

Fair Campaign Practices Commission  
Open Government Commission

## CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

### MEETING AGENDA

April 17, 2025

6:30 p.m.

2180 Milvia St., Berkeley, CA 94704

1<sup>st</sup> Floor, Cypress Room

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

A live broadcast of this meeting will be available at: <https://cityofberkeley-info.zoomgov.com/j/1614055306>. Public comment will be taken in-person and virtually through the posted link.

Secretary: Samuel Harvey

### The Commission may act on any item on this agenda

1. Call to Order 6:30 p.m.
2. Roll Call.
3. Land Acknowledgement: The City of Berkeley recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.

4. Approval of agenda.
5. Public Comment. *Comments on subjects not on the agenda that are within the Commissions' purview are heard at the beginning of meeting. Speakers may comment on agenda items when the Commission hears those items.*
6. Approval of minutes for March 20, 2025 FCPC-OGC Regular Meeting.

#### **Fair Campaign Practices Commission (FCPC) Agenda**

7. Reports
  - a. Report from Chair
  - b. Report from Staff
8. Report from Negotiating Subcommittee: Yes on Measure CC / No on Measure BB; discussion and possible action.
9. Public financing matching funds disbursement process; discussion and possible action.
10. Disbursements to Mark Humbert for Council 2022; discussion and possible action.
11. Review and possible revision of Procedures for the Fair Campaign Practices Commission (Available at <https://berkeleyca.gov/sites/default/files/2022-01/FCPC-Procedures.pdf>); discussion and possible action.

#### **Open Government Commission (OGC) Agenda**

12. Reports.
  - a. Report from Chair
  - b. Report from Staff
13. Publicizing commission work and vacancies, information about commissions on the web; discussion and possible action.
14. Referral of non-filing quarterly lobbying reports: Yuri Sadiki-Torres; discussion and possible action.
15. Lobbyist Registration Act processes and administration; discussion and possible action.

16. Progress in providing remote access to Commission and Board meetings; discussion and possible action.

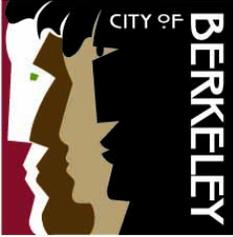
### **Information Items**

17. City of Berkeley Lobbyist Manual (2021 ed.)
18. Adjournment

### **Communications**

None

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. **SB 343 Disclaimer:** Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the City Attorney's Office at 2180 Milvia St., 4<sup>th</sup> Fl., Berkeley, CA.



Fair Campaign Practices Commission  
Open Government Commission

## DRAFT MINUTES

March 20, 2025

### CONCURRENT REGULAR MEETING OF THE FAIR CAMPAIGN PRACTICES COMMISSION AND THE OPEN GOVERNMENT COMMISSION

Civic Center  
2180 Milvia St.  
Berkeley, CA 94704  
Cypress Room

Members Present: Patrick O'Donnell, Janis Ching, Emmanuelle Soichet, Rithwik Sudharsan, Kitt Saginor

Also present: Sam Harvey, Staff Secretary

1. **Call to Order**

Chair called the meeting to order at 6:32 p.m.

2. **Roll Call**

Roll call taken

3. **Land Acknowledgement**

4. **Approval of agenda**

- a. Public comment: none.
- b. Commission discussion and action.

*Motion to approve agenda (M/S/C: Ching/O'Donnell; Ayes: O'Donnell, Ching, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Soichet, Lazarus)*

5. **Public Comment**

One speaker.

6. **Approval of minutes for February 20, 2025 FCPC-OGC Regular Meeting**

- a. Public comment: none.
- b. Commission discussion and action

*Motion to approve minutes (M/S/C: O'Donnell/Ching; Ayes: O'Donnell, Ching, Sudharsan, Saginor; Noes: none; Abstain: Soichet; Absent: Lazarus)*

**Fair Campaign Practices Commission (FCPC) Agenda**

7. **Reports**

- a. Report from Chair
- b. Report from Staff

8. **Report from Negotiating Subcommittee: Yes on Measure CC / No on Measure BB**

- a. Public comment: none.
- b. Item continued to April meeting.

9. **Enforcement referral regarding Vanessa Danielle Marrero, Rent Stabilization Board Commissioner**

- a. Public comment: none.
- b. Commission discussion and action

*Motion to dismiss the referral (M/S/C: Ching/O'Donnell; Ayes: O'Donnell, Ching, Soichet, Saginor; Noes: none; Abstain: Sudharsan; Absent: Lazarus)*

10. **Public financing matching funds disbursement process; disbursements to Mark Humbert for Council 2022**

- a. Public comment: one speaker.
- b. Commission discussion and action

*Motion to continue item to April 17, 2025 meeting and direct Secretary to ask City Clerk to provide information about how matching funds requests are processed and how the public financing system may be improved. (M/S/C: Soichet/Sudharsan; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

11. **Referral: Failure to repay unspent public financing matching funds; discussion and possible action**
- i. **Jenny Guarino for City Council 2024**
  - ii. **Re-Elect Laura Babitt 4 Berkeley School Board 2024**
    - a. Public comment: none.
    - b. Commission discussion and action

*Motion to dismiss the referrals for Jenny Guarino for City Council 2024 and Re-Elect Laura Babitt 4 Berkeley School Board 2024 because the campaigns' statements for period ending December 31, 2024 show zero ending balances, indicating no unspent matching funds to return. (M/S/C: O'Donnell/Soichet; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

12. **Mandated cost of living adjustments pursuant to Berkeley Election Reform Act and Fair Elections Act; discussion and possible action**
- a. Public comment: none.
  - b. Commission discussion and action

*Motion to approve cost of living adjustments provided to us by the City Clerk (M/S/C: O'Donnell/Ching; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

13. **Review and possible revision of Procedures for the Fair Campaign Practices Commission**
- a. Public comment: none.
  - b. Commission discussion and action

*Motion to empanel an ad hoc committee to review Procedures for the Fair Campaign Practices Commission and bring recommendations to the Commission (M/S/C: Ching/Sudharsan; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

Chair Saginor appointed Commissioners O'Donnell, Sudharsan, and Saginor.

### **Open Government Commission (OGC) Agenda**

14. **Reports**
- a. Report from Chair
  - b. Report from Staff

15. **Referral of non-filing quarterly lobbying reports: Yuri Sadiki-Torres**

- a. Public comment: none.
- b. Commission discussion.

16. **Lobbyist Registration Form Revisions; discussion and Possible Action**

- a. Public comment: none.
- b. Commission discussion and action

*Motion to approve revised Lobbyist Registration form submitted by the City Clerk and direct the Secretary to request the City Clerk to provide a report to inform the Commission about the lobbyist registration process & current administration of the ordinance (M/S/C: O'Donnell/Ching; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

17. **Publicizing commission work and vacancies, information about commissions on the web**

- a. Public comment: none.
- b. Commission discussion.

18. **City Council Rules of Procedure and Order Revisions**

- a. Public comment: none.
- b. Commission discussion.

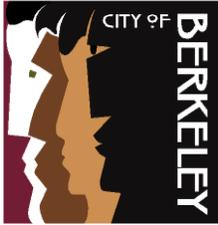
19. **Progress in providing remote access to Commission and Board meetings**

- a. Public comment: none.
- b. Commission discussion.

20. **Adjournment**

*Motion to adjourn. (M/S/C: Ching/Sudharsan; Ayes: O'Donnell, Ching, Soichet, Sudharsan, Saginor; Noes: none; Abstain: none; Absent: Lazarus)*

The meeting adjourned at 8:30 p.m.



**Fair Campaign Practices Commission**

Date: February 10, 2025

To: Fair Campaign Practices Commission

From: Samuel Harvey, Secretary

**Subject: Public financing matching funds disbursements to Mark Humbert for Council 2022**

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On March 30, 2023, Commission staff received the attached complaint alleging that the campaign committee Mark Humbert for Council 2022 (“Committee”) included 47 duplicate contributions on two separate matching funds requests (Declarations for Public Funds) and that, as a result, the Committee was awarded duplicate matching funds for these contributions and thereby received public matching funds to which the Committee was not entitled. (Attachment 1.)

Following receipt of the complaint, the Commission Secretary and Clerk Department staff reviewed the Committee’s public financing matching funds requests and disbursements of public matching funds. (Attachment 2.) Staff initially concluded that incorrect duplication of qualified contribution entries was likely the result of the filer selecting an incorrect date range within the NetFile system and thereby generating a report which covered some previously reported contributions. Staff determined that, although this may be a reporting irregularity by the Committee, duplicating qualifying contributions in this manner did not violate the Berkeley Election Reform Act (“BERA”) (BMC Ch. 2.12). Moreover, given that the Clerk Department reviews all qualifying contributions before disbursing matching funds, staff identified no harm done to the public financing program by the duplicate entries. As a result, staff recommended the Commission dismiss the complaint based on the determination that the complaint did not state a violation of BERA or provide any evidence suggesting that a violation of BERA had occurred. The Commission adopted staff’s recommendation and dismissed the complaint at its April 20, 2023 meeting.

Following the Commission’s dismissal of the complaint, the complainant further asserted that the Committee’s duplicate qualifying contribution entries had resulted in the Committee receiving an overpayment of matching funds. The Commission Secretary and City Clerk indicated that they would review the disbursements further and return at a future Commission meeting with any additional information.

Following additional review of the Committee’s filings and disbursements of public matching funds, staff determined that the Committee received an overpayment of matching funds as the result of a City clerical error. At its October 2023 meeting, the Commission subsequently requested that the staff obtain additional information from the Committee about how the overpayment occurred.

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As discussed below, after obtaining additional information from the Committee, staff conclude that the overpayment was the result of City staff's failure to recognize duplicate matching fund request entries submitted by the Committee. Submitting duplicate entries is not itself a violation of BERA, nor does it appear to be an uncommon practice. Rather, City staff review each submission to determine whether a matching request has already been submitted for a given contribution. Unfortunately, that staff review was not properly done in this instance.

Staff recommend that, given that this irregularity was the result of a City staff clerical error, and that staff have identified no attempt to misuse the City's public financing system, that the Commission take no further action on this matter. Staff recommend that the Commission consider whether further review of the City's public financing processes is necessary.

#### Berkeley Public Financing Program

Under the City's Fair Elections public financing program, participating candidates may receive public matching funds at a 6:1 ratio for all qualified contributions received from a natural person residing in the City of Berkeley. (BMC §§ 2.12.167 & 2.12.505.A.)

In order to receive matching funds, candidates must submit an Initial Qualifying Declaration for Public Funds listing the qualifying contributions the candidate has received, and provide a qualified contribution receipt and supporting documentation (copy of check, online payment etc.) for each contribution. For any subsequent matching funds requests, the candidate must submit a subsequent Declaration for Public Funds, listing the additional qualifying contributions and providing the same receipt and supporting documentation. City Clerk Department staff then review and verify each of the qualifying contribution entries before disbursing matching funds.

#### The Committee's Matching Funds Requests

The Committee submitted two separate matching funds requests during the 2022 election cycle: one on August 8, 2022, and the other on September 29, 2022. Staff have identified 45 duplicate entries between these two matching requests.

Staff have not identified a provision of BERA that would be violated by submitting duplicate contribution entries. There are a number of reasons a committee may purposely or inadvertently submit one or more duplicate contribution entries. For example, campaigns may resubmit a contribution from a prior matching request where that contribution was initially denied matching funds for having incomplete information. Alternatively, a campaign may inadvertently resubmit one or more contributions by erroneously selecting the wrong date range within the NetFile system from which to generate a contribution report.

The Committee also provided a number of reasons why contributions may have been submitted multiple times:

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- Some of its submittals did not have forms correctly attached the first time, and so they were later resubmitted.
- Some of its submittals had errors on the forms that needed to be corrected, and so they were later resubmitted.
- Some of its contributions were accidentally reassigned to the second batch of submissions.
- Some of its contributions occurred earlier in the year, but contributors did not submit their forms until later in the year, and this may have caused the Committee to select a date range that resulted in overlap with previous submittals.

(See Attachment 3.)

The City's NetFile system does not automatically identify duplicate entries. Instead, City staff manually review candidate matching funds requests to verify each contribution's eligibility for matching funds. BERA provides that it is the duty of the City to verify the eligibility for matching funds of each contribution for which matching funds are disbursed. (See BMC § 2.12.505.D ("The City shall verify that a candidate's qualified contributions meet all of the requirements and restrictions of this Act prior to the disbursement of Fair Elections funds to the candidate.")) Based on staff's review of this matter, City staff unfortunately did not manually check for duplicate entries in accordance with standard procedures in this case.

For its two matching requests, the Committee received a total of \$47,000 in matching funds, which is the limit under the public financing program. (BMC §§ 2.12.505.B.2 & 2.12.545.) The Committee was eligible for an additional \$520 of matching funds, which was withheld due to reaching the \$47,000 limit. The 45 duplicate contribution entries accounted for \$16,140 of these matching funds.

City staff have identified an additional 41 contributions for which the Committee would have been able to submit matching requests and receive matching funds had the Committee not erroneously reached the \$47,000 matching funds limit due to improper award of matching funds for duplicate entries. The Committee would have been entitled to an additional \$14,520 in matching funds for these 41 eligible contributions. As a result, City staff have determined that the Committee received an overpayment of \$1,100 in matching funds to which it was not entitled under the public financing program. City records indicate that the Committee was terminated on December 26, 2022.

At the Commission's request, the Secretary contacted the Committee for additional information regarding how the overpayment occurred and why it was not recognized at the time. The Committee provided the following explanation:

We were not readily able to discern that we had received an overpayment. Matching forms are regularly rejected due to errors like

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missing phone numbers or mismatched job titles, and some matching forms may not be received through NetFile if the filesize is too large (depending on individual's camera settings), so we deliberately submitted more matching forms than we expected were necessary in order to make up for any that might be invalidated or fail to be received. We submitted a large batch of matching forms on October 3rd, and were subsequently informed on October 5th, 2022 that we had reached the limit. Staff did not specify which forms might have been accepted or not, and so we had no way of determining whether there was a mistake in their process.

Overall, our campaign reported \$9,125 in direct contributions from 162 unique Berkeley donors. While we stopped collecting and submitting matching forms once we were informed that we had reached the maximum amount of matching funds available, these contributions would have had a total matching value of \$54,750 - well in excess of the \$47,000 maximum for 2022. Had this error been reported to us during the campaign, we simply would have collected the necessary forms from 4 more individuals - or identified and fixed 4 more rejected forms - to complete the necessary paperwork.<sup>1</sup>

### Recommendation

Staff have determined that the overpayment of public matching funds to the Committee was the result of a clerical error by City staff due to failure to adequately perform a manual review of the Committee's matching funds requests. Given that the NetFile system does not automatically identify duplicate qualifying contribution entries, the City's current matching funds disbursement process relies on City staff manually reviewing all contribution entries. Although the Committee submitted duplicate entries in its matching funds requests, staff have not identified a provision of BERA that is violated by submitting one or more duplicate entries. BERA Section 2.12.550 does provide that "It is a violation of the law for candidates to accept more Fair Elections Act benefits than those to which they are entitled or misuse such benefits or Fair Elections funding." However, given that the overpayment of funds in this case was the result of City staff clerical error rather than an otherwise improper practice by the Committee, staff recommend that no further action be taken.

