Special Event will be retained in the Mayor or Council Member's Special Events account for a future Special Event, subject to Council approval.

EXPENDITURES FOR SPECIAL EVENTS:

Procurement: All expenditures shall be in conformance with applicable City policies, including the Council Expenditure and Reimbursement Policy, and consistent with City procurement procedures. All expenditures for a Special Event are subject to the procurement policies and regulations of the City of San José including:

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- Title 4 of the San José Municipal Code, especially Chapter 4.12 titled PURCHASES OF SUPPLIES, MATERIALS AND EQUIPMENT, and
- Chapter 5.1 of the City Policy Manual, titled FINANCE Purchasing: Procurement.

Choosing the lowest cost for expenditures related to the Special Event is encouraged. Any supplies, materials, equipment or other goods purchased through Special Events funds shall be deemed property of the City.

Permits and Fees: The sponsoring Council Office is responsible to obtain and pay for all necessary City, County or other permits (parks use fees, health permits, fire permits, etc.) or other fees and charges related to permits that are required for the Special Event.

Advertising: All advertisements (print or electronic) and promotional materials related to the Special Event must identify the event as a City-sponsored event and include the City logo. The design of such advertisements should conform to the state law regulations for mass mailings, except that the advertisement may contain both the Council Member's name and District designation, and slight variations in font size for clarification purposes may be allowed. The design of such advertisements should also conform to adopted City guidelines regarding the use of the City logo and the City of San Jose Communications Guide. All advertising must be approved by the Office of the City Clerk prior to release and publication.

USE OF CITY FACILITIES, EQUIPMENT, AND STAFF:

The use of City facilities and equipment in support of Special Events is encouraged. The sponsoring Council office is responsible to pay for or reimburse participating City departments for all operating costs for the Special Event, including staff time associated with each Special Event. Such reimbursable costs include production costs (staff expenses and labor costs and direct non-personal costs) and facility use costs may include facility rental fees, staffing and maintenance costs. City staff time for event coordination and planning prior to the date of the Special Event is not subject to reimbursement by the sponsoring office.

If the requested location or facility for a Special Event is not available due to a pre-existing reservation or ongoing program, the City department managing the location or facility will work with the requesting Council office to identify an alternate City site or facility for the Special Event. The department will honor all pre-existing reservations for City sites and facilities.

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FINANCIAL REPORTING, FUND BALANCES AND REBUDGETING:

The City Clerk will annually submit a financial report to the City Council summarizing the costs and revenues of Special Events conducted in the prior period and those planned and/or approved events. The report will provide financial details by Council Office and the status of each Special Events appropriation.

At the end of each fiscal year, the City Clerk shall report on the fund balances in the Mayor and City Council Special Events appropriations and any event sub-accounts for each office. Any funds remaining will be rebudgeted to the next fiscal year to pay for future Special Events. Excess funds in the Mayor and City Council Special Event appropriation may not be reappropriated to fund other general office operations, staff salaries, or constituent outreach expenditures.

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