CITY OF LONG BEACH

Memorandum

Date: February 1, 2023

To: Thomas B. Modica, City Manager

From: Dawn McIntosh, City Attorney
Laura Doud, City Auditor
Kevin Riper, Financial Management Director
Joe Ambrosini, Human Resources Director

For: Mayor and Members of the City Council

Subject: **Legislative Department Procedures for Purchases, Payments, and Personnel Transactions**

On December 10, 2020, the first compilation of Legislative Department Procedures for Purchases, Payments, and Personnel Transactions (Legislative Procedures) was issued, which was a consolidated compilation of various documents that had been issued since 2013. The Legislative Procedures provide guidelines on purchases and expenditures by the Legislative Department and are designed to minimize City and City Council Office liability exposure and prevent violations of the City Charter (Charter), including Sections 207, 208, 1704, and 1705, and Long Beach Municipal Code (LBMC) Purchasing Regulations. Furthermore, pursuant to Gov. Code section 8314(a), it is unlawful for any elected local officer to use or permit others to use public resources, including public funds, for a campaign activity, personal purpose, or other purposes which are not authorized by law.

This memorandum transmits an updated Legislative Procedure document, which has been revised to provide better efficiency and clarity on the various processes and procedures contained therein. Below are the highlights of the changes to the following sections. In most cases, these are not changes to any actual current processes but rather just clarification and documentation of those current processes:

- **Office Operating Budget Section** – Language was added to clarify what purchases are allowable using Council District or Mayor's Office Operating Budget. Examples of allowable expenditures were added (e.g. constituent community meetings; tables, individual tickets, booth entry fees, the nominal rental fee for a City vehicle for a parade, and a parade float entry fee for events for office related purposes; office supplies and equipment; professional development training logically related to City business). Examples of what spending is not allowable were also included (e.g. expenditures made by Council Districts related to their participation in parades beyond a float entry fee or rental of a City vehicle for a parade; special events hosted by the Council District that require coordination through the Special Events and Filming Office; contributions to 501(c)(3)s or event promoters; and political or election-related purposes). These narrative updates do not reflect actual changes to current practices, but rather updates the language to provide better clarity.

- **Personnel Transaction Processing Section** – Language was added to note Councilmembers' appointing authority, unclassified status, legislative office classifications and salary ranges, and process for off-boarding staff. These are not new processes but have been added to the document as a reference.

- **City Council District Priority Funding (Divide by Nine)** – Language was added to clarify what Priority Funding can be used for and what it may not be used for (e.g. Council District operations, purchases made initially from a Council District's operating budget for special events and then submitted for reimbursement from Priority Funding; expenditures made by Council Districts related to their participating in parades; and political or election-related purposes). These narrative updates do not reflect actual changes to current practices, but rather updates the language to provide better clarity.

  A change was made to the current approval process for funding of a contribution and special events appropriation. Previously these Council Letters were required to be put on the Regular Agenda for City Council approval but this update now allows for these letters to be added to the Consent Agenda only if reviewed and signed off by the Financial Management Department. Same as before, sign off by Financial Management includes confirmation that the Council District has connected with departments that are impacted by the recommendation, if any and as relevant, and that the fiscal impact section of a Council Letter includes a statement from the impacted department regarding impact on staff time (minimal, moderate, or significant) as well as any other financial or budgetary impacts. Any City Council Letters identified by either the Budget Office, the Department providing the proposed services, or the City Manager's Office as being an item that should have more attention will be placed on the Regular Agenda, or held for further discussion if needed before the Financial Management Department signs off on the fiscal impact section.

  Also, this update documents the existing process that If a Council District chooses to move forward without Financial Management review or sign off, the letter must include the statement "No Financial Management review was able to be conducted due to the urgency and time sensitivity of this item" and the letter will be put on the Regular Agenda. This is applicable to any Council District Council letter.

- **Behests –** A section was added about the Levine Act that prohibits contributions of more than $250 made to an officer of an agency by a party, participant, or the party or participant's agent of proceeding pending before the City while a proceeding involving a license, permit, or other entitlement for use is pending before the City.