Staff believe this matter highlights a number of areas for improvement for the City's public financing program. First, it appears that campaign committees may have difficulty ascertaining which matching funds requests have been accepted and which have been denied, and the rationale for those denials. Second, the City's reliance on staff-level manual review of matching funds requests may increase the possibility of clerical error resulting in improper payment of matching funds. The Commission may wish to consider changes to standard protocols in order to reduce the risk of error.

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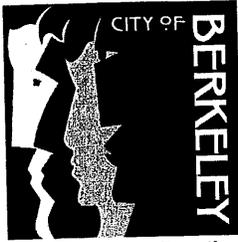
<sup>1</sup> Email from Ben Gould, Aug. 5, 2024 (Attachment 3).

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Attachments:

1. Complaint re Mark Humbert for Council 2022
2. Humbert for Council 2022 Public Financing Application and matching funds requests
3. Correspondence between Commission Secretary and Committee



Fair Campaign Practices Commission

**Complaint of Noncompliance**  
Berkeley Election Reform Act ("BERA")\*

RECEIVED  
3/30/23  
City Attorney

Full Name: Gregory Kalkanis  
Date: Friday 24 March 2023  
Address: [redacted] / Berkeley 94704  
E-mail (optional but suggested): gkalkanis@yahoo.com  
Phone (optional but suggested): (510) 839-6012

Party or parties alleged to have committed or are about to commit a violation of BERA:  
Mark Humbert for Council 2022

Clear, concise and accurate statement of the facts that constitute the violation of BERA.  
If additional space is needed, you may attach additional pages:

The Declarations for Public Funds dated 7 August 2022 and 29 September 2022 include forty seven duplicate names - each listed as making the maximum contribution of sixty dollars. The Humbert for Council campaign was awarded public matching funds to which they were not entitled. (47,000 - 40,980) = \$6,020

Total contribution 7 August = \$4,270	<sup>1</sup> total valid contrib. = 9,650	excess award
Total contribution 9 Sept. = \$5,380	duplicate contrib. - 2,820	
<del>unearned</del> duplicate contributions = 47 x 60 = \$2,820	valid contrib. = \$6,830	
	public funds = 4 1 = 6,830	
	to which the campaign was entitled = 6 = 40,980	

Documents: Attach any documentation supporting the facts alleged.

Statements that are not based upon personal knowledge should identify the source of information that gives rise to the complainant's belief in the truth of such statements.

**I declare under penalty of perjury under the laws of the State of California that all information submitted hereon and in the attachments is true and correct.**

Signature [redacted]

Date 24 marzo 2023

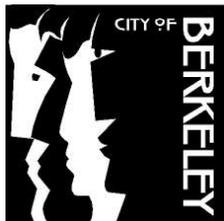
\*Use this "Complaint of Noncompliance" form to allege a violation of BERA pursuant to Berkeley Municipal Code Section 2.12.225 and the Procedures of the Fair Campaign Practices Commission

To: City of Berkeley Deputy City Attorney Samuel J. Harvey  
Cc: Councilmember Ben Bartlett  
From: Gregory Kalkanis  
Regarding: Complaint of Noncompliance; Mark Humbert for Council 2022  
Date: Friday 24 March 2023

Dear Samuel Harvey:

Please find attached a completed Complaint of Noncompliance form for the campaign of Mark Humbert for Council 2022. The pleasure of a response would be appreciated.

Best Regards,  
Gregory Kalkanis



City Clerk Department  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900  
[www.cityofberkeley.info](http://www.cityofberkeley.info) | [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)

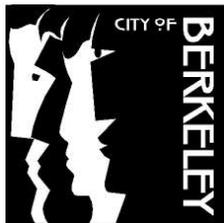
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Filing ID:  
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**FAIR ELECTIONS ACT FORM**

**APPLICATION FOR PARTICIPATION  
IN PUBLIC FINANCING PROGRAM**

(Berkeley Municipal Code Chapter 2.12 – Election Reform Act)

<b>OFFICE SOUGHT</b>		
OFFICE City Council Member	COUNCIL DISTRICT (IF APPLICABLE) 8	
ELECTION CYCLE 11/08/2022		
<b>CANDIDATE INFORMATION</b>		
LAST Humbert	FIRST Mark	M.I.
<b>COMMITTEE INFORMATION</b>		
NAME OF CAMPAIGN COMMITTEE Mark Humbert for Council 2022		FPPC I.D. No. 1448572
<b>CANDIDATE CERTIFICATION</b>		
<p>Under penalty of perjury, I hereby certify:</p> <p>I have complied with the restrictions of Berkeley Municipal Code Chapter 2.12 (Election Reform Act) during the election cycle to date; and</p> <p>My campaign committee has filed all campaign finance reports required by law during the election cycle to date and that they are complete and accurate; and</p> <p>I will comply with the requirements of Chapter 2.12 during the remainder of the election cycle and, specifically, if certified as an eligible participating candidate, will comply with the requirements applicable to participating candidates.</p>		
Mark Humbert CANDIDATE SIGNATURE		06/29/2022 DATE SIGNED



City Clerk Department  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900  
[www.cityofberkeley.info](http://www.cityofberkeley.info) | [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)

E-Filed  
08/08/2022  
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Filing ID:  
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**FAIR ELECTIONS ACT FORM  
INITIAL QUALIFYING DECLARATION FOR PUBLIC FUNDS  
BY CANDIDATES FOR MAYOR, CITY COUNCIL, CITY AUDITOR,  
SCHOOL BOARD DIRECTOR, OR RENT STABILIZATION BOARD COMMISSIONER**

<b>OFFICE SOUGHT</b>			
OFFICE City Council Member		COUNCIL DISTRICT (IF APPLICABLE) District 8	
ELECTION CYCLE 11/08/2022			
<b>COMMITTEE INFORMATION</b>			
NAME OF CAMPAIGN COMMITTEE Mark Humbert for Council 2022		FPPC I.D. No. 1448572	
STREET ADDRESS 2928 Linden Avenue		APARTMENT/SUITE/FLOOR	
CITY Berkeley	STATE CA	ZIP CODE 94705	
TELEPHONE (415) 260-3398	EMAIL ADDRESS mark@humbertforcouncil.com		
<b>CANDIDATE DECLARATION</b>			
<p>I hereby declare that the following information is true and correct:</p> <ul style="list-style-type: none"> <li>All information on the attached Qualified Contribution Receipts is complete and accurate to the best of my knowledge.</li> <li>I understand that the City shall verify that the qualified contributions meet all of the requirements and restrictions prior to the disbursement of funds.</li> <li>I understand that if I submit any contributions that are not from the person(s) identified on the receipt I shall be liable to pay the Fair Elections Fund the entire amount in addition to any penalties.</li> <li>All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.</li> <li>I understand that all campaign filings must be current in order for a disbursement of Fair Election funds to be released.</li> </ul>			
Mark Humbert		08/07/2022	
CANDIDATE SIGNATURE		DATE SIGNED	

**INITIAL QUALIFYING REQUEST FOR FAIR ELECTIONS FUNDS PAYMENT**

In order to participate in the Public Financing Program, a candidate must collect at least 30 Qualified Contributions from at least 30 unique contributors of at least \$10.00 and no more than \$60.00 each, for a total dollar amount of at least \$580.00.

All approved Qualified Contributions are matched at a 6:1 ratio. For all public matching funds requests, a candidate must submit the following documentation:

- Qualified Contributions List (below).
- Receipt for Qualified Contribution for Fair Elections Funds.
- Evidence of each contribution received, such as electronic copies of contributor checks, credit card authorizations, or online payment receipts.
- Electronic copies of itemized deposit slips.
- Complete contributor information (full name, address, occupation, and employer) as required by BERA and the Political Reform Act.

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
1. Gray	Tim	628 San Miguel Ave.	94707-1535 Berkeley	N/A	Retired	Electronic	07/07/2022	07/13/2022	1	60.00
2. Scott	Peggy	<del>1839 Catalina Ave</del>	<del>94707 Berkeley</del>	unemployed	unemployed	Electronic	<del>07/07/2022</del>	<del>07/13/2022</del>	<del>1</del>	<del>66.00</del>
3. Haesloop	Eric	2725 Elmwood Avenue	94705 Berkeley	Architect	Tumbull Griffin Haesloop	Electronic	06/30/2022	07/06/2022	1	60.00
4. Rosales	Ces	2315 Russell Street	94705 Berkeley	unemployed	unemployed	Electronic	06/30/2022	07/06/2022	1	60.00
5. Buswell-Charkow	Joshua	3011 Dohr st	94702-2713 Berkeley	Deputy Director	CALSSA	Electronic	06/30/2022	07/06/2022	1	60.00
6. London	Ellen	2810 Ashby Avenue, Berkeley, CA, USA	94705 Berkeley	Attorney	London & Stout	Electronic	06/29/2022	07/05/2022	1	60.00
7. Bimbach	Kerry	<del>1735 Hopkins Street, A</del>	<del>94707 Berkeley</del>	<del>Policy analyst</del>	<del>City/county of SF</del>	Electronic	<del>06/29/2022</del>	<del>07/05/2022</del>	<del>1</del>	<del>66.00</del>
8. Vincent	Jeff	<del>1134 Baneroft Way</del>	<del>94702 Berkeley</del>	<del>Researcher</del>	<del>UC Berkeley</del>	Electronic	<del>06/29/2022</del>	<del>07/05/2022</del>	<del>1</del>	<del>66.00</del>
9. Subbotin	Kyra	<del>2625 Alentraz Avenue</del>	<del>94705 Berkeley</del>	<del>Lawyer</del>	<del>Self, Berkeley, CA</del>	Electronic	<del>06/29/2022</del>	<del>07/05/2022</del>	<del>1</del>	<del>66.00</del>
10. Gerstein	Beth	<del>1530 Berkeley Way</del>	<del>94703 Berkeley</del>	<del>Legislative aide</del>	<del>City of Berkeley</del>	Electronic	<del>06/29/2022</del>	<del>07/05/2022</del>	<del>1</del>	<del>66.00</del>
11. Battista	Elisa	<del>2025 Prince Street</del>	<del>94703-2518 Berkeley</del>	<del>Content Manager</del>	<del>Ultra Violet</del>	Electronic	<del>06/29/2022</del>	<del>07/05/2022</del>	<del>1</del>	<del>66.00</del>
12. Fox	Andrew	3046 Telegraph Ave, Unit 3	94705 Berkeley	Publicist	UC Berkeley	Electronic	06/26/2022	07/02/2022	1	50.00
13. Wengraf	Susan	1404 Le Roy Avenue	94708 Berkeley	councilmember	City of Berkeley	Electronic	06/21/2022	06/27/2022	1	60.00
14. Robinson	Rigel	<del>2214 Durant Ave #1</del>	<del>94704 Berkeley</del>	<del>Councilmember</del>	<del>City of Berkeley</del>	Electronic	<del>06/21/2022</del>	<del>06/27/2022</del>	<del>1</del>	<del>66.00</del>
15. Yamaguchi	Thomas	1015 Channing Way	94710 Berkeley	Homecare Worker	IHSS, Alameda County	Electronic	06/21/2022	06/27/2022	1	30.00
									Subtotals	866.00
										440.00

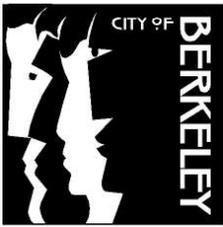
Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
16. Shoji	Audrey	2924 Russell Street	94705 Berkeley	Volunteer Manager	Women's Cancer Resource Center, Berkeley	Electronic	06/20/2022	06/26/2022	1	60.00
17. Rose	George	<del>1639 Derby Street</del>	<del>94703 Berkeley</del>	<del>Teacher</del>	<del>BLUSD</del>	<del>Electronic</del>	<del>06/20/2022</del>	<del>06/26/2022</del>	<del>1</del>	<del>50.00</del>
18. Johnson	MaryReed	<del>1401 Greenwood Terrace</del>	<del>94708 Berkeley</del>	<del>Artist</del>	<del>N/A</del>	<del>Electronic</del>	<del>06/16/2022</del>	<del>06/22/2022</del>	<del>1</del>	<del>60.00</del>
19. Caruana	Kenneth	2816 Oak Knoll Terrace	94705 Berkeley	Executive	Ross Stores	Electronic	06/16/2022	06/22/2022	1	60.00
20. Laird	Tad	2722 Webster St	94705-2605 Berkeley	Owner	Koppa Targets	Electronic	06/15/2022	06/22/2022	1	60.00
21. Singer	Sam	33 Roble Road	94705 Berkeley	Communications Strategist	Singer Associates Public Relations	Electronic	06/14/2022	06/20/2022	1	60.00
22. Miles	Gail	906 Santa Barbara Road	94707 Berkeley	unemployed	unemployed	Electronic	06/13/2022	06/19/2022	1	60.00
23. Saldich	Alan	2862 Webster St	94705 Berkeley	unemployed	unemployed	Electronic	06/11/2022	06/18/2022	1	60.00
24. Saldich	Nancy	2862 Webster Street	94705 Berkeley	unemployed	unemployed	Electronic	06/11/2022	06/17/2022	1	60.00
25. Schwartz	Robert	906 SANTA BARBARA RD	94707 Berkeley	Attorney	Trucker Huss, APC	Electronic	06/10/2022	06/16/2022	1	60.00
26. Singer	Martha	<del>21 The Plaza Drive</del>	<del>94705-2413 Berkeley</del>	<del>MD</del>	<del>Self-Castro Valley, CA</del>	<del>Electronic</del>	<del>06/09/2022</del>	<del>06/15/2022</del>	<del>1</del>	<del>60.00</del>
27. Capitelli	Marilyn	1760 Rose St	94703 Berkeley	Retired	unemployed	Electronic	06/08/2022	06/14/2022	1	60.00
28. Capitelli	Laurie	1760 Rose St	94703 Berkeley	Red Oak Realty, Berkeley	Real Estate	Electronic	06/08/2022	06/14/2022	1	60.00
29. Beutler	John	2642 Regent St	94704 Berkeley	Planner	California Air Resources Board	Electronic	06/07/2022	06/13/2022	1	60.00
30. Kawczynska	Claudia	2810 8th St	94710 Berkeley	unemployed	unemployed	Electronic	06/07/2022	06/13/2022	1	60.00
31. Franklin	Zachary	2956 California Street	94703 Berkeley	Nonprofit Executive	GRID Alternatives	Electronic	06/06/2022	06/12/2022	1	60.00
32. Gerhardstein	Ben	<del>2520 Aetion St</del>	<del>94702 Berkeley</del>	<del>Environmental Health Scientist</del>	<del>CDC</del>	<del>Electronic</del>	<del>06/06/2022</del>	<del>06/12/2022</del>	<del>1</del>	<del>60.00</del>
33. Stevens	Shelley	2959 Linden Avenue	94705 Berkeley	unemployed	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
34. Gray	Carrie	<del>2951 Pine Ave</del>	<del>94705 Berkeley</del>	<del>Psychotherapist</del>	<del>Self-Berkeley, CA</del>	<del>Electronic</del>	<del>06/06/2022</del>	<del>06/14/2022</del>	<del>1</del>	<del>60.00</del>
35. Martinucci	Jill	1520 Holly Street	94703 Berkeley	Retired	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
36. Martinucci	Piero	1520 Holly Street	94703 Berkeley	retired	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
									Subtotals	<del>1,250.00</del> 960.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
37. Humbert	Frances	2928 Linden Avenue	94705 Berkeley	Florist	Freya/ Brother and Sisters Flower Shop	Electronic	06/06/2022	06/12/2022	1	60.00
38. Choy	Ron	2615 Woolsey Street	94705 Berkeley	unemployed	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
39. Wang	Carol	2953 Linden Avenue	94705 Berkeley	Homemaker	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
40. Kesarwani	Rashi	1619 Edith St.	94703 Berkeley	Councilmember	City of Berkeley	Electronic	06/05/2022	06/11/2022	1	60.00
41. Bruzzone	Anthony	1627 Spruce St	94709 Berkeley	Consultant	Arup US Inc	Electronic	06/05/2022	06/11/2022	1	60.00
42. Zander	Sofia	2956 California Street	94703 Berkeley	Owner/ Landscape architect	Zander Design, Berkeley, CA	Electronic	06/05/2022	06/11/2022	1	60.00
43. Simulka	Ann	175 Alvarado Road	94705 Berkeley	Consultant	Strategic Arts	Electronic	06/05/2022	06/11/2022	1	60.00
44. Orriek	Phyllis	1625 Keins Avenue, #A	94702 Berkeley	retired	unemployed	Electronic	06/04/2022	06/10/2022	1	66.00
45. Grandahl	Kathleen	2151 Oregon St	94705 Berkeley	Reporter	Self, Berkeley, CA	Electronic	06/04/2022	06/10/2022	1	66.00
46. Lee-Egan	Elizabeth	1130 Hopkins St	94702 Berkeley	graphic designer	Sierra Club	Electronic	06/04/2022	06/10/2022	1	60.00
47. Fike	Barry	1723 Allston Way	94703 Berkeley	Retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
48. Mudge	Alden	1613 Jaynes Street	94703 Berkeley	Retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
49. Gould	Harvey	1950 Addison Street, Apt 221	94704 Berkeley	retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
50. Aguilar-Camahal	Diego	1921 Francisco St-Apt-3A	94709 Berkeley	Legislative Assistant	City of Berkeley	Electronic	06/03/2022	06/09/2022	1	66.00
51. Trachtenberg	David	2960 Benvenue Ave	94705 Berkeley	Architect	Trachtenberg Architects, Berkeley, CA	Electronic	06/03/2022	06/09/2022	1	60.00
52. Droste	Lori	2951 Pine Ave.	94705 Berkeley	Councilmember	City of Berkeley	Electronic	06/03/2022	06/09/2022	1	60.00
53. Posselt	Theo	2591 Hilgard Avenue	94709 Berkeley	Consultant	Deloitte	Electronic	06/03/2022	06/09/2022	1	60.00
54. Yep	Ray	557 Neilson Street	94707 Berkeley	Civil Engineer	Retired	Electronic	06/03/2022	06/09/2022	1	66.00
55. Hedlund	Marc	2930 Domingo Ave #233	94705 Berkeley	Engineering leadership consulting	Fenuki Moves, LLC	Electronic	06/03/2022	06/09/2022	1	60.00
56. Lomax	Geoffrey	1507 M L King Jr Way	94709 Berkeley	Research Administration	State of CA	Electronic	06/03/2022	06/09/2022	1	60.00
57. Japowitz	Naomi	2745 Elmwood Avenue	94705 Berkeley	Professor	University of California	Electronic	06/03/2022	06/09/2022	1	60.00
					Subtotals					1020.00

Attachment 2

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
58. Chatterjee	Anirvan	1404 Henry Street	94709 Berkeley	Data Strategist	UCSF	Electronic	06/03/2022	06/09/2022	+	66.00
59. Cheyette	Oren	1520 San Lorenzo	94707 Berkeley	Software Engineer	Leominis Styles & Co. Boston	Check	06/02/2022	06/08/2022	+	66.00
60. Cheyette	Catherine	1520 San Lorenzo	94707 Berkeley	Psychotherapist	Self-Employed-Albany, CA	Check	06/02/2022	06/08/2022	+	66.00
61. Stoller	Tia	2815 Cherry Street	94705 Berkeley	Graphic Designer	Stoller Design Group Berkeley	Check	06/02/2022	06/08/2022	1	60.00
62. Humbert	Kelly	2928 Linden Ave	94705 Berkeley	Medical Assistant	Berkeley-Pediatrics	Other	06/02/2022	06/08/2022	+	66.00
63. Ghosh	Barnali	1404 Henry St., #4	94709 Berkeley	Designer	Self-employed, Berkeley, CA	Electronic	06/01/2022	06/07/2022	1	60.00
64. Herik	Gregory	1645 Grant St.	94703 Berkeley	Retired	Retired	Check	06/01/2022	06/07/2022	+	66.00
65. Dymis	John	1643 Grant Street	94703 Berkeley	Retired	N/A	Check	06/01/2022	06/07/2022	1	60.00
66. Gould	Benjamin	1950 Addison Street, Apt 723	94704 Berkeley	President	EcoDataLab, Berkeley, CA	Electronic	05/31/2022	06/06/2022	1	60.00
67. Andrew	Todd	1547 Hopkins Street, Apt-6	94707 Berkeley	Realtor	Red Oak Realty	Electronic	05/31/2022	06/06/2022	+	66.00
68. Stu	Kathy	2931 Linden Avenue	94705 Berkeley	Home	N/A	Check	05/28/2022	06/04/2022	+	66.00
69. Brock-Dolas	Phoebe	1932 Los Angeles Avenue	94707 Berkeley	Student	N/A	Check	05/28/2022	06/04/2022	1	60.00
70. Brock	Charles	1932 Los Angeles Avenue	94707 Berkeley	Retired	N/A	Check	05/28/2022	06/04/2022	+	66.00
71. Dolas	Lura	1932 Los Angeles Avenue	94707 Berkeley	Retired	N/A	Check	05/28/2022	06/04/2022	1	60.00
72. Tan	Thomas	2931 Linden Avenue	94705 Berkeley	Marketing	Apple	Check	05/28/2022	06/04/2022	1	60.00
Subtotals										900.00
Grand Totals										4,276.00

2,840  
x6  
17,040



**City Clerk Department**  
**2180 Milvia Street**  
**Berkeley, CA 94704**  
**(510) 981-6900**  
[www.cityofberkeley.info](http://www.cityofberkeley.info) | [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)

E-Filed  
 09/29/2022  
 22:24:26  
 Filing ID:  
 204931942

**FAIR ELECTIONS ACT FORM  
 DECLARATION FOR PUBLIC FUNDS BY CANDIDATES FOR  
 MAYOR, CITY COUNCIL, CITY AUDITOR, SCHOOL BOARD DIRECTOR, OR  
 RENT STABILIZATION BOARD COMMISSIONER**

<b>OFFICE SOUGHT</b>			
OFFICE City Council Member		COUNCIL DISTRICT (IF APPLICABLE) District 8	
ELECTION CYCLE 11/08/2022			
<b>COMMITTEE INFORMATION</b>			
NAME OF CAMPAIGN COMMITTEE Mark Humbert for Council 2022		FPPC I.D. No. 1448572	
STREET ADDRESS 2928 Linden Avenue		APARTMENT/SUITE/FLOOR	
CITY Berkeley	STATE CA	ZIP CODE 94705	
TELEPHONE (415) 260-3398	EMAIL ADDRESS mark@humbertforcouncil.com		
<b>CANDIDATE DECLARATION</b>			
<p>I hereby declare that the following information is true and correct:</p> <ul style="list-style-type: none"> <li>• All information on the attached Qualified Contribution Receipts is complete and accurate to the best of my knowledge.</li> <li>• I understand that the City shall verify that the qualified contributions meet all of the requirements and restrictions prior to the disbursement of funds.</li> <li>• I understand that if I submit any contributions that are not from the person(s) identified on the receipt I shall be liable to pay the Fair Elections Fund the entire amount in addition to any penalties.</li> <li>• All Qualified Contributions, of any dollar amount, eligible for matching Fair Elections funds must be publically disclosed with the contributor information required under Sections 2.12.280 and 2.12.283.</li> <li>• I understand that all campaign filings must be current in order for a disbursement of Fair Election funds to be released.</li> </ul>			
Mark Humbert		09/29/2022	
CANDIDATE SIGNATURE		DATE SIGNED	

**REQUEST FOR FAIR ELECTIONS FUNDS PAYMENT**

All approved Qualified Contributions are matched at a 6:1 ratio. Each candidate must submit the following documentation in order to be eligible for public matching funds:

- Qualified Contributions List (below).
- Receipt for Qualified Contribution for Fair Elections Funds.
- Evidence of each contribution received, such as electronic copies of contributor checks, credit card authorizations, or online payment receipts.
- Electronic copies of itemized deposit slips.
- Complete contributor information (full name, address, occupation, and employer) as required by BERA and the Political Reform Act.

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Deposit Batch #	Amount of Contribution
1 Berger	Steven	173 Hillcrest Road	94705 Berkeley	President	NXF Properties, Inc.	Electronic	09/28/2022	09/28/2022	2	60.00
2 Kletz	Abbey	2850 Webster Street	94705 Berkeley	unemployed	unemployed	Electronic	09/22/2022	09/22/2022	2	60.00
3 Casebolt	Tarmigan	2928 Derby Street	94705 Berkeley	unemployed	unemployed	Electronic	09/22/2022	09/22/2022	2	60.00
4 Rice	Michael	4 Sunset Lane	94708 Berkeley	President	VR Research	Electronic	09/20/2022	09/20/2022	2	60.00
5 Bell	Judith	2757 Prince Street	94705 Berkeley	Chief Impact Officer	San Francisco Foundation	Electronic	09/12/2022	09/12/2022	2	60.00
6 David	Narsai	2825 Webster St	94705 Berkeley	retired	retired	Check	09/11/2022	09/11/2022	2	60.00
7 David	Venus	2825 Webster St	94705 Berkeley	retired	retired	Cash	09/11/2022	09/11/2022	2	60.00
8 Kennedy	Patrick	2811 Parker Street	94703 Berkeley	Property Manager	Royal Towers Apartment Company	Electronic	09/06/2022	09/06/2022	2	30.00
9 Arreguin	Jesse	1528 Henry Street	94709 Berkeley	Mayor	City of Berkeley	Electronic	08/24/2022	08/24/2022	2	60.00
10 Erbe	Jacqueline	1614 9th Street	94710 Berkeley	Project Manager	Workshop1	Electronic	08/22/2022	08/22/2022	1	60.00
11 King	Laura	14 Eucalyptus Road	94705 Berkeley	Content Partnerships	Twitter	Electronic	08/22/2022	08/22/2022	2	60.00
12 Lau	Jonathan	1827 Ward St	94703 Berkeley	Local Economic Development Project Manager	San Francisco County	Electronic	08/22/2022	08/22/2022	2	60.00
13 Johns	Jeffrey	2617 Parker St	94704 Berkeley	Physician	City of Berkeley	Electronic	08/19/2022	08/19/2022	2	60.00
14 Francis	Caroline	6029 Chaboly Ter	94618 Berkeley	Manager, Program Management	PG&E	Cash	08/19/2022	08/19/2022	2	60.00
15 Gilbert	Aviva	1295 Berkeley Way	94702 Berkeley	Attorney	FBM	Electronic	08/17/2022	08/17/2022	2	30.00
Subtotals										720 840.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
16	Gutierrez	Rod	2601 Webster St Berkeley	94705 Berkeley	unemployed	Cash	08/04/2022	08/04/2022	2	50.00
17	Gutierrez	Rod	2601 Webster St Berkeley	94705 Berkeley	unemployed	Cash	08/04/2022	08/04/2022	2	10.00
18	Montauk	Lance	3033 Bateman St. Berkeley	94705 Berkeley	unemployed	Electronic	08/02/2022	08/02/2022	2	60.00
19	Lathbury	Donald	1528 Henry St. Berkeley	94709 Berkeley	Consultant	Electronic	07/20/2022	07/20/2022	2	60.00
20	Gray	Tim	628 San Miguel Ave. Berkeley	94707-1535 Berkeley	N/A	Electronic	07/07/2022	07/13/2022	1	60.00
21	Scott	Peggy	1839 Catalina Ave Berkeley	94707 Berkeley	unemployed	Electronic	07/07/2022	07/13/2022	1	60.00
22	Haesloop	Eric	2725 Elmwood Avenue Berkeley	94705 Berkeley	Architect	Electronic	06/30/2022	07/06/2022	1	60.00
23	Rosales	Ces	2315 Russell Street Berkeley	94705 Berkeley	unemployed	Electronic	06/30/2022	07/06/2022	1	60.00
24	Buswell-Charkow	Joshua	3011 Dohr st Berkeley	94702-2713 Berkeley	Deputy Director	Electronic	06/30/2022	07/06/2022	1	60.00
25	Magofna	Gregory	1819 Addison Street Apt 1 Berkeley	94703 Berkeley	Communications	Electronic	06/30/2022	07/07/2022	1	60.00
26	London	Ellen	2810 Ashby Avenue, Berkeley, CA, USA	94705 Berkeley	Attorney	Electronic	06/29/2022	07/05/2022	1	60.00
27	Bimbach	Kerry	1735 Hopkins Street, A Berkeley	94707 Berkeley	Policy analyst	Electronic	06/29/2022	07/05/2022	1	60.00
28	Vincent	Jeff	1134 Bancroft Way Berkeley	94702 Berkeley	Researcher	Electronic	06/29/2022	07/05/2022	1	60.00
29	Subbotin	Kyra	2743 Prince Street Berkeley	94705 Berkeley	Lawyer	Electronic	06/29/2022	07/05/2022	1	60.00
30	Gerstein	Beth	1530 Berkeley Way Berkeley	94703 Berkeley	Legislative aide	Electronic	06/29/2022	07/05/2022	1	60.00
31	Battista	Elisa	2025 Prince Street Berkeley	94703-2518 Berkeley	Content Manager	Electronic	06/29/2022	07/05/2022	1	60.00
32	Kletz	Harvey	2850 Webster Street Berkeley	94705 Berkeley	unemployed	Electronic	06/29/2022	06/29/2022	2	50.00
33	Fox	Andrew	3046 Telegraph Ave, Unit 3 Berkeley	94705 Berkeley	Publicist	Electronic	06/26/2022	07/02/2022	1	50.00
34	Stahlhut	Nathan	2846 Webster Street Berkeley	94705 Berkeley	Sales	Electronic	06/22/2022	06/29/2022	1	60.00
35	Wengraf	Susan	1404 Le Roy Avenue Berkeley	94708 Berkeley	councilmember	Electronic	06/21/2022	06/27/2022	1	60.00
36	Robinson	Rigel	2214 Durant Ave #1 Berkeley	94704 Berkeley	Councilmember	Electronic	06/21/2022	06/27/2022	1	60.00
									Subtotals	1,180.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
37 Yamaguchi	Thomas	1015 Channing Way	94710 Berkeley	Homecare Worker	IHSS, Alameda County	Electronic	06/21/2022	06/27/2022	1	30.00
38 Shoji	Audrey	2924 Russell Street	94705 Berkeley	Volunteer Manager	Women's Cancer Resource Center, Berkeley	Electronic	06/20/2022	06/26/2022	1	60.00
39 Johnson	MaryReed	1401 Greenwood Terrace	94708 Berkeley	Artist	Unemployed	Electronic	06/16/2022	06/22/2022	1	60.00
40 Caruana	Kenneth	2816 Oak Knoll Terrace	94705 Berkeley	Executive	Ross Stores	Electronic	06/16/2022	06/22/2022	1	60.00
41 Laird	Tad	2722 Webster St	94705-2605 Berkeley	Owner	Koppa Targets	Electronic	06/15/2022	06/22/2022	1	60.00
42 Singer	Sam	33 Roble Road	94705 Berkeley	Communications Strategist	Singer Associates Public Relations	Electronic	06/14/2022	06/20/2022	1	60.00
43 Miles	Gail	906 Santa Barbara Road	94707 Berkeley	unemployed	unemployed	Electronic	06/13/2022	06/19/2022	1	60.00
44 Saldich	Alan	2862 Webster St	94705 Berkeley	unemployed	unemployed	Electronic	06/11/2022	06/18/2022	1	60.00
45 Saldich	Nancy	2862 Webster Street	94705 Berkeley	unemployed	unemployed	Electronic	06/11/2022	06/17/2022	1	60.00
46 Schwartz	Robert	906 SANTA BARBARA RD	94707 Berkeley	Attorney	Trucker Huss, APC	Electronic	06/10/2022	06/16/2022	1	60.00
47 Singer	Martha	21 The Plaza Drive	94705-2413 Berkeley	MD	Self, Castro Valley, CA	Electronic	06/09/2022	06/15/2022	1	60.00
48 Capitelli	Marilyn	1760 Rose St	94703 Berkeley	Retired	unemployed	Electronic	06/08/2022	06/14/2022	1	60.00
49 Capitelli	Laurie	1760 Rose St	94703 Berkeley	Red Oak Realty, Berkeley	Real Estate	Electronic	06/08/2022	06/14/2022	1	60.00
50 Beutler	John	2642 Regent St	94704 Berkeley	Planner	California Air Resources Board	Electronic	06/07/2022	06/13/2022	1	60.00
51 Kawczynska	Claudia	2810 8th St	94710 Berkeley	unemployed	unemployed	Electronic	06/07/2022	06/13/2022	1	60.00
52 Franklin	Zachary	2956 California Street	94703 Berkeley	Nonprofit Executive	GRID Alternatives	Electronic	06/06/2022	06/12/2022	1	60.00
53 Gerhardtstein	Ben	2320 Acton St	94702 Berkeley	Environmental Health Scientist	CDC	Electronic	06/06/2022	06/12/2022	1	60.00
54 Stevens	Shelley	2959 Linden Avenue	94705 Berkeley	unemployed	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
55 Gray	Carrie	2951 Pine Ave	94705 Berkeley	Therapist	Carrie Gray Psychotherapy, Berkeley, CA	Electronic	06/06/2022	06/14/2022	1	60.00
56 Martiucci	Jill	1520 Holly Street	94703 Berkeley	Retired	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
57 Martiucci	Piero	1520 Holly Street	94703 Berkeley	retired	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
									Subtotals	1,230.00