- **Officeholder Accounts** – This is a new section that has been added to document background and allowable uses for the Council Districts' Officeholder Accounts. However, this update does not reflect a change to current allowed practices, but rather updates the procedures to provide better clarity on funding options available to Council Districts.

- Other small narrative and grammatical updates have been made throughout the document.

If you have any questions about these procedures please contact City Manager Tom Modica at (562) 570-5091, Deputy City Attorney Taylor Anderson at (562) 570-2231, or Budget Manager Grace H. Yoon at (562) 570-6408.

ATTACHMENT: LEGISLATIVE DEPARTMENT PROCEDURES FOR PURCHASES, PAYMENTS, AND PERSONNEL TRANSACTIONS (2022 UPDATE)

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Legislative Department Procedures for Purchases, Payments, and Personnel Transactions

PURPOSE

These procedures are designed to minimize City and City Council Office liability exposure and prevent violations of the State law, City Charter and Municipal Code, including Charter Sections 207, 208, 1704, 1705, and the Municipal Code City Purchasing Regulations. Pursuant to Gov. Code section 8314(a), it is unlawful for any elected local officer to use or permit others to use public resources, including public funds, for a campaign activity, personal purpose, or other purposes which are not authorized by law.

ORGANIZATION OF THESE PROCEDURES

These procedures for purchases and expenditures are organized into the following areas:

- Workflow for Purchases and Payments (Page 1)
- Office Operating Budget (Page 2)
- Personnel Transaction Processing (Page 3)
- Port Sponsorships and Grants (Page 4)
- Council District Priority Funding (Divide by Nine) (Page 4)
  - General Procedures (Page 4)
  - Securing Appropriations (Page 6)
  - Existing City Projects, Programs or Activities (Page 6)
  - New Projects, Programs and Activities (Page 7)
  - Contributions (Page 7)
  - Special Events (Page 8)
  - State of the District and State of the City Events (Page 10)
  - Participatory Budgeting (Page 11)
- Behests (Page 12)
- Officeholder Account (Page 12)

WORKFLOW

All purchases, payments and personnel transactions must be routed through the Mayor's Office for approval to ensure conformance with purchasing, expenditure and personnel procedures. In accordance with Section 207 of the City Charter, the Mayor must act as the administrative head of the Legislative Department. As a result, the Mayor's Office, while not having authority as to what expenditures are made by Council Districts, has approval authority of purchases and expenditures for the purpose of ensuring compliance with City requirements.

OFFICE OPERATING BUDGET

- The Council District or Mayor's Office Operating Budget (Office Operating Budget) may be used for normal costs of office operations and for constituent communications and information. Under no circumstances should a Council District make direct purchases or expenditures for a City or private special event for reimbursement through their Office Operating Budget.
- Examples of expenditures Council Districts may use the Office Operating Budget for include:
    - Constituent community meetings (e.g. district or budget meetings; a State of the City/District event) and small community, district-oriented events hosted by the Council District that do not require the Council District to coordinate the event with the City's Special Events and Filming Office (SEF). Includes costs associated with the event, such as, light refreshments and snacks, flyers, and facility rental fees for the meeting. Any printed flyers must comply with mass mailing regulations.
    - Tables, individual tickets, booth entry fees, the nominal rental fee for a City vehicle for a parade, and a parade float entry fee to represent the Council District at constituent gatherings and community events in furtherance of community engagement as a Council District may be purchased from the Office Operating Budget if Councilmembers and/or Council District staff are physically present at the event. Council Districts may not use the Office Operating Budget to make purchases, such as for a table or tickets, for an event that the Councilmember or Council District staff does not attend.
    - Office supplies and equipment, such as paperclips, pens, paper, toner, copy machines, or computers.
    - Professional development training logically related to City business in a job-related field. Expenditures in this category must be approved by the Mayor's Office, in consultation with the City Attorney and Financial Management.
- The Office Operating Budget cannot be used for any of the purposes outlined below. Rare exceptions to give Office Operating Budgets to a Department for a special event must go to City Council for approval and any necessary budget adjustments.
    - Expenditures made by Council Districts related to their participation in parades beyond a float entry fee or rental of a City vehicle for a parade due to risk of political or personal benefits, such as float decorations, costly float rentals, entertainment, or attire to be worn by Councilmembers or their staff at an event.
    - Special events hosted by the Council District that require coordination through SEF, such as concerts, block parties, and community events conducted on public property or in the public right of way. These events must be funded through Council District Priority Funding or a Council District's Officeholder Account.
    - Contributions to 501(c)(3)s or event promoters, including expenditures made by Council Districts for reimbursement for donation to such groups.
    - Personal or political/election-related purposes.
- Unspent Office Operating Budget at the end of each fiscal year, net of any savings target, will be added to each respective Council District Priority Funds if the City Council approves the addition through a budget adjustment council letter that will be prepared by the Budget Office. Any budget shortfall in an Office Operating budget will

be recovered by the City through a budget adjustment deducting from the budget in the following year.

- Purchases and expenditures must follow City rules and regulations, ensuring price quotations are secured, preventing unauthorized signing of contracts, ensuring required use of existing blanket purchase orders, and following appropriate approval paths.

PERSONNEL TRANSACTION PROCESSING

All Legislative Department personnel transactions including hiring, promotions, pay changes, and terminations (for any reason) shall be processed through the Mayor's Office, to ensure compliance with the City Charter, the Long Beach Municipal Code and associated regulations.

Councilmembers Appointing Authority:

- Councilmembers have the authority to appoint, suspend, remove and discipline Council office employees (City Charter Section 207).

Elected Officials and their staff are Unclassified (City Charter Section 1102):

- Unclassified employees are not hired through the Civil Service testing process.
- Unclassified employees are "at will" and not subject to the due process or appeal procedure if terminated
- Employment actions are subject to non-discrimination laws and regulations.

Legislative Office Classifications (represented and non-represented staff):

Job Title	**Salary Range**
Legislative Aide	BOO Salary Range
Legislative Assistant	BOO Salary Range
Chief of Staff – Council Councilmember	EOO Salary Range

Salary Range EOO/BOO:

- Recruitment - Job bulletin and job posting
- Interview process
- Job offer - Onboarding stage to include Live scan, pre-employment physical exam and Drug Screening (where applicable)
- HR1 Management Transaction Form to process the action

Process of off-boarding staff:

- Although Council Office positions are categorized as "At-Will," prior to a potential employee dismissal the employee should be put on written notice of the substandard performance/behavior issues with an opportunity to correct the conduct prior to

separation. Documentation of the issue and corrective action can be presented to the employee by way of email or memo. It is recommended that the Council Office work with the Administrative Officer and/or the Department of Human Resources on employee performance issues and disciplinary action.
- Issue separation letter
- HR1 Management Transaction Form to process the action

PORT SPONSORSHIP AND GRANTS

- Consistent with the Port's Community Sponsorship Program Policy and Guidelines, Port sponsorships and Port grants may be used to fund special events or projects of interest to Council Districts.
- Council Districts may request the Port to provide monetary support (i.e., behested payment) to a City Department or a private party for a special event or project in which the Council District is interested. Council Districts may not themselves submit sponsorship or grant applications to the Port and the Port may not award a sponsorship or grant to a Council District.
- If allowed by the Port's guidelines for sponsorships and grants, a City Department may apply for a Port sponsorship or grant to help fund an event or project that is to be conducted by the department and is consistent with the department's approved budget and operations. However, if such an event or project is not already included in the City's budget or is inconsistent with the City Department's operations and/or City Council's approved priorities, then the Council District must obtain City Council approval of the event or project through the special event procedures described herein prior to the City department applying for the Port sponsorship or grant. The applicant for the sponsorship or grant (e.g., a City department or a private party) has the responsibility for meeting the Port's terms and conditions of the sponsorship or grant.
- As discussed in more detail below, behest payments must be reported to the City Clerk within 30 days of the date on which the payment meets or exceeds $5,000 from a single source. For more details see the FPPC's website and the City Clerk's website.