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
58 Humbert	Frances	2928 Linden Avenue	94705 Berkeley	Florist	Freyer/ Brother and Sisters Flower Shop	Electronic	06/06/2022	06/12/2022	1	60.00
59 Choy	Ron	2615 Woodley Street	94705 Berkeley	unemployed	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
60 Wang	Carol	2953 Linden Avenue	94705 Berkeley	Homemaker	unemployed	Electronic	06/06/2022	06/12/2022	1	60.00
61 Kesarwani	Rashi	1619 Edith St.	94703 Berkeley	Councilmember	City of Berkeley	Electronic	06/05/2022	06/11/2022	1	60.00
62 Bruzzone	Anthony	1627 Spruce St	94709 Berkeley	Consultant	Arup US Inc	Electronic	06/05/2022	06/11/2022	1	60.00
63 Zander	Sofia	2956 California Street	94703 Berkeley	Owner/ Landscape architect	Zander Design, Berkeley, CA	Electronic	06/05/2022	06/11/2022	1	60.00
64 Simulka	Aim	175 Alvarado Road	94705 Berkeley	Consultant	Strategic Arts	Electronic	06/05/2022	06/11/2022	1	60.00
65 Brower	Norah	2701 Buena Vista Way	94708 Berkeley	Realtor	Compass	Electronic	06/05/2022	06/05/2022	2	30.00
66 Orrick	Phyllis	1625 Kains Avenue, #A	94702 Berkeley	retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
67 Crandall	Kathleen	2151 Oregon ST	94705 Berkeley	Realtor	Self, Berkeley, CA	Electronic	06/04/2022	06/10/2022	1	60.00
68 Lee-Egan	Elizabeth	1130 Hopkins St	94702 Berkeley	graphic designer	Sierra Club	Electronic	06/04/2022	06/10/2022	1	60.00
69 Fike	Barry	1723 Allston Way	94703 Berkeley	Retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
70 Mudge	Alden	1613 Jaynes Street	94703 Berkeley	Retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
71 Gould	Harvey	1950 Addison Street, Apt 221	94704 Berkeley	retired	unemployed	Electronic	06/04/2022	06/10/2022	1	60.00
72 Aguilar-Canabal	Diego	1921 Francisco St. Apt 3A	94709 Berkeley	Legislative Assistant	City of Berkeley	Electronic	06/03/2022	06/09/2022	1	60.00
73 Fraehtenberg	David	2960 Benvenue Ave	94705 Berkeley	Architect	Fraehtenberg Architects, Berkeley, CA	Electronic	06/03/2022	06/09/2022	+	66.00
74 Droste	Lori	2951 Pine Ave.	94705 Berkeley	Councilmember	City of Berkeley	Electronic	06/03/2022	06/09/2022	1	60.00
75 Posselt	Theo	2591 Hilgard Avenue	94709 Berkeley	Consultant	Deloitte	Electronic	06/03/2022	06/09/2022	1	60.00
76 Yep	Ray	557 Neilson Street	94707 Berkeley	Civil Engineer	Retired	Electronic	06/03/2022	06/09/2022	1	60.00
77 Taplin	Terry	1032 Bancroft	94710 Berkeley	City Councilmember	City of Berkeley	Cash	06/03/2022	06/03/2022	2	10.00
78 Taplin	Terry	1032 Bancroft	94710 Berkeley	City Councilmember	City of Berkeley	Electronic	06/03/2022	06/03/2022	2	50.00
									Subtotals	1,110

Last Name	First Name	Address	Zip Code, City	Occupation	Employer	Payment Method	Date Received	Date Deposited	Batch #	Amount of Contribution
79 Godar	Andrew	1032 Bancroft Way	94710 Berkeley	RN	Sutter	Electronic	06/03/2022	06/03/2022	2	60.00
80 Lewis	Matthew	1637 Stuart St	94703 Berkeley	Communications Director	California YIMBY	Electronic	06/03/2022	06/10/2022	1	60.00
81 Hedlund	Marc	2930 Domingo Ave #233	94705 Berkeley	Engineering leadership consulting	Tenuki Moves, LLC	Electronic	06/03/2022	06/09/2022	1	60.00
82 Lomax	Geoffrey	1507 M L King Jr Way	94709 Berkeley	Research Administration	State of CA	Electronic	06/03/2022	06/09/2022	1	60.00
83 Janowitz	Naomi	2745 Elmwood Avenue	94705 Berkeley	Professor	University of California	Electronic	06/03/2022	06/09/2022	1	60.00
84 Chatterjee	Amirvan	1404 Henry Street, 4	94709 Berkeley	Data Strategist	UCSF	Electronic	06/03/2022	06/09/2022	1	60.00
85 Stoller	Tia	2815 Cherry Street	94705 Berkeley	Graphic Designer	Stoller Design Group Berkeley	Check	06/02/2022	06/08/2022	1	60.00
86 Humbert	Kelly	2928 Linden Ave	94705 Berkeley	Medical Assistant	Berkeley Pediatrics	Other	06/02/2022	06/08/2022	1	60.00
87 Ghosh	Barnali	1404 Henry St., #4	94709 Berkeley	Designer	Self-employed, Berkeley, CA	Electronic	06/01/2022	06/07/2022	1	60.00
88 Herek	Gregory	1645 Grant St.	94703 Berkeley	Retired	Retired	Check	06/01/2022	06/07/2022	1	60.00
89 Dynis	John	1643 Grant Street	94703 Berkeley	Retired	N/A	Check	06/01/2022	06/07/2022	1	60.00
90 Gould	Benjamin	1950 Addison Street, Apt 723	94704 Berkeley	President	EcoDataLab, Berkeley, CA	Electronic	05/31/2022	06/06/2022	1	60.00
91 Fan	Thomas	2931 Linden Avenue	94705 Berkeley	Marketing	Apple	Check	05/28/2022	06/04/2022	1	60.00
92 Brock-Dolas	Phoebe	1932 Los Angeles Avenue	94707 Berkeley	Student	N/A	Check	05/28/2022	06/04/2022	1	60.00
93 Brock	Darryl	1932 Los Angeles Avenue	94707 Berkeley	Retired	N/A	Check	05/28/2022	06/04/2022	1	60.00
94 Dolas	Lura	1932 Los Angeles Avenue	94707 Berkeley	Retired	N/A	Check	05/28/2022	06/04/2022	1	60.00
Subtotals										840
Grand Totals										5,080

5,080

~~30,480~~

~~30,480~~

Please note: Candidate's Public Finance matching funds disbursement was calculated to \$30,480 however, per Public Finance matching funds disbursement limits the candidate only qualifies for the \$47,000 maximum for City Council candidates.

Please make a payment of only \$29,960.

**Harvey, Samuel**

---

**From:** C. Mark Humbert <markh@humbertlaw.us>  
**Sent:** Tuesday, April 18, 2023 4:05 PM  
**To:** FCPC (Fair Campaign Practices Commission)  
**Subject:** Re: FCPC Complaint

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Dear Mr. Harvey and Members of the Berkeley FCPC:

Thank you for bringing this complaint to my attention. I agree with Staff's conclusion that it does not state a claim under BERA, and therefore does not have merit as a matter of law.

As you know, the Berkeley City Clerk's Office is punctilious in examining matching requests submitted by Berkeley candidates who are participating in the Berkeley public campaign financing program. Individual forms are often rejected for failure to meet the Clerk's appropriately exacting standards.

My assistant treasurer and I worked diligently to supply the requisite information, but we made mistakes in some instances which were later corrected. The campaign contributions we received from Berkeley residents far exceeded the limit on matchable donations, and once we found we had reached the limit, we did not submit any additional requests for matching.

Some of the reasons for the discrepancies noted by the complainant in the public financing records include:

- Some of our submittals did not have forms correctly attached the first time, and so they were later resubmitted.
- Some of our submittals had errors on the forms that needed to be corrected, and so they were later resubmitted.
- Some of our contributions were accidentally reassigned to the second batch of submissions.
- Some of our contributions occurred earlier in the year, but contributors did not submit their forms until later in the year, and this may have caused us to select a date range that resulted in overlap with previous submittals.

As shown by the City Clerk's documentation, we submitted more unique matching forms than were required. As mentioned above, we had still more donations with forms that we could have submitted had it been necessary. Finally, I am confident that we did not receive from the City any funds in excess of the public financing limit.

We request that this complaint be dismissed.

Respectfully submitted,

Mark Humbert  
2022 Candidate for Berkeley City Council D8

On Monday, April 17, 2023, 2:47 PM, FCPC (Fair Campaign Practices Commission) <FCPC@cityofberkeley.info> wrote:

Restricted

## ITEM NO.10-ATTACHMENT 3

Attached is a courtesy copy of a complaint received by the Berkeley Fair Campaign Practices Commission (FCPC) alleging violations of the Berkeley Election Reform Act (BERA) by your campaign, Mark Humbert for Council 2022. Also included is a staff report recommending that the FCPC dismiss the complaint for failure to state a violation of BERA.

This item will be considered by the FCPC at its meeting on April 20<sup>th</sup> at 6:30 PM at the North Berkeley Senior Center.

Thank you,

Sam

**Samuel J. Harvey**

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4<sup>th</sup> Floor

Berkeley, CA 94704

[fcpc@cityofberkeley.info](mailto:fcpc@cityofberkeley.info)

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**Harvey, Samuel**

---

**From:** Humbert, Mark  
**Sent:** Monday, August 5, 2024 5:47 PM  
**To:** Harvey, Samuel; Brown, Farimah F.  
**Subject:** Fw: Fw: FCPC Public Financing

Mark Humbert  
Councilmember, District 8  
City of Berkeley

---

**From:** Ben Gould <ben@bengould.org>  
**Sent:** Monday, August 5, 2024 3:55 PM  
**To:** Humbert, Mark <MHumbert@berkeleyca.gov>  
**Subject:** Re: Fw: FCPC Public Financing

**WARNING:** This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Maybe worth adding:

We were not readily able to discern that we had received an overpayment. Matching forms are regularly rejected due to errors like missing phone numbers or mismatched job titles, and some matching forms may not be received through NetFile if the filesize is too large (depending on individual's camera settings), so we deliberately submitted more matching forms than we expected were necessary in order to make up for any that might be invalidated or fail to be received. We submitted a large batch of matching forms on October 3rd, and were subsequently informed on October 5th, 2022 that we had reached the limit. Staff did not specify which forms might have been accepted or not, and so we had no way of determining whether there was a mistake in their process.

Overall, our campaign reported \$9,125 in direct contributions from 162 unique Berkeley donors. While we stopped collecting and submitting matching forms once we were informed that we had reached the maximum amount of matching funds available, these contributions would have had a total matching value of \$54,750 - well in excess of the \$47,000 maximum for 2022. Had this error been reported to us during the campaign, we simply would have collected the necessary forms from 4 more individuals - or identified and fixed 4 more rejected forms - to complete the necessary paperwork.

On Mon, Aug 5, 2024 at 3:25 PM Humbert, Mark <[MHumbert@berkeleyca.gov](mailto:MHumbert@berkeleyca.gov)> wrote:

Mark Humbert  
Councilmember, District 8  
City of Berkeley

**From:** Humbert, Mark <[MHumbert@berkeleyca.gov](mailto:MHumbert@berkeleyca.gov)>  
**Sent:** Monday, August 5, 2024 3:09 PM  
**To:** FCPC (Fair Campaign Practices Commission) <[FCPC@berkeleyca.gov](mailto:FCPC@berkeleyca.gov)>  
**Subject:** Re: FCPC Public Financing

Dear Sam -

We collected many more \$60 qualified contributions from Berkeley residents than we needed to reach maximum matching. So the campaign truly did not receive more than it would have been entitled to receive, had those additional contributions been counted by the Clerk for matching purposes. There is no harm here.

We did not make the mistake; City staff did. I am not casting aspersions at City staff - it's a complicated process.

The campaign account is closed. And we were told this matter was closed many months ago. And, again, the campaign did not collect more matching funds than it was entitled to collect, based on the number of qualified contributions it received.

Best, Mark

Mark Humbert  
Councilmember, District 8  
City of Berkeley

---

**From:** FCPC (Fair Campaign Practices Commission) <[FCPC@berkeleyca.gov](mailto:FCPC@berkeleyca.gov)>  
**Sent:** Monday, August 5, 2024 2:54 PM  
**To:** Humbert, Mark <[MHumbert@berkeleyca.gov](mailto:MHumbert@berkeleyca.gov)>  
**Cc:** Brown, Farimah F. <[FBrown@berkeleyca.gov](mailto:FBrown@berkeleyca.gov)>  
**Subject:** FCPC Public Financing

**Restricted**

Dear Councilmember Humbert,

The Fair Campaign Practices Commission has expressed interest in obtaining additional information from your 2022 campaign committee regarding the overpayment of public financing funds.