CITY COUNCIL DISTRICT PRIORITY FUNDING (DIVIDE BY NINE)

General Procedures

- Council District Priority Funding ("Priority Funding") is provided through a general appropriation in the budget. One-ninth of the appropriation is available to each Council District for general purposes as identified by the City Council. Any expenditures must also be within constraints imposed by the funding sources, e.g., the Special Advertising and Promotion Fund. Under no circumstances should a Council District make direct purchases or expenditures and then seek reimbursement from Priority Funding.
- Expenditures of Priority Funding may only occur after a Council District proposed project, program, event or activity is explicitly approved by the City Council as an item on a City Council agenda. Council approval must be secured to protect the Council District and to ensure compliance with the City Charter and City Municipal Code.

- As discussed in more detail below, Council Districts may seek Council approval to use Priority Funding for any of the following:
    - To supplement an existing City project, program or activity on the Approved Project List if the use is approved in advance by the relevant Department and it does not create an explicit or implicit operating commitment for subsequent fiscal years.
    - New City projects, programs and activities.
    - A contribution if there is a public purpose or benefit involved.
    - Funding for a special event either through events conducted by SEF or by a contribution to a City-approved private sponsor for an event. Includes donations related to entertainment for a special event.
    - An annual State of the District/City event.
    - A hybrid project that consists of both an extension of normal Council District Office Operation functions and a set of Priority Funding projects.
- Priority Funding may not be used for:
    - Council District operations that should be funded from an Office Operating Budget, including constituent gatherings or meetings for communication purposes (except for an annual State of the District/City).
    - Any expenditures made by Council Districts for special events (e.g. parades or festivals) submitted for reimbursement. Council Districts cannot make purchases from their operating budget and then request reimbursement from Priority Funding. Council approval is required for Council Districts to access Priority Funding. As stated in this section, Council Districts may seek City Council approval to donate Priority Funds to an event conducted by SEF or to provide a donation to a City-approved private sponsor for an event.
    - Expenditures made by Council Districts related to their participation in parades, such as float decorations, costly float rentals, entertainment, or attire to be worn by Councilmembers or their staff at an event.
    - Political, personal, or election-related purposes.
- To prevent a Council District from violating the Charter or making unauthorized purchases or contractual arrangements, Council Districts may not be involved in the selection of vendors; with managing or directing City staff regarding an event; or making purchases on behalf of the City, a 501(c)(3)s, or an event promoter.
- Any project or program funded by Priority Funds cannot result in any significant diversion of City resources from existing City Council priorities without the specific direction of the City Council. Departments are required to slow or defer implementation of such a project or program if implementation adversely impacts priorities previously set by the City Council in the budget or by previous actions.
- Departments have a goal of establishing a fixed cost to a Council District for a program or project. That cost should include overhead and administrative time. If a fixed price is provided, actual costs will not be tracked. However, if a department determines that costs are too unpredictable to predict in advance, costs will be tracked, and a Council District will be charged any additional costs or provided a refund depending on the actuals.
- At the end of a fiscal year, any unallocated Priority Funds for a Council District will be carried-over to the next fiscal year. Any funds carried-over into the new year are all

subject to the purposes identified by the City Council for the most recent General Fund appropriation of Council District Priority Funds.

- The City Manager's Office, in conjunction with the Budget Office, will track any unallocated Priority Funds by Council District. Council Districts should also track the status and availability of their Priority Funds and contact the City Manager's Office (the Assistant to the City Manager) to confirm adequate Priority Funds are available to offset any requests prior to seeking City Council approval.

Securing Appropriations - General

- When initially appropriated by the City Council, Priority Funds go into a temporary account and must always be transferred to the Department responsible for expending the funds by way of a City Council action via a City Council letter appropriating the funds for a specific purpose (i.e. specific project, program, or event).
- The description accompanying any proposed appropriations funded by Priority Funding must be sufficient to allow the City Council to understand what the item is, and who and what will be involved. The description must provide enough detail so it can be implemented by the department that receives the appropriation without the need for involvement or additional description by the Council District. This avoids any subsequent confusion and ensures that the Council District gets the program or activity that is intended and has been approved by the City Council.
- Specific information on appropriation processes based on the various uses, including whether items should be placed on consent or regular agenda, are described as applicable in the sections below.

Funding Existing City Projects, Programs or Activities (Approved Project List)

- Priority Funding may be used to supplement an existing City program or activity if the use is approved in advance by the relevant Department and it does not create an explicit or implicit operating commitment for subsequent fiscal years.
- Council Districts should contact the City Manager's Office (the Assistant to the City Manager), once an agreement on the requested action and cost is reached with the appropriate department. Council Districts are responsible for providing the description to the City Manager's Office (who will then advise the Budget Office).
- Proposed use of Priority Funding for existing projects and programs that have been agreed to by departments and are consistent with these City Council guidelines will be placed on the City Council Agenda (it may be placed under the Consent Agenda) by the City Manager, as needed, using a City Council Letter as "Proposed Enhancement to Existing Projects and Programs" (Approved Project List) for approval of the appropriations to be transferred to the appropriate Departments for those enhancements.

Funding New Projects, Programs and Activities

- A proposed new project or program must be brought to the City Council by the appropriate Council District as a mid-year budget adjustment item on the Regular Agenda. No major staff work on the new item will be undertaken until the City Council has approved the item.

Funding a Contribution (Not a Special Event)

- Priority Funding may be used for a contribution (does not need to be charitable) if there is a public purpose/benefit involved.
- Any contribution, gift, or grant over $1,000 in funding for a "public works project" must comply with applicable prevailing wage and Department of Industrial Relations (DIR) registration requirements, and there must be a written agreement with the recipient acknowledging intent to comply and specifying verification and management procedures satisfactory to the City that ensures there is compliance with those requirements.
- Normal City Council approval processes for Priority Funding apply, and, in addition, the Council Letters must include:
    - The public purpose provided;
    - A reasonable description of the recipient including whether the recipient is a 501(c)(3), a promoter, a neighborhood association, an individual, etc.; and
    - If funding is for a public works project valued at over $1,000, there must be an explanation as to how prevailing wage requirements will be met and the Council Letter must include a requirement for a written agreement with the recipient that requires compliance with prevailing wage requirements and associated reporting and oversight prior to any transfer of funds.

        - Funding of the contribution will be made through the City's Special Events and Filming Office (SEF). A Council District must notify and discuss as appropriate with the SEF any special event or use of Priority Funding that goes through SEF.
- If the contribution is for an event, then the procedures for funding Special Events must be followed.
- City Council Letters using Priority Funding for a contribution that has a public purpose/benefit involved, may be added to the Consent Agenda if reviewed and signed off by Financial Management Department. Sign off by Financial Management includes confirmation that the Council District has connected with departments that are impacted by the recommendation, if any and as relevant, and that the fiscal impact section of a Council Letter includes a statement from the impacted department regarding impact on staff time (minimal, moderate, or significant) as well as any other financial or budgetary impacts. Any City Council Letters identified by either the Budget Office, the Department providing the proposed services, or the City Manager's Office as being an item that should have more attention will be placed on the Regular Agenda, or held for further discussion if needed before the Financial Management Department signs off on the fiscal impact section. If a Council District chooses to move forward without Financial Management review or sign off, the letter must include the statement "No Financial Management review was able to be conducted due to the urgency and time sensitivity of this item" and the letter will be put on the Regular Agenda.

<u>Funding Special Events</u>

There are two ways for a City Council District to provide funding for a special event: either through SEF conducted events or by a contribution to a City-approved private sponsor

for the event. Special events cannot be funded using a Council District or Mayor's Office Operating Budget, unless explicitly authorized as an exception by City Council with an item on the Regular Agenda.