## ITEM NO.10-ATTACHMENT 3

In particular, although City staff have confirmed that the overpayment was the result of an administrative error by City staff, members of the Commission have requested an explanation as to why your campaign did not recognize the overpayment at the time.

Additionally, some commissioners have pointed to Section 2.12.550 of the Berkeley Election Reform Act (“BERA”) which provides that “It is a violation of the law for candidates to accept more Fair Elections Act benefits than those to which they are entitled.” While we believe this section is best read to apply to circumstances in which an overpayment has resulted from an error or violation by the campaign and not by City staff, it is possible that this language could be interpreted to mean that your receipt of an excess \$1,100 was a violation of BERA. As a result, some commissioners have expressed a desire that your campaign repay the \$1,100 overpayment which your campaign received.

We would like an opportunity to discuss further and ideally obtain some additional information on this matter which we can provide to the Commission.

Regards,

Sam

**Samuel J. Harvey**

Secretary

Fair Campaign Practices Commission / Open Government Commission

City of Berkeley

2180 Milvia Street, 4<sup>th</sup> Floor

Berkeley, CA 94704

[fcpc@cityofberkeley.info](mailto:fcpc@cityofberkeley.info)

## ITEM NO.10-ATTACHMENT 3

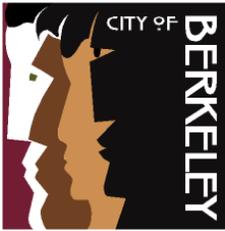
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--

**Ben Gould**

[ben@bengould.org](mailto:ben@bengould.org)

(510) 725-9176



City Clerk Department

Date: November 18, 2024  
 To: Sam Harvey, Secretary, Open Government Commission  
 From: Mark Numainville, City Clerk  
 Subject: Referral of Non-Filing by Quarterly Lobbyist Filer

The Lobbyist Registration Act requires certain local government lobbyists to file quarterly disclosures of lobbying activity with the City Clerk Department. The following lobbyist has not filed for the January 1 – March 31, 2024, April 1 – June 30, 2024 and July 1 – September 30, 2024 reporting periods:

Lobbyist Filer	Employer
Yuri Sadiki-Torres	Northern California Land Trust (NCLT)

Notice of the filing requirement for the reporting period was sent to quarterly lobbyist filers by the City Clerk Department on April 16, 2024, July 22, 2024 and October 18, 2024. Past due notices were sent on June 4, 2024, August 21, 2024 and November 13, 2024.

Lobbyists are required to file a final disclosure form and registration form indicating that all lobbying activities have terminated. Berkeley Municipal Code § 2.09.120 states that in the case of an in-house local government lobbyist, the lobbyist employer or agent thereof, may complete and file the required forms.

My office recommends referral of these matters to the Open Government Commission for consideration of: 1) Whether or not the failure to file quarterly disclosure report and terminating registration report is a violation of the Lobbyist Registration Act; and 2) Appropriate enforcement action as determined by the Commission.

**Open Government Commission**

April 17, 2025 Regular Meeting

Commissioner Sudharsan

**Lobbyist Registration Act Processes and Administration - Discussion of a potential recommendation to the City Clerk or Council on changing some or all Lobbyist registration forms to Netfile.**

Reasons:

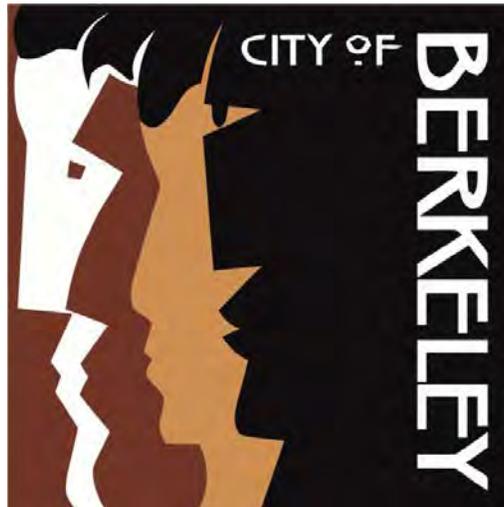
- (1) accessibility for those lobbyists who are not easily able to physically reach the city hall
- (2) long-term reduction of manual work for the city clerk in transcribing each form
- (3) greatly increased transparency for the public, due to being able to search through forms -- rather than having to download them all, run a computer program to read the text, and then search through them

In the spirit of transparency, the searchability and ease of access of lobbyist registrations is essential. This includes the ability to search lobbyist registrations by name, company, etc, and especially the Quarterly/Annual disclosure form outlining specific lobbyist efforts. This includes access to all forms outlined in Chapter 2.09 BMC, Lobbyist Registration and Regulations.

When using Netfile for all data, the public can easily download an entire spreadsheet containing all information. Currently, the downloadable "spreadsheet" contains very little information, and individual PDF's must be downloaded per Lobbyist. As a note, I got this as a tip from an associate director at the Berkeley Human Rights Center, which is partially a journalism institution.

While we could certainly consider another digital platform, that might take a lot longer. The above opinions may be a recommendation to the City Clerk or Council.

Related question: what other forms are not digitized at the moment: potentially creating additional work for the clerk, lack of accessibility for submitters to easily submit documents, and lack of public data access?



# LOBBYIST MANUAL 2021 EDITION

BACKGROUND INFORMATION,  
RULES AND PROCEDURES

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ADOPTED BY ORDINANCE NO. 7,629-N.S. (OCTOBER 16, 2018)

AMENDED BY ORDINANCE NO. 7,749-N.S. (FEBRUARY 9, 2021)

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## CHAPTER I. INTRODUCTION

### CHAPTER I. INDEX

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- B. The Open Government Commission
- C. Who Must Register?
- D. What are Lobbying Activities?
- E. What kind of Communication falls within these Lobbying Activities?
- F. Who Are The Officers of the City of Berkeley?
- G. What Kind of Communications are Exempt?

#### **A. The History and Purpose of Berkeley's Lobbyist Registration Act**

On October 16, 2018, the Berkeley City Council adopted the Lobbyist Registration Act (Berkeley Municipal Code Chapter 2.09) by Ordinance No. 7,629-N.S. The Ordinance went into effect on January 1, 2020.

The findings of the Ordinance state that democracy in our representative form of government requires that the public have an opportunity to know as much as possible what lobbying efforts are taking place that may affect decisions being made by our elected officials, City staff, boards, and commissions.

As such, the stated purpose of the Lobbyist Registration Act (the Act) is to codify certain existing practices, as well as to adopt new practices, to ensure that the public has an adequate opportunity to be informed of the City's activities and to communicate its concerns to its elected and appointed officials.

This guide, prepared by the City, provides background information on the rules and procedures for lobbying activities in the city of Berkeley. Words and phrases used in this Manual and the Act have the same meanings and shall be interpreted in the same manner as words and phrases used in the Berkeley Election Reform Act and the state Political Reform Act of 1974 (California Government Code sections 81000 to 91014) and the regulations issued pursuant to both, unless otherwise expressly provided or unless the context otherwise requires. (BMC 2.09.040)

#### **2021 Lobbyist Registration Act Update**

The City Council adopted amendments to the Act in 2021, recommended by the Open Government Commission (OGC) pursuant to its authority under BMC 2.06.190.A.2. The 2021 update addresses amendments that were identified during the first year of implementation and are intended to facilitate easier compliance and provide greater clarity while ensuring fairness and transparency in interpreting and enforcing the Lobbyist program. The amendments to the act include the following changes and clarifications:

#### *Definitions*

1. Clarifies that, in the case for an in-house lobbyist, the "client" for the sake of registration and reporting is the in-house lobbyist's employer of which the in-house local governmental lobbyist is an employee, officer or director (BMC 2.09.050.E)

2. Adds clarifying language to the definition of “governmental action.” Governmental action means any discretionary administrative or legislative action of the City other than an action that is ministerial in nature. An action is ministerial in nature if it does not require the City official or employee who is the subject of the communication or contact to exercise any discretion concerning an outcome or course of action (BMC 2.09.050.M)
3. Creates three new defined terms as part of clarifying the treatment of in-house lobbyists and organizations: “in-house local governmental lobbyist,” “lobbyist employer,” and “lobbying firm.” (BMC § 2.09.050.O-Q)
  - “In-house local governmental lobbyist” means a local governmental lobbyist who is an employee, officer or director of a business, firm or organization and who lobbies solely on behalf of that business, firm or organization. “In-house local governmental lobbyist” does not include a local governmental lobbyist who is a partner, owner, officer or employee in a lobbying firm.
  - “Lobbyist employer” means any business, firm, or organization for which an employee, officer or director qualifies as an in-house local governmental lobbyist. “Lobbyist employer” does not include a lobbying firm.
  - “Lobbying firm” means any business entity which receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing any proposed or pending governmental action of the City on behalf of any other person or entity, and any partner, owner, officer, or employee of the business entity is a local governmental lobbyist. “Lobbying firm” does not include a bona fide trade, labor or membership organization which is ongoing in nature and whose membership services are not limited to influencing governmental action of the City.
4. Clarifies that a lobbyist includes someone paid to lobby by their employer regardless of whether they are salaried or paid hourly. (BMC § 2.09.050.R)

*Registration and reporting:*

1. Allows a grace period of ten business days for registration fee payment with provision that failure to timely pay will invalidate registration. (BMC § 2.09.060.E-F)
2. Provides that registration fees are non-refundable. (BMC § 2.09.060.E)
3. Provides that registrations and fees are non-transferrable. (BMC § 2.09.060.I)
4. Provides/clarifies that failure to complete lobbyist training and file the signed declaration within 30 days of registration is a violation of the Act and may result in invalidation of registration. (BMC § 2.09.080.D)
5. Adds 501(c)(6) organizations (i.e., non-profit business leagues, chambers of commerce, real-estate boards, boards of trade) to groups exempt from paying the registration fee. (BMC § 2.09.060.G)

6. Clarifies that proof of tax-exempt status includes IRS determination letter or other documentation deemed sufficient by City Clerk. (BMC § 2.09.060.G)
7. Clarifies that a lobbyist who terminates lobbying activities must file a final disclosure report and final registration indicating termination. (BMC § 2.09.070)
8. Clarifies that a lobbyist must submit an amended registration form when they add a new client. (BMC § 2.09.170)

*Exemptions:*

1. Adds language clarifying but not changing the exemption for persons acting on behalf of a union. (BMC § 2.09.090.H)
2. Adds exemption for an attorney acting on behalf of a party to litigation or administrative proceeding. (BMC § 2.09.090.I)

*Registration and reporting by businesses and organizations retaining in-house lobbyists:*

1. Provides that a lobbyist-employer (e.g., company or organization employing an in-house lobbyist) may prepare and submit registrations, reports and declarations on behalf of in-house lobbyists. (BMC §§ 2.09.120, 2.09.150)
2. Provides that an in-house lobbyist whose employer has four or fewer employees must file annual rather than quarterly reports. (BMC § 2.09.140)

**B. The Open Government Commission**

The Open Government Commission (OGC) consists of the nine members of the Berkeley Fair Campaign Practices Commission who serve as *ex officio* members of the OGC. The Commission hears complaints of several open government laws, considers ways to informally resolve those complaints, and makes recommendations to the City Council regarding such complaints. Enforcement of the Lobbyist Registration Act is delegated by the Act to the OGC.

The OGC is staffed by the Berkeley City Attorney's Office. Please contact OGC staff at (510) 981-6998 or at [FCPC@cityofberkeley.info](mailto:FCPC@cityofberkeley.info) for questions regarding the requirements, definitions and enforcement provisions of the Act.

### C. Who Must Register?

The Act requires every “local governmental lobbyist” to register. A person qualifies as a local governmental lobbyist in the City of Berkeley if the individual:

1. Receives or is entitled to receive one thousand dollars (\$1,000) or more in economic consideration in a calendar month (other than reimbursement for reasonable travel expenses) to communicate directly or through agents with any elected or appointed City official or City employee, for the purpose of influencing any proposed or pending governmental action of the City; ***or***

2. Is a paid employee, officer, or director of any business, firm or organization, and whose duties include communication directly or through agents with any elected or appointed City official or City employee, for the purpose of influencing any proposed or pending governmental action of the City.

#### *Examples:*

- A business hires a consultant for \$1,000 per month to communicate the business’s position on a proposed affordable housing development to a City Council staff member. The consultant qualifies as a lobbyist and must register.
- A paid Executive Director of a non-profit organization that receives funding from the City speaks at a City Council meeting in their official capacity to advocate for funding. They qualify as a lobbyist and must register.

In case of any ambiguity, the definition of “local governmental lobbyist” shall be interpreted broadly.

- ❖ While the Act requires only individuals to register (and not companies or organizations), each employer and client of a lobbyist must be identified on both the Lobbyist Registration Form and the Lobbyist Quarterly/Annual Disclosure Reports. In the case of an in-house local governmental lobbyist, “client” means the lobbyist employer of which the in-house local governmental lobbyist is an employee, officer or director.

### D. What are Lobbying Activities?

Lobbying activities that fall within the scope of the Act include any direct or indirect communication with any appointed or elected City official or City employee, for the purpose of influencing any proposed or pending governmental action of the City.

In other words, the communications are for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official government actions.

- ❖ Governmental action is discretionary administrative or legislative actions of the City, other than an action which is ministerial in nature. An action is ministerial in nature if it does not require the City official or employee who is the subject of the

communication or contact to exercise any discretion concerning an outcome or course of action.

### **E. What kind of Communication falls within these Lobbying Activities?**

For purposes of the Act, a communication for the purpose of influencing a governmental action includes any contact with a City elected or appointed public official or employee, either directly or indirectly, orally, in writing, or electronically. Examples include, but are not limited to, an in-person meeting, telephone call, video conference, email, letter, text message or indirectly through intermediaries.

### **F. Who are the Officers of the City of Berkeley?**

The Act covers lobbying of any elected or appointed official, or employee, whether compensated or not, of the City of Berkeley or any of its agencies.

- An employee shall have the same meaning as set out in Title 20 of the Code of Federal Regulations § 404.1007(b).
- Examples include permanent staff, temporary employees, City Councilmembers, Rent Board Commissioners, School Board Directors, City Council aides, and appointed commissioners.
- Boards and commissions shall mean any body created by the City Council or City Charter.

### **G. What Kind of Communications are Exempt?**

The Act exempts certain types of individuals and communications. Those exemptions include:

1. A public official acting in their official capacity.
2. The publication or broadcasting of news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge governmental action.
3. A person specifically invited by the City Council or any committee thereof, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City charged by law with the duty of conducting a hearing or making a decision, for the purpose of giving testimony or information in aid of the body or person extending the invitation.
4. A person who, without extra compensation and not as part of, or in the ordinary course of, their regular employment, presents the position of their

#### *Examples:*

- A person who talks to a City public works employee on behalf of a neighborhood association to get a stop sign placed at a busy intersection does not qualify as a lobbyist unless the person is being paid \$1,000 per month or more to lobby on behalf of the association or is a paid employee, officer or director, of the neighborhood association.
- An employee of a community agency speaking at a City Council meeting, to advocate on behalf of their agency when the Executive Director of the agency is already registered as a local governmental lobbyist does not have to register.

organization when that organization has one or more of its officers, directors, employees or representatives already registered under the provisions of this Act.