Special Events Conducted by SEF

- Any special event conducted by SEF must have specific Council approval in advance of any significant work, and any expenditures or commitments, even if there is no plan to use Priority Funding. The approval process is the same whether or not Priority Funding is used. Approval authorizes the use of City staff and identifies any City funding and backup funding and describes the event so that City Council understands what the event is they are considering approving.
- Council Districts must discuss with SEF, in advance of any planning or commitments, the desired special event, to determine whether SEF will be able to conduct that event within the specified conditions and funding.
- A project memo describing the event should be prepared by the Council District and provided to SEF to ensure there is a clear understanding of what is desired. The project memo should identify what the special event will be, what will be provided, when the event will take place, and the fixed or estimated cost. The project memo should exist prior to requesting approval of the City Council for the specific event; the project memo, or a summary of it, should be included in the City Council Letter.
- SEF will manage all aspects of the event, including negotiating and executing all contracts and agreements with vendors.
- SEF will treat newly requested special events on a first-come, first-served basis in terms of available resources and capacity. If SEF does not have adequate staff or other resources to conduct the event, or there are other issues that cannot be resolved, SEF may decline to conduct the event, unless the City Council subsequently directs the specific event as a higher priority than other SEF functions and events.
- SEF will determine, in its sole discretion, the funding requirements for an event and may guarantee a fixed cost or may require costs be funded based on actual costs. When the fixed cost option is used (the normal situation), the actual cost is not tracked. However, with the fixed cost option, if the event does not occur, the funding will be returned and if there is a major scope change, a new cost may be agreed to.
- SEF will include all its costs including overtime and costs of outside vendors inclusive of external event management but will not charge for SEF overhead (administrative fee) or for non-overtime SEF hours of work. Public safety costs will be included in the event costs and will be based on the specific event and the circumstances of the event.
- SEF may procure insurance for a single event, or for events in general, and may charge the event an appropriate cost for insurance.
- Specific artists or special service providers deemed essential to the special event may be identified in the description of a special event or program. Use of specific artists or special service providers depend on SEF staff being able to procure any needed purchasing exemption and to successfully negotiate a suitable contract.
- A 501(c)(3) or private party may contribute funds to an event conducted by SEF, but such a contribution must be made at the sole determination of the 501(c)(3) or the private party, and the contribution may not specify conditions (other than that the funds

are to be used for the predefined special event). Donated funds will not be returned or refunded unless the event is cancelled. Contributions raised by Councilmembers may also be made to SEF and must follow all FPPC reporting and ethical requirements.

- If the proposed budget for a special event assumes contributions, but the amount is not certain, the project memo must specify how the project is to be funded if the contributions are short of the budget (typically the shortfall would be funded from Priority Funding).
- A Council District that proposes a special event must agree to pay any unfunded costs and the associated City Council approval motion must identify the expected funding sources, including identification of the source of any potential cost overruns or shortfalls from other funding sources.
- For City Council's appropriations for Summer Concert Matching Funds, SEF will determine how to expend those funds, ensuring there is the required match (which may be from Priority Funding through an appropriate City Council approval process that provides funds to SEF).

<u>Special Events Conducted by a Private Party (or Parks, Recreation and Marine)</u>

- A "private party" means a 501(c)(3), an event promoter, an established neighborhood group or association, or the Parks, Recreation and Marine (PRM) Department (for purposes of specifying procedures, usually for a small park concert).
- A special event by a private party may be supported by the City through a contribution made by SEF. Support for a private event cannot be through a contract for services.
- The following conditions must be met:
    - A 501(c)(3) must have a current registration with the State and must have an appropriate solicitation permit (both verified by SEF).
    - To receive City funds, the private party must have received an associated special event permit. The permit is not needed for City Council approval, but funding is conditioned on the permit having been issued.
- The private party must provide a reasonably complete description of the event in advance of City Council approval and indicate they have acquired or will acquire a special event permit. The description or summary of the event must be included in the approved City Council Letter along with a statement that funding is conditional on the acquiring of an appropriate special events permit.
- A Councilmember may suggest to a 501(c)(3) that it conduct an event. A Councilmember may also suggest to a promoter that the promoter conduct an event. A Councilmember may also make a recommendation to the City Council to contribute funding to a 501(c)(3) or a promoter for a special event (following these procedures). However, in order to avoid endangering the tax-exempt status of the 501(c)(3) or the tax deductibility of any contributions to the 501(c)(3), or an FPPC violation by a Councilmember, a Councilmember (or his/her staff) may not direct or attempt to direct a 501(c)(3) to conduct an event. A Councilmember (or his/her staff) may not direct or

attempt to control how a promoter runs an event, or what vendors or sponsors it uses for an event.