5. The designated representatives of a recognized employee organization whose activities are limited to communicating with elected or appointed City officials or their representatives regarding (1) wages, hours and other terms and conditions of employment pursuant to the procedures set forth in Government Code Sections 3500—3510, or (2) the administration, implementation or interpretation of an existing employment agreement.
6. Persons whose only activity is to (1) submit a bid on a competitively bid contract, (2) respond to a request for proposal or qualifications, or (3) apply for grant funding or (4) negotiate the terms of a written contract or grant if selected pursuant to such bid or request for proposal or qualifications. This exception shall not apply to persons who attempt to influence the award or terms of a contract or grant with any elected or appointed official, unless their attempts are limited to speaking during public comment at a publicly noticed meeting.
7. Any individuals serving in their professional capacity (e.g. attorneys, architects or engineers), who are employed by a local government lobbyist, and whose attempts to influence governmental action are limited to: (1) Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public to represent or testify on behalf of a proposed development; (2) Preparing or submitting documents or writings in connection with the proposed development for use at a public meeting, public hearing, or other official proceeding open to the public; and (3) Contacting city employees or agents working under the direction of the City Manager directly relating to (1) and (2) above, or contacting elected or appointed City officials directly relating to (1) and (2) above.

*Examples:*

An architect attends and presents to the Zoning Adjustments Board, advocating for approval of their current development project:

- The developer or property owner is already registered as a local governmental lobbyist.
  - Since a representative from the project is already registered, the architect is exempt from registering.
- The developer or property owner is not registered as a local governmental lobbyist.
  - Then the architect must register.
- A property owner representing themselves before ZAB would not have to register.

8. To persons appearing or acting on behalf of a labor union of which they are an employee or member.
9. To an attorney who communicates with a City official or employee regarding representation of a party or potential party to pending or actual litigation, or to a pending or actual administrative enforcement proceeding, brought by or against the City or City agent, officer or employee.
10. Persons employed by, or a member of, a tax-exempt Section 501(c)(3) or 501(c)(4), or 501(c)(6) organization, unless lobbying for specific City funding of the organization, project controlled by the organization or City legislation.

## CHAPTER II. GETTING STARTED: REGISTRATION

### CHAPTER II. INDEX

- A. Filing Officer
- B. Initial Registration
- C. Failure to Register
- D. Training
- E. Cessation of Lobbying Activities
- F. Availability of City Records
- G. Individual Lobbyist Records

#### A. Filing Officer

Berkeley's filing officer under both city and state law is the City Clerk. The City Clerk will provide forms and technology to complete and file the required reports. All lobbyist forms required by the Lobbyist Registration Act are filed with the City Clerk Department, located on the first floor of 2180 Milvia Street.

#### B. Initial Registration (BMC 2.09.060)

Beginning on January 1, 2020, a local governmental lobbyist must register prior to any lobbying activity taking place. Within ten business days of initial registration, each local governmental lobbyist shall pay a non-refundable fee of \$500. Upon registration, lobbyists will be given information regarding how to access the online portal provided by NetFile for future disclosure filing obligations.

- ❖ After initial registration, all individual local governmental lobbyists must also pay an annual re-registration fee of \$500 on or before every subsequent February 1.
- ❖ The City Clerk will waive all registration fees for any employee, officer or director of a tax-exempt organization presenting proof of the organization's tax-exempt status under 26 U.S.C. Sections 501(c)(3), 501(c)(4), or 501(c)(6) so long as the employee is acting in that capacity as a local government lobbyist. Proof of an organization's tax-exempt status shall include an Internal Revenue Service determination letter or other documentation deemed sufficient by the City Clerk.

All information required shall be filed with the City Clerk on forms provided by the City Clerk, and accompanied by a handwritten signature and a declaration that the contents thereof are true and correct under penalty of perjury.

On the registration form, the local governmental lobbyist must provide:

1. Their name, business address, e-mail address and business telephone number.
2. The name, business address and business telephone number of each client for whom the local governmental lobbyist attempts or receives compensation to influence any proposed or pending governmental action of the City.

3. The name, business address, and business telephone number of the local governmental lobbyist's employer, firm or business affiliation.

Failure to pay the registration fee shall invalidate a local governmental lobbyist's registration with the Open Government Commission.

A local governmental lobbyist's registration and fee are not transferable to any other Local governmental lobbyist.

### **C. Failure to Register (BMC 2.09.100)**

If the OGC determines that a person is subject to registration and failed to register within **seven** days of that determination, the person shall be barred from acting as a local governmental lobbyist except when appearing before the City Council or other board or commissions at a noticed public meeting. Such debarment shall be in effect for three months from the date of such determination or until registration, whichever is later. The OGC may establish additional processes for the termination of a local governmental lobbyist's registration.

### **D. Training (BMC 2.09.080)**

Each local governmental lobbyist must complete a lobbyist training session offered by the OGC, through the City Clerk Department, **within 30 days** of the local governmental lobbyist's initial registration. The training is available via an online training.

Once completed, the local governmental lobbyist must file a signed Affirmation of Training Completion stating, under penalty of perjury, that the local governmental lobbyist has completed the training session. An original signature is required and must be submitted to the City Clerk Department.

Failure to file an Affirmation of Training Completion can result in a civil penalty.

Failure to file the signed declaration required by this section within 30 days of the local governmental lobbyist's initial registration shall constitute a violation of this Act. The Open Government Commission may invalidate a registration for failure to comply with this section.

### **E. Cessation of Lobbying Activities (BMC 2.09.070)**

A local governmental lobbyist who has ended all activities that require registration shall file a final disclosure report no later than the date required by Section 2.09.140 along with a final registration form indicating that all lobbying activities have terminated and the lobbyist will be relieved of any further filing responsibilities until such time that they resume activity requiring registration.

### **F. Availability of City Records (BMC 2.09.110)**

All registration and disclosure information is open for public inspection at the City Clerk Department and online through NetFile. The information will be retained by the City for a period of five (5) years and will be accessible through the City's webpage.

**G. Individual Lobbyist Records (2.09.130)**

A local governmental lobbyist shall retain, for a period of five years, all books, papers and documents necessary to substantiate the registration required to be made under the Act. Records must be sufficient to document the accuracy of disclosure reports. Upon request, lobbyists must make all records available to the OGC, City Attorney, and City Clerk.

## CHAPTER III. WHEN AND WHAT MUST A LOBBYIST FILE ON DISCLOSURE REPORTS?

### CHAPTER III. INDEX

- A. Quarterly/Annual Disclosure Report
- B. General Disclosure Requirements
- C. How to File?

#### A. Quarterly/Annual Disclosure Report (BMC 2.09.140, 2.09.120, 2.09.150)

For each calendar quarter in which a local governmental lobbyist was required to be registered, they shall file a quarterly disclosure report with the City Clerk, unless the local governmental lobbyist is a sole proprietorship, is an in-house local governmental lobbyist who lobbies solely on behalf of a lobbyist employer with four or fewer employees, or works for a lobbying firm with four or fewer employees, in which case they shall file annually. The reports shall be due no later than thirty (30) days after the end of the reporting period.

A lobbyist-employer (e.g., company or organization employing an in-house lobbyist) may prepare and submit registrations, reports, and declarations on behalf of in-house lobbyists provided that the name of the lobbyist appears on the filings.

- ❖ An amendment is required within five (5) business days of changed circumstances that require correction or updating of such information.
- ❖ Amendments are required **each time the client list changes**.

#### B. General Disclosure Requirements

To comply with either the annual or quarterly disclosure filing requirements, a local government lobbyist must complete and submit a disclosure of lobbying activities report, detailing the lobbying activity that took place to the City Clerk Department. The disclosure of lobbying activities reports contain the schedules listed below. Lobbyists shall use only the schedules that pertain to their type of lobbying activities. The cover page of the disclosure report includes the option to indicate that no reportable lobbying activity has taken place.

| <u>Deadline</u>      | <u>Reporting Period</u> |
|----------------------|-------------------------|
| April 30             | January 1 - March 30    |
| July 30              | April 1 - June 30       |
| October 30           | July 1 - September 30   |
| January 30           | October 1 - December 31 |
| Annual: January 30** | January 1 - December 31 |

\*\* Only applies to sole proprietor, an in-house lobbyist or firms with 4 or fewer employees.

**1. Schedule A: Governmental Action Disclosure.** Lists information regarding all discretionary administrative or legislative actions of the City, other than an action which is ministerial in nature, that the lobbyist sought to influence, including:

- a. The item(s) of governmental action and the name and address of the client(s) on whose behalf the local governmental lobbyist sought to influence.
- b. For each item of governmental action sought to be influenced, the name and title of each City employee, or elected or appointed City official with whom the local governmental lobbyist specifically met or communicated.
- c. A brief narrative description (no longer than three sentences) of the position advocated by the local governmental lobbyist on behalf of the identified client.

**2. Schedule B: Employment.** Lists information regarding the employment of any City employee, elected/appointed City official, or a member of the immediate family of one of these individuals by the local governmental lobbyist, or a registered client of a the lobbyist, including:

- a. The name of the person employed or hired.
- b. A description of the services actually performed.
- c. The total payments made to the City employee or elected or appointed City official during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.

**3. Schedule C: Compensated Services.** Lists information regarding any compensated services the local governmental lobbyist has been hired to perform for any elected City officeholder or candidate for elected City office, including:

- a. The name of the person who employed or hired the local governmental lobbyist.
- b. A description of the services actually performed.
- c. The total payments made during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.

**“Client”** means the real party in interest for whose benefit the services of a local governmental lobbyist are actually performed. In the case of in-house local governmental lobbyist, “client” means the lobbyist employer of which the in-house local governmental lobbyist is an employee, officer or director.

**“Payment”** means a payment, distribution transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

- 4. Schedule D: Contribution Solicitations.** Lists information regarding any solicitations by the local governmental lobbyist for contributions to an elected City officeholder, candidate for City office, or committee or campaign fund controlled by such officeholder or candidate, including:
- a. The names of the persons whom the local governmental lobbyist solicited.
  - b. The officeholder or candidate for whose benefit each solicitation was made.

If a local governmental lobbyist sources a donation from more than fifty individual members or employees of a corporation, union or other association that is a registered client of the local governmental lobbyist, or if the local governmental lobbyist makes a solicitation to all members or employees of a corporation, union or association that is a registered client of the local governmental lobbyist, the local governmental lobbyist may choose to disclose the name of the registered client instead of the names of the persons whom the lobbyist actually solicited.

### **C. How to File?**

You may file disclosure reports either in person at the City Clerk Department or by accessing the City's online filing portal, NetFile. Quarterly and annual disclosure reports may be obtained through the individual lobbyist's filing portal. NetFile can be accessed through the City's webpage or visiting the filer access portal at <https://ssl.netfile.com/static/agency/brk/>.

Registered lobbyists must complete the report, print and sign it, and upload it into the system. **A hand-written signature is required on all documents.** Completed disclosure reports may also be sent by U.S. mail or delivered in person to the City Clerk Department. Disclosure reports may not be submitted via email.

Complete user instructions for NetFile are available through the City Clerk Department. Lobbyists may contact the City Clerk Department at (510) 981-6908 or [elections@cityofberkeley.info](mailto:elections@cityofberkeley.info) to get started with NetFile. The City Clerk Department also offers one-on-one training for lobbyists on using NetFile.

## CHAPTER IV. PROHIBITED ACTIVITIES

### CHAPTER IV. INDEX

- A. Personal Obligation of City Officials Prohibited
- B. Deception & False Appearances Prohibited
- C. Deception Prohibited
- D. Restrictions on Payments And Expenses Benefiting Local Public Officials
- E. Restriction on Campaign Consultants Lobbying Current And Former Clients

#### **A. Personal Obligation of City Officials Prohibited (BMC 2.09.180)**

A local governmental lobbyist, or the lobbyist's clients must abstain from carrying out any act with the express purpose and intent of placing any elected or appointed City official or City employee under personal obligation to the local governmental lobbyist, client, contractor or person.

**"City official"** means the Mayor, members of the City Council and Rent Stabilization Board, City Commissioners, the City Auditor and School Board members.

#### **B. Deception & False Appearances Prohibited (BMC 2.09.190 & 2.09.200)**

No local governmental lobbyist or client may deceive or attempt to deceive a City employee, or elected or appointed City official as to any material fact pertinent to any pending or proposed governmental action. Neither may a local governmental lobbyist or client attempt in any way to create a fictitious appearance of public favor (or disfavor) of any governmental action or to cause any communication to be sent to a City employee in the name of any fictitious person or in the name of any real person without the real person's consent.

#### **C. Prohibited Representations (BMC 2.09.210)**

No local governmental lobbyist or client may represent, either directly or indirectly, orally or in writing that such person can control or obtain the vote or action of any City employee, or elected or appointed City official.

#### **D. Restrictions on Payments and Expenses Benefiting Local Public Officials (BMC 2.09.220)**

No local government lobbyist or client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals, in which the cumulative value of such payments or expenses exceeds \$240 during any calendar year. The prohibited payments and expenses include gifts, honoraria and any other form of compensation.

**"Payment"** means a payment, distribution transfer, loan advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

The following are exempt from the restrictions in 2.09.220:

1. gifts of food or refreshment worth \$25 or less per occasion, if the local governmental lobbyist is a 501 (c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501 (c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event;
2. payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed;
3. gifts of food or beverage worth \$25 or less per occasion, if said gift is provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present;
4. a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code;
5. informational material;
6. campaign contributions not to exceed the limit imposed by the Berkeley Election Reform Act or state law, as applicable; and
7. salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this section.

For purposes of the gift limits imposed by section 2.09.220, gifts shall be aggregated as set forth in state law.

The following types of payments are prohibited under 2.09.220:

1. A lobbyist or a lobbyist's registered client cannot use an intermediary for payments, including any gift of travel that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.
2. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal benefit or for the personal benefit of a member of the immediate family of one of these individuals.
3. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the

third-party is providing the payment or expense on behalf of a lobbyist.

**E. Restriction on Campaign Consultants Lobbying Current and Former Clients (BMC 2.09.230)**

A campaign consultant cannot lobby any elected or appointed City official of the City who is a current or former client of the campaign consultant. This prohibition shall not apply to:

1. An employee of a campaign consultant whose sole duties are clerical; or
2. An employee of a campaign consultant who did not personally provide campaign consulting services to the officer of the city with whom the employee seeks to communicate in order to influence local legislative or administrative action.

Whenever the following words or phrases are used in Section 2.09.230, they are defined as follows:

1. "Current client" means a person for whom the campaign consultant has been contracted to provide campaign consulting services. If such person is a committee as defined by Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12), the current client shall be any individual who controls such committee; any candidate that such committee was primarily formed to support; and any proponent or opponent of a ballot measure that the committee is primarily formed to support or oppose.
2. "Employee" means an individual employed by a campaign consultant, but does not include any individual who has an ownership interest in the campaign consultant that employs them.
3. "Former client" means a person for whom the campaign consultant has terminated all campaign consulting services within the past twenty-four (24) months.

## CHAPTER V. ENFORCEMENT

### CHAPTER V. INDEX

- A. Complaints, Investigations & Civil Actions
- B. Hearings & Violations
- C. Penalties
- D. Criminal Violation
- E. Joint and Several Liability

#### **A. Complaints, Investigations & Civil Actions (BMC 2.09.250 & 2.09.280)**

Any person who believes a violation of the Act has occurred may file a complaint with the OGC, which may (1) refer to the secretary to investigate, to the extent the secretary has not done so; (2) dismiss the complaint; or (3) find probable cause that a violation of this chapter has occurred.

The Commission may also initiate an investigation of a possible violation based on information presented to it, including by staff.

If the Commission has reason to believe that a violation has occurred or is about to occur, it may also institute action at law or equity to enforce and compel compliance with the provisions in BMC Chapter 2.09.280. Any resident of the City who believes that a violation has occurred, may institute such action at law or equity for injunctive relief and to compel compliance with the provisions in BMC Chapter 2.09.

#### **B. Hearings & Violations (BMC 2.09.260 & 2.09.270)**

In reviewing a complaint or an investigation that the Commission has initiated, if the Commission determines that there is probable cause for believing that a violation has occurred and makes a good faith effort to give reasonable written notice to the person or persons involved, it may hold a hearing to determine if the violation has occurred, and may determine an appropriate remedy if a violation is found. The Commission shall conduct such hearings and proceedings with respect to determinations of probable cause pursuant to adopted procedures.

➤ If the Commission finds a violation, the Commission may:

1. Find mitigating circumstances and take no further action.
2. Issue a public statement or reprimand.
3. Impose a civil penalty.
4. Take other advisory or informal action as specified in the Open Government Ordinance.

**C. Penalties (BMC 2.09.280 - BMC 2.09.290)**

The Commission may impose penalties of up to one thousand dollars (\$1,000) for each violation or, if the violation was a prohibited payment, expense or gift under Section 2.09.220, of up to three times the value of each prohibited payment, expense or gift.

Unpaid penalties will be referred to the appropriate City agency or department for collection.

For local government lobbyists found to have repeatedly (over more than one quarter), knowingly, or willfully violated the Act, the Commission may impose penalties of up to twenty-five thousand dollars (\$25,000) for any violation, using factors adopted by the Commission.

**D. Criminal Violation (BMC 2.09.300)**

Any person who knowingly or willfully violates the provisions of this Act is guilty of a misdemeanor. The prosecution of any misdemeanor violation shall commence within four years after the date on which the alleged violation occurred.

No person convicted of a misdemeanor violation of this Act may act as a local governmental lobbyist, render consultation or advice to any registered client, or otherwise attempt to influence a governmental action for compensation for one year after such conviction.

**E. Joint and Several Liability (BMC 2.09.310)**

Should two or more persons be responsible for any violation, they may be jointly and severally liable. The client or employer of a local governmental lobbyist shall be jointly and severally liable for all violations of the Act committed by the local governmental lobbyist in connection with acts or omissions undertaken on behalf of that client or employer.

If a business, firm or organization registers or files local governmental lobbyist disclosures on behalf of its employees pursuant to Section 2.09.150, the business, firm or organization may be held jointly and severally liable for any failure to disclose its employees' lobbying activities.

**APPENDIX A: RESOURCE DIRECTORY**

1. OPEN GOVERNMENT COMMISSION  
2180 Milvia Street, Fourth Floor  
Berkeley, CA 94704  
(510) 981-6998  
[fcpc@cityofberkeley.info](mailto:fcpc@cityofberkeley.info)  
<http://www.cityofberkeley.info/opengovernmentcommission/>
  
2. CITY CLERK  
2180 Milvia Street, First Floor  
Berkeley, CA 94704  
(510) 981-6900  
[elections@cityofberkeley.info](mailto:elections@cityofberkeley.info)  
<http://www.cityofberkeley.info/clerk>
  
3. BERKELEY MUNICIPAL CODE  
Lobbyist Registration and Regulations  
Chapter 2.09  
<https://www.codepublishing.com/CA/Berkeley/>

**APPENDIX B: FULL TEXT OF ORDINANCE****ORDINANCE NO. 7,749-N.S.****AMENDMENTS TO THE BERKELEY LOBBYIST REGISTRATION ACT; AMENDING  
BERKELEY MUNICIPAL CODE CHAPTER 2.09**

BE IT ORDAINED by the Council of the City of Berkeley as follows:

That Chapter 2.09 of the Berkeley Municipal Code (Berkeley Lobbyist Registration Act) is hereby amended to read as follows:

**Chapter 2.09****LOBBYIST REGISTRATION AND REGULATIONS****Article 1. General Provisions****Section 2.09.010 Title.**

This chapter shall be known as the Berkeley Lobbyist Registration Act, hereafter "the Act."

**Section 2.09.020 Findings.**

A. Democracy in our representative form of government requires that the public have an opportunity to know as much as possible what lobbying efforts are taking place that may affect decisions being made by our elected officials, City staff, boards, and commissions.

B. To the extent possible, it is the government's responsibility to balance the responsibility to ensure the health, safety, and general welfare of the public at large in a fiscally and environmentally sustainable manner.

**Section 2.09.030 Purpose.**

Therefore, the purpose of this ordinance is to codify certain existing practices, as well as to adopt new practices, to ensure that the public has an adequate opportunity to be informed of the City's activities and to communicate its concerns to its elected and appointed officials.

**Article 2. Definitions and Interpretation of This Act****Section 2.09.040 Words and phrases.**

Words and phrases used in this Act shall have the same meanings and be interpreted in the same manner as words and phrases used in the Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12) and the Political Reform Act of 1974, California Government Code 81000 — 91014, hereafter the Political Reform Act, as amended and the regulations issued pursuant thereto, unless otherwise expressly provided or unless the

context otherwise requires.

**Section 2.09.050 Definitions.**

For the purposes of this Act, the following definitions shall be applicable:

A. "Administrative enforcement proceeding" means a proceeding in which a City employee, officer, commission, board or other body seeks to enforce law or policy through methods including but not limited to correction of violations, imposition of disciplinary action, abatement of nuisances, or payment of fines or other penalties. "Administrative enforcement proceeding" includes but is not limited to code enforcement proceedings, enforcement proceedings before the Fair Campaign Practices Commission and Open Government Commission, officer misconduct proceedings before the Police Review Commission, and any employee disciplinary proceeding. "Administrative enforcement proceeding" does not include land use approval proceedings or other permitting processes.

B. "Campaign consultant" means any person or entity that receives or is promised economic consideration equaling \$1,000 or more in a calendar year for campaign consulting services. The term "campaign consultant" includes any person or entity that subcontracts with a campaign consultant to provide campaign consulting services, and that receives or is promised economic consideration equaling \$1,000 or more in a calendar year for providing campaign consulting services. The term "campaign consultant" does not include attorneys who provide only legal services, accountants who provide only accounting services, pollsters who provide only polling services, and treasurers who provide only those services which are required of treasurers by the Political Reform Act and the Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12).

C. "Campaign consulting services" means participating in campaign management or developing or participating in the development of campaign strategy.

D. "City legislation" means ordinances, resolutions, ballot measures, Charter amendments, regulations or similar items considered by the City Council or any commission, board or other City legislative body.

E. "Client" means the real party in interest for whose benefit the services of a local governmental lobbyist are actually performed. In the case of an in-house local governmental lobbyist, "client" means the lobbyist employer of which the in-house local governmental lobbyist is an employee, officer or director. An individual member of an organization shall not be deemed to be a "client" solely by reason of the fact that such member is individually represented by an employee or agent of the organization as a regular part of such employee's or agent's duties with the organization as long as such member does not pay an amount of money or other consideration in addition to the usual membership fees for such representation.

F. "Committee" shall be defined as set forth in the Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12).

G. "Contractor" means any party to an agreement in which the value of the consideration exceeds one thousand dollars (\$1,000), and, (1) The City is a party, or (2) the agreement or its effectiveness is in any way dependent or conditioned upon approval by the City Council or any board or commission, officer or employee of the City.

H. "Contribution" shall have the same meaning as set forth in the Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12).

I. "Controlled committee" shall have the same meaning as set forth in the Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12), but shall not include any state committees.

J. "Employee" shall have the same meaning as set out in Title 20 of the Code of Federal Regulations § 404.1007(b).

K. "Gift" shall be defined as set forth in the Political Reform Act, and the regulations adopted thereunder.

L. "Gift of travel" shall mean payment, advance, or reimbursement for travel, including transportation, lodging, and food and refreshment connected with the travel.

M. "Governmental action" means any discretionary administrative or legislative action of the City other than an action which is ministerial in nature. An action is ministerial in nature if it does not require the City official or employee who is the subject of the communication or contact to exercise any discretion concerning an outcome or course of action.

N. "Influence" or "influencing" means contacting a City elected or appointed official or employee, either directly or indirectly, for the purpose of promoting, supporting, modifying, opposing, causing the delay or abandonment of conduct, or otherwise intentionally affecting the official actions.

O. "In-house local governmental lobbyist" means a local governmental lobbyist who is an employee, officer or director of a business, firm or organization and who lobbies solely on behalf of that business, firm or organization. "In-house local governmental lobbyist" does not include a local governmental lobbyist who is a partner, owner, officer or employee of a lobbying firm.

P. "Lobbyist employer" means any business, firm, or organization for which an employee, officer or director qualifies as an in-house local governmental lobbyist. "Lobbyist employer" does not include a lobbying firm.

Q. "Lobbying firm" means any business entity which receives or becomes entitled to receive any compensation, other than reimbursement for reasonable travel expenses, for the purpose of influencing any proposed or pending governmental action of the City on behalf of any other person or entity, and any partner, owner, officer, or employee of the business entity is a local governmental lobbyist. "Lobbying firm" does not include a bona fide trade, labor or membership organization which is ongoing in nature and whose membership services are not limited to influencing governmental action of the City.

R. "Local governmental lobbyist" means any individual who: (1) receives or is entitled to receive one thousand dollars (\$1,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly or through agents with any elected or appointed City official or City employee, for the purpose of influencing any proposed or pending governmental action of the City; or (2) whose duties as a paid employee, officer or director of any business, firm, or organization include communication directly or through agents with any elected or appointed City official or City employee, for the purpose of influencing any proposed or pending governmental action of the City. No person is a local governmental lobbyist by reason of activities described in Section 2.09.090. In case of any ambiguity, the

definition of "local governmental lobbyist" shall be interpreted broadly.

S. "Payment" means a payment, distribution transfer, loan advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.

T. "Person doing business with the City" means any person whose financial interests are materially affected by governmental action as defined by Section 2.09.050(K). It includes persons currently doing business with the City, planning to do business with the City, or having done business with the City within two years. For purposes of this Act a person's financial interests shall not be found to be materially affected by the issuance of any license or permit which does not require the exercise of discretion by City elected or appointed officials or employees.

U. "Public event" shall mean an event or gathering that any member of the public may attend, has been publicly announced and publicized in advance, and for which there is no admission cost or fee.

V. "Public official" means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies, the State of California, any political subdivision of the state, including cities, counties, districts, or any public corporation, agency or commission.

W. "Registered client" means any client of a local governmental lobbyist listed as part of the requirements of sections 2.09.060 and 2.09.140.

X. "State committee" shall mean a committee that makes contributions or expenditures to support or oppose candidates or measures voted on in state elections, or in more than one county.

### **Article 3. Registration of Lobbyists**

#### **Section 2.09.060 Registration with the Open Government Commission.**

A. No person shall act as local governmental lobbyist before registering as a local governmental lobbyist with the Open Government Commission, through the office of the City Clerk.

B. At the time of registering, the local governmental lobbyist shall file with the City Clerk, in writing:

1. His or her name, business address, e-mail address, and business telephone number.

2. The name, business address, and business telephone number of each client for whom the local governmental lobbyist attempts or receives compensation to influence any proposed or pending governmental action of the City.

3. The name, business address, and business telephone number of the local governmental lobbyist's employer, firm or business affiliation.

C. The local governmental lobbyist shall reregister annually during the month of January and at that time shall resubmit the required information.

D. Local governmental lobbyists shall amend any information submitted to the Open Government Commission through registration and quarterly disclosures within five business days of the changed circumstances that require correction or updating of such information.

E. Within ten business days of initial registration, and each annual registration, each local governmental lobbyist shall pay a non-refundable fee of \$500.

F. Failure to pay the annual fee shall invalidate a local governmental lobbyist's registration with the Open Government Commission. The Open Government Commission is also authorized to establish additional processes for the termination of a local governmental lobbyist's registration.

G. The City Clerk shall waive all registration fees for any employee, officer or director of a tax-exempt organization presenting proof of the organization's tax-exempt status under 26 U.S.C. Sections 501(c)(3), 501(c)(4), or 501(c)(6) so long as they are acting in that capacity. Proof of an organization's tax-exempt status shall include an Internal Revenue Service determination letter or other documentation deemed sufficient by the City Clerk.

H. The City Clerk shall deposit all fees collected pursuant to this Section in the General Fund of the City of Berkeley.

I. A local governmental lobbyist's registration and fee are not transferrable to any other local governmental lobbyist.

#### **Section 2.09.070 Cessation of Lobbying Activities.**

A local governmental lobbyist who has terminated all activities requiring registration shall file a final disclosure report no later than the date required by Section 2.09.140 along with a final registration form indicating that all lobbying activities have terminated, and thereupon shall be relieved of any further obligations under this Act until such time as he or she commences activity requiring registration.

#### **Section 2.09.080 Lobbyist training.**

A. Each local governmental lobbyist must complete a lobbyist training session offered by the Open Government Commission, through the Office of the Clerk, within 30 days of the local governmental lobbyist's initial registration. Thereafter, local governmental lobbyists shall engage in additional training sessions as required by the Open Government Commission, at its discretion.

B. The Open Government Commission shall make local governmental lobbyist training sessions available on its website.

C. On or before the deadline for completing any required local governmental lobbyist training session, a local governmental lobbyist must file a signed declaration with the Open Government Commission stating, under penalty of perjury, that the local governmental lobbyist has completed the required training session.

D. Failure to file the signed declaration required by this section within 30 days of the local governmental lobbyist's initial registration shall constitute a violation of this Act. The Open Government Commission may invalidate a registration for failure to comply with this section.

#### **Section 2.09.090 Exceptions.**

The provisions of this Act shall not apply:

A. To a public official acting in his or her official capacity.

B. To the publication or broadcasting of news items, editorials, or other comments,

or paid advertisements, which directly or indirectly urge governmental action.

C. To a person specifically invited by the City Council or any committee thereof, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City charged by law with the duty of conducting a hearing or making a decision, for the purpose of giving testimony or information in aid of the body or person extending the invitation.

D. To a person who, without extra compensation and not as part of, or in the ordinary course of, his or her regular employment, presents the position of his or her organization when that organization has one or more of its officers, directors, employees or representatives already registered under the provisions of this Act.

E. To designated representatives of a recognized employee organization whose activities are limited to communicating with elected or appointed City officials or their representatives regarding (1) wages, hours and other terms and conditions of employment pursuant to the procedures set forth in Government Code Sections 3500—3510, or (2) the administration, implementation or interpretation of an existing employment agreement.

F. To persons whose only activity is to (1) submit a bid on a competitively bid contract, (2) respond to a request for proposal or qualifications, or (3) apply for grant funding or (4) negotiate the terms of a written contract or grant if selected pursuant to such bid or request for proposal or qualifications. This exception shall not apply to persons who attempt to influence the award or terms of a contract or grant with any elected or appointed official, unless their attempts are limited to speaking during public comment at a publicly noticed meeting.