- If a Councilmember or his/her staff engage in fundraising for an event, they must comply with FPPC "behest" procedures (currently applies to any voluntary contribution over $5,000, but the Council District is responsible for being aware of the current limit). The FPPC procedures are also applicable to fundraising by a Councilmember for a special event, whether or not given directly to a 501(c)(3) or promoter. Council Districts may not directly accept contributions for an event.

Special Events Appropriations

- The City Council Letter presented to the City Council for a contribution for any special event conducted by a 501(c)(3) or a promoter, must clearly identify the 501(c)(3) or the promoter. The promoter contribution agreement must be reviewed and approved by SEF and the City's Risk Management Bureau and this review/approval information must be in the City Council letter. These City Council Letters may be added to the Consent Agenda if reviewed and signed off by Financial Management Department. Sign off by Financial Management includes confirmation that the Council District has connected with departments that are impacted by the recommendation, if any and as relevant, and that the fiscal impact section of a Council Letter includes a statement from the impacted department regarding impact on staff time (minimal, moderate, or significant) as well as any other financial or budgetary impacts. Any City Council Letters identified by either the Budget Office, the Department providing the proposed services, or the City Manager's Office as being an item that should have more attention will be placed on the Regular Agenda or held for further discussion if needed before the Financial Management Department signs off on the fiscal impact section. If a Council District chooses to move forward without Financial Management review or sign off, the letter must include the statement "No Financial Management review was able to be conducted due to the urgency and time sensitivity of this item" and the letter will be put on the Regular Agenda.

- The City Council appropriation for matching funds for local summer concerts will be managed by SEF.

Funding Annual State of the District and State of the City Events

- An annual State of the District/City event is considered a normal communications event. Such an event may be funded by any combination of Office funds, donations (behests), or Priority Funding. By definition, these events are considered a normal and expected City event; as a result, no specific City Council approval is required, unless Priority funding is utilized to help fund. If Priority Funding is used, normal special event procedures for Priority Funding approval are to be followed.
- If the total cost of a proposed State of the District event is more than $1,000 (or a State of the City event costs more than $9,000), SEF is required to manage the special event aspect of the event. SEF will select an event manager and coordinate as appropriate with the Convention and Visitors Bureau (CVB). Special event procedures

described herein apply, except that City Council approval is not required unless Priority Funding is used for the event.

- If there is an event where a Councilmember or the Mayor speak, but the speech is not the primary purpose of the event, or the event is not primarily about the governmental activities of the District or City, then the event does not fall under the procedures of this "State of..." section and would be considered a normal special event.

Funding Participatory Budgeting

- A participatory budget project is a hybrid project that consists of both an extension of normal Council District Office Operation functions and a set of Priority Funding projects. As a result, it can be complicated to administer and may be time consuming.
- The constituent participation portion of a participatory budget process is an extension of normal Office Operations and as such, that portion may be funded from the Office Operating Budget (though it is not required to be funded that way). The projects themselves must be funded with Priority Funding.
- The selection and hiring of any vendors by a Council District to assist with the constituent participation process must be done through normal City purchasing methods (as with any District Office Operations expenditures).
- Departments will work with Council Districts for a participatory budgeting event(s), but it is at the discretion of each department as to how much time the department can afford to make available, including the time required to estimate project costs, without significantly impacting other priorities. Council Districts should keep in mind the potential large time commitment and complexity of identifying and approving a potential project when selecting potential projects for constituents to consider. Expanding or supplementing existing projects instead of creating new ones may be a better option for a participatory budget process as it allows departments to better indicate if they can provide costing and implement the projects. City staff will not normally be available to attend participatory budgeting meetings with residents.
- Subsequent to decisions on the projects wanted, Council District staff is responsible for ensuring that a City Council Letter has been prepared and submitted that would provide funding for each specific project. Council District staff is also responsible for informing the appropriate department(s) which projects have been approved in the participatory budget process.

  Subsequent to approval of individual projects by the City Council, implementation of the projects is a responsibility of the appropriate operating departments.
- Two Council letters may be needed for approval for appropriations for Participatory Budgeting. The first letter is similar to any Council Letter requesting authorization to use Priority Funding. If the first letter, however, is not able to list all the potential projects (because they have not yet been identified), a second letter will be needed to get City Council approval to appropriate funds for the final project list.

BEHESTS

Councilmembers who fundraise or otherwise solicit (i.e., “behest”) payments (e.g., money, goods or services) from an individual or organization to be given to another individual or organization (including the City) may be required by State regulation to report the payment. Generally, a payment is considered "behested" and subject to reporting if all the following are true:

- It is made at the request, suggestion, or solicitation of, or made in cooperation, consultation, coordination, or in concert with a Councilmember;
- It is made for a legislative, governmental or charitable purpose; and
- It does not otherwise qualify as a gift to a Councilmember, or a contribution (made for an election-related activity) to a Councilmember.

State law (the Political Reform Act) requires the reporting of behested payments if they total $5,000 or more in a calendar year from a single source. Councilmembers are required to report behested payments within 30 days of the date they are made. To report a behest, FPPC File Form 803 must be filled out by the Councilmember and filed with the City Clerk.

A behest (i.e., request) by a Councilmember for donations (including donations of labor money, equipment, materials, or services) for the benefit of the City (or to improve or benefit any City-owned property), must be discussed with the City Manager’s Office prior to the request being made or the acceptance of the behest from a third party to ensure compliance with all City procedures and requirements, including the issuance of any required building or other permits, liability waivers, insurance, or other considerations. In some circumstances, a behest may also require approval by the City Council at a regular Council meeting before a donation is accepted. A behest made in violation of these procedures is at risk of being determined under FPPC regulations to be a direct gift to the individual Councilmember requesting it, rather than a donation to the City.

If acceptance of a behest is approved by the City Manager (or the City Council as a body), the individual Councilmember making the behest is still required to report payments of money, goods or services totaling $5,000 or more on FPPC Form 803.

Effective January 1, 2023, the Levine Act prohibits contributions of more than $250 made to an officer of an agency by a party, participant, or the party or participant’s agent while a proceeding involving a license, permit, or other entitlement for use is pending before the City. This prohibition starts 12 months prior to certain proceedings and continues while proceedings are pending until 12 months following the date a final decision is rendered in a proceeding.

The requirements in the Levine Act apply regardless of whether an officer accepts, solicits, or directs the contribution on the officer’s own behalf, on behalf of any other elected or appointed officer or alternate, or on behalf of any candidate for office on or behalf of any committee. Therefore, these requirements apply to contributions made to

political accounts or officeholder accounts and may apply to behests depending on the circumstances.

Consultation with the City Attorney's office prior to accepting or solicitating any behest is suggested in order to avoid FPPC violations.

OFFICEHOLDER ACCOUNTS

- Each City Councilmember may establish an Officeholder Account and may solicit and accept contributions for their Officeholder Account not to exceed a total amount of thirty thousand dollars ($30,000.00) per calendar year. Contributions to an officeholder account may not exceed $750 per person (i.e. a single contribution of $750 or multiple contributions from the same person totaling $750). (see LBMC section 2.01.380).
- Funds in an Officeholder Account may be used only for the purpose of expenses associated with holding office and must be directly related to a political, legislative, or governmental purpose in accordance with State and local law.
- Where other funds (e.g. an Office Operating Budget or Priority Funding) cannot be used for certain expenses, Council Districts may opt to use their Officeholder Account to cover costs directly related to political, legislative, or governmental purposes.
- For any questions related to whether an expense may use funds from an Officeholder Account, please contact the City Attorney's Office.