G. To any individuals serving in their professional capacity (e.g. attorneys, architects, or engineers), who are employed by a local government lobbyist, and whose attempts to influence governmental action are limited to:

(1) Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public to represent or testify on behalf of a proposed development;

(2) Preparing or submitting documents or writings in connection with the proposed development for use at a public meeting, public hearing, or other official proceeding open to the public; and

(3) Contacting city employees or agents working under the direction of the city manager directly relating to (1) and (2) above, or contacting elected or appointed City officials directly relating to (1) and (2) above.

H. To persons appearing or acting on behalf of a labor union of which they are an employee or member.

I. To an attorney who only communicates with a City official or employee regarding representation of a party or potential party to pending or actual litigation, or to a pending or actual administrative enforcement proceeding, brought by or against the City or City agent, officer or employee.

J. Persons employed by, or a member of, a tax-exempt Section 501(c)(3) or 501(c)(4), or 501(c)(6) organization, unless lobbying for specific City funding of the organization, project controlled by the organization or City legislation.

**Section 2.09.100 Failure to Register.**

If the Open Government Commission determines that a person is subject to registration and he or she fails to register within seven days of that determination, he or she shall be barred from acting as a local governmental lobbyist except when appearing before the City Council or other board or commission at a noticed public meeting. Such debarment shall be in effect for three months from the date of such determination or until registration, whichever is later.

**Section 2.09.110 Availability of information.**

All registration information shall be retained by the City Clerk for a period of five years from the date of filing, shall constitute part of the public records of the City, and shall be open to public inspection.

**Section 2.09.120 Filing under penalty of perjury.**

All information required by this Act shall be filed with the City Clerk on forms prescribed by the Open Government Commission, and accompanied by a declaration by the local governmental lobbyist that the contents thereof are true and correct under penalty of perjury. In the case of an in-house local governmental lobbyist, the lobbyist employer, or agent thereof, may complete and file any declaration required by this section.

**Section 2.09.130 Records.**

A local governmental lobbyist shall retain, for a period of five years, all books, papers and documents necessary to substantiate the registration required to be made under this Chapter.

**Article 4. Disclosure of Lobbying Activities and Audits****Section 2.09.140 Quarterly/Annual disclosure.**

For each calendar quarter in which a local governmental lobbyist was required to be registered, he or she shall file a quarterly report with the City Clerk, unless the local governmental lobbyist is a sole proprietorship, is an in-house local governmental lobbyist who lobbies solely on behalf of a lobbyist employer with four or fewer employees, or works for a lobbying firm with four or fewer employees, in which case they shall file annually. The reports shall be due no later than thirty (30) days after the end of the reporting period. The report shall contain the following information:

A. The item(s) of governmental action and the name and address of the client(s) on whose behalf the local governmental lobbyist sought to influence.

B. For each item of governmental action sought to be influenced, the name and title of each City employee, or elected or appointed City official with whom the local governmental lobbyist specifically met or communicated.

C. A brief narrative description (no longer than three sentences) of the position advocated by the local governmental lobbyist on behalf of the identified client.

D. If any local governmental lobbyist, or a registered client at the behest of a local governmental lobbyist, employs or requests, recommends or causes a client of the local governmental lobbyist to employ, and such client does employ, any City employee, or

elected or appointed City official, in any capacity whatsoever, or a member of the immediate family of one of these individuals, the local governmental lobbyist shall disclose (1) the name of the person employed or hired, (2) a description of the services actually performed, and (3) the total payments made to the City employee or elected or appointed City official during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.

E. If any elected City officeholder or candidate for elected City office employs or hires a local governmental lobbyist to provide compensated services to the officeholder or candidate, the local governmental lobbyist shall disclose (1) the name of the person who employed or hired the local governmental lobbyist, (2) a description of the services actually performed, and (3) the total payments made during the reporting period identified only by the following categories: less than \$250; between \$250 and \$1,000; greater than \$1,000 but less than \$10,000; greater than \$10,000.

F. If a local governmental lobbyist solicits any person to make a contribution to an elected City officeholder, candidate for City office or to any committee or campaign fund controlled by such officeholder or candidate, the local governmental lobbyist shall disclose the names of the persons whom the local governmental lobbyist solicited, and the officeholder or candidate for whose benefit each solicitation was made. A solicitation does not include a request for a contribution made:

1. in a mass mailing sent to members of the public;
2. in response to a specific request for a recommendation;
3. to a gathering which members of the public may attend; or
4. in a newspaper, on radio or television, or in any other mass media.

A local governmental lobbyist does not "solicit" solely because his or her name is printed with other names on stationery or a letterhead used to request contributions. If a local governmental lobbyist sources a donation from more than fifty individual members or employees of a corporation, union or other association that is a registered client of the local governmental lobbyist, or if the local governmental lobbyist makes a solicitation to all members or employees of a corporation, union or association that is a registered client of the local governmental lobbyist, the local governmental lobbyist may choose to disclose the name of the registered client instead of the names of the persons whom the lobbyist actually solicited.

**Section 2.09.150 Registration and filing of disclosures by organizations.**

A lobbyist employer, or agent thereof, may complete and submit any registration or local governmental lobbyist disclosure on behalf of any in-house local governmental lobbyist it employs. The Open Government Commission is authorized to establish procedures to permit the registration and filing of local governmental lobbyist disclosures by a business, firm, or organization on behalf of the in-house local governmental lobbyists employed by those businesses, firms, or organizations.

**Section 2.09.160 Audits.**

At least once every year, the Open Government Commission shall initiate audits of at least 5% of registered local governmental lobbyists, at minimum one local governmental lobbyist, selected at random. At the request of the Open Government Commission, the City Clerk may assist in conducting these audits. This requirement shall not restrict the authority of the Open Government Commission or the City Clerk to undertake any other audits or investigations of a local governmental lobbyist authorized by law or regulation. Within ten business days of a request by the Open Government Commission or City Clerk, a local governmental lobbyist or anyone required to register as a local governmental lobbyist shall provide the requested documents required to be retained under this Chapter.

**Article 5. Prohibitions****Section 2.09.170 No unregistered employment or activity.**

A. A local governmental lobbyist shall not engage in any activity on behalf of a client as a local governmental lobbyist unless such local governmental lobbyist is registered and has listed such client with the City Clerk. A local governmental lobbyist shall submit an amended registration form indicating the addition of a new client before lobbying on behalf of that client.

B. No person shall accept compensation for acting as a local governmental lobbyist except upon condition that he or she forthwith register as required by this Act.

**Section 2.09.180 Personal obligation of City officials prohibited.**

Local governmental lobbyists, or clients shall abstain from carrying out any act with the express purpose and intent of placing any elected or appointed City official or City employee under personal obligation to such local governmental lobbyist, client, contractor or person.

**Section 2.09.190 Deception prohibited.**

No local governmental lobbyist or client shall deceive or attempt to deceive a City employee, or elected or appointed City official as to any material fact pertinent to any pending or proposed governmental action.

**Section 2.09.200 False appearances prohibited.**

No local governmental lobbyist or client shall attempt in any way to create a fictitious appearance of public favor or disfavor of any governmental action or to cause any communication to be sent to a city employee in the name of any fictitious person or in the name of any real person without the real person's consent.

**Section 2.09.210 Prohibited representations.**

No local governmental lobbyist or client shall represent, either directly or indirectly, orally or in writing that such person can control or obtain the vote or action of any City employee, or elected or appointed City official.

**Section 2.09.220 Restrictions on payments and expenses benefiting local public officials.**

A. No local government lobbyist or a registered client shall make any payment or incur any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals, in which the cumulative value of such payments or expenses exceeds \$240 during any calendar year. This \$240 limit may be adjusted every four years by the OGC to account for inflation. The payments and expenses specified in subsections 2.09.220(A)-(D) include gifts, honoraria and any other form of compensation but do not include:

1. gifts of food or refreshment worth \$25 or less per occasion, if the local governmental lobbyist is a 501 (c)(3) nonprofit organization, the gift of food or refreshment is offered in connection with a public event held by the 501 (c)(3) nonprofit organization, and the same gift of food or refreshment is made available to all attendees of the public event;
2. payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed;
3. gifts of food or beverage worth \$25 or less per occasion, if said gift is provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present;
4. a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code;
5. informational material;
6. campaign contributions not to exceed the limit imposed by the Berkeley Election Reform Act or state law, as applicable; and
7. salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this section.

For purposes of the gift limits imposed by subsections (A)-(C), gifts shall be aggregated set forth in California Code of Regulations, Title 2, Section 18945.1, as it may hereafter be amended.

B. No lobbyist or a lobbyist's registered client shall make any payment to a third-party for the purpose of making any payment or incurring any expense, including any gift of travel, that directly benefits an elected city officeholder, candidate for elected city office, a designated employee, or a member of the immediate family of one of these individuals.

C. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from any lobbyist for the individual's personal benefit or for the personal benefit of a member of the immediate family of one of these individuals.

D. No elected city officeholder, candidate for elected city office, or designated employee may accept or solicit any payment or expense, including any gift of travel, from a third-party if the officer knows or has reason to know that the third-party is providing the

payment or expense on behalf of a lobbyist.

**Section 2.09.230 Restriction on campaign consultants lobbying current and former clients.**

A. No campaign consultant, individual who has an ownership interest in the campaign consulting business, or employee of the campaign consultant shall lobby any elected or appointed City official of the city who is a current or former client of the campaign consultant.

B. This prohibition shall not apply to:

1. an employee of a campaign consultant whose sole duties are clerical; or
2. an employee of a campaign consultant who did not personally provide campaign consulting services to the officer of the city with whom the employee seeks to communicate in order to influence local legislative or administrative action.

C. The exceptions in Subsection (B) shall not apply to any person who communicates with an officer of the city in his or her capacity as an employee of the campaign consultant who is prohibited by Subsection (A) from making the communication.

D. Whenever the following words or phrases are used in this Section, they shall be defined as follows:

1. "Current client" shall mean a person for whom the campaign consultant has been contracted to provide campaign consulting services. If such person is a committee as defined by Berkeley Election Reform Act (Berkeley Municipal Code Chapter 2.12), the current client shall be any individual who controls such committee; any candidate that such committee was primarily formed to support; and any proponent or opponent of a ballot measure that the committee is primarily formed to support or oppose.
2. "Employee" shall mean an individual employed by a campaign consultant, but does not include any individual who has an ownership interest in the campaign consultant that employs them.
3. "Former client" shall mean a person for whom the campaign consultant has terminated all campaign consulting services within the past twenty-four (24) months.

**Article 6. Enforcement**

**Section 2.09.240 Rules and regulations.**

The Open Government Commission may adopt, amend, and rescind rules, procedures, and regulations to carry out the purposes of this Chapter, and to govern the Commission's procedures to enforce this Chapter.

**Section 2.09.250 Complaint, investigative procedures, and probable cause.**

A. Any person who believes that a violation of any portion of this chapter has occurred may file a complaint with the Open Government Commission. The Open Government Commission may initiate an investigation of a possible violation of this

chapter based on information brought before the commission, including information presented by staff.

B. After receiving a complaint or information regarding a possible violation of this chapter, the Open Government Commission shall decide whether to (1) refer to the secretary to investigate, to the extent the secretary has not done so; (2) dismiss the complaint; or (3) find probable cause that a violation of this chapter has occurred.

**Section 2.09.260 Notice and hearing on violations.**

After the Open Government Commission determines there is probable cause for believing that a provision of this Chapter has been violated and makes a good faith effort to give reasonable written notice to the person or persons involved in the allegation using the contact information with which they registered, it may hold a hearing to determine if a violation has occurred, and may determine an appropriate remedy if a violation is found. The hearing pursuant to this section shall be conducted in an impartial manner, consistent with the requirements of due process. A record shall be maintained of the proceedings, and a report summarizing the facts, issues, and any remedial actions shall be issued by the commission following the conclusion of the hearing.

The commission shall conduct such hearings and proceedings with respect to determinations of probable cause pursuant to adopted procedures. All interested persons may participate in the hearing.

**Section 2.09.270 Violations – commission action.**

If the Open Government Commission finds a violation of this Act, the Open Government Commission may:

(1) Find mitigating circumstances and take no further action; (2) issue a public statement or reprimand, (3) impose a civil penalty in accordance with this Act, or (4) take other action as specified in 2.06.190(A)(1).

**Section 2.09.280 Civil actions.**

If the commission has reason to believe that a violation of this chapter has occurred or is about to occur, it may also institute action at law or equity to enforce and compel compliance with the provision of this chapter. Any resident of the City who believes that a violation of this chapter has occurred, may institute such action at law or equity for injunctive relief and to compel compliance with the provisions of this chapter.

**Section 2.09.290 Civil penalties.**

A. Except as otherwise specified in this Act, the Open Government Commission may impose penalties of up to one thousand dollars (\$1,000) for each violation or, if the violation was a prohibited payment, expense or gift under section 2.09.220, of up to three times the value of each prohibited payment, expense or gift.

B. If any civil penalty imposed by the Open Government Commission is not timely paid, the Open Government Commission shall refer the debt to the appropriate City agency or department for collection.

C. For local government lobbyists found to have repeatedly over more than one quarter, knowingly, or willfully violated the Act, the Open Government Commission may

impose penalties of up to twenty-five thousand dollars (\$25,000) for any violation, using factors adopted by the Open Government Commission through its rules, regulations, or procedures.

**Section 2.09.300 Criminal violation.**

A. Any person who knowingly or willfully violates the provisions of this Act is guilty of a misdemeanor.

B. The prosecution of any misdemeanor violation of this Act shall commence within four years after the date on which the alleged violation occurred.

C. No person convicted of a misdemeanor violation of this Act may act as a local governmental lobbyist, render consultation or advice to any registered client, or otherwise attempt to influence a governmental action for compensation for one year after such conviction.

**Section 2.09.310 Joint and several liability.**

A. Should two or more persons be responsible for any violation under this Chapter, they may be jointly and severally liable.

B. The client or employer of a local governmental lobbyist shall be jointly and severally liable for all violations of this Chapter committed by the local governmental lobbyist in connection with acts or omissions undertaken on behalf of that client or employer.

C. If a business, firm or organization registers or files local governmental lobbyist disclosures on behalf of its employees pursuant to Section 2.09.150 the business, firm or organization may be held jointly and severally liable for any failure to disclose its employees' lobbying activities.

**Section 2.09.320 Effective date.**

The effective date of this Act shall be January 1, 2020. The Act may be effective at an earlier date if administratively feasible.

**Section 2.09.330 Severability.**

The provisions of this Chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Chapter, or the validity of its application to other persons or circumstances.

At a regular meeting of the Council of the City of Berkeley held on January 19, 2021, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

At a regular meeting of the Council of the City of Berkeley held on February 9, 2021, this Ordinance was adopted by the following vote:

Ayes: Bartlett, Droste, Hahn, Harrison, Kesarwani, Robinson, Taplin, Wengraf, and Arreguin.

Noes: None.

Absent: None.

  
\_\_\_\_\_  
Jesse Arreguin, Mayor

ATTEST:   
\_\_\_\_\_  
Mark Numainville, City Clerk

Date signed: Feb. 17, 2021