

ORDINANCE NO. 2013-1383

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS,
CALIFORNIA, AMENDING SECTION 2.16.030 OF THE SAN MARCOS MUNICIPAL
CODE WITH RESPECT TO CAMPAIGN CONTRIBUTION LIMITS**

WHEREAS, the City Council of the City of San Marcos (the "Council") recognizes that maintaining the integrity of the electoral process and fair political practices is central to the public welfare; and

WHEREAS, the City's Controls on Campaign Contributions, Chapter 2.16 of the San Marcos Municipal Code ("SMMC"), currently prohibits any candidate, committee or any other person acting on behalf of a candidate from accepting a contribution by any person other than an individual; and

WHEREAS, recent judicial interpretation has clarified that a complete prohibition of direct campaign contributions by political parties is unenforceable; and

WHEREAS, in accordance with the judicial interpretation, the Council finds that political parties should not be prohibited from making campaign contributions; and

WHEREAS, the effect of the above-noted judicial interpretation is that political parties may now arguably make unlimited direct financial contributions to candidates within the City of San Marcos; and

WHEREAS, the reality or appearance of corruption associated with unlimited direct financial contributions to candidates by political parties undermines the integrity of the electoral process and fair political practices which are central to the public welfare; and

WHEREAS, the Council may enact legislation limiting direct campaign contributions to candidates; and

WHEREAS, the Council finds that a limitation on the amount of direct campaign contributions by political parties to a candidate or committee in a local election should be enacted to eliminate the reality or appearance of corruption associated with large financial contributions; and

WHEREAS, the Council finds that the SMMC should be further amended to ensure compliance with current judicial interpretation eliminating restrictions on contributions made to committees making only independent expenditures.

NOW, THEREFORE, the City Council of the City of San Marcos, California, in accordance with the freedom afforded to charter cities generally and by the Charter of the City of San Marcos, specifically does ordain as follows:

SECTION 1. The foregoing recitals are true and accurate and adopted by the City Council.

SECTION 2. That SMMC Title 2, Chapter 2.16 (Controls on Campaign Contributions), Section 2.16.030, is amended as follows:

2.16.030 Campaign Contributions - Limitations. (Ord No. 2003-1169, 1/28/03)

(a) It is unlawful for a candidate, controlled committee, or any other person acting on behalf of a candidate or controlled committee, to accept a contribution from any person other than an individual, except that a political party committee shall not be prohibited from making contributions to a candidate or controlled committee in a municipal candidate election, but shall be subject to the contribution limit set forth in section 2.16.030(c), below.

(b) No person other than a candidate shall make, and no candidate, campaign treasurer or controlled committee shall solicit or accept, any contribution which will cause the total amount contributed by such person with respect to a single election in support of such candidate, including contributions to all controlled committees, to exceed two hundred and fifty dollars (\$250).

(c) No political party committee shall make, and no candidate, campaign treasurer or controlled committee shall solicit or accept, a contribution which will cause the total amount contributed by such political party committee with respect to a single election in support of such candidate, including contributions to all controlled committees, to exceed an amount that is two times (2x) the amount set forth in section 2.16.030(b), above.

(d) Except as provided in subdivision (e) below, an extension of credit which consists of a receipt of goods or services pursuant to an agreement between the provider of the goods or services and a candidate or controlled committee, and where payment is not made until a later date, is a contribution

subject to this section, 2.16.030.

(e) For purposes of this section, 2.16.030, an extension of credit is not a contribution made by the provider of the goods or services or a contribution accepted by the candidate or controlled committee if either subdivision (d)(1) or (d)(2) of this section is met:

(1) Payment is made on or before the later of the following dates:

(a) 60 days after the date of the invoice; or

(b) 60 days from the date the goods or services are delivered; or

(c) For services that are ongoing in nature, 60 days after the date of the invoice, where services are billed no less frequently than on a three-month billing cycle.

(2) All of the requirements of subsections (d)(2)(A)-(E) of this section are met:

(a) The credit arrangement is set forth in a written instrument which is contemporaneous with the initiation of the credit arrangement, and which instrument shall be made available upon request of Elections Counsel appointed pursuant to Section 2.16.080 below:

(b) It is part of the regular business of the provider of goods or services to provide similar goods or services;

(c) The provider provides the goods and services in the ordinary course of business and on the same terms and conditions offered to customers generally;

(d) The provider of goods or services enters into the agreement with the intent that the candidate or controlled committee be required to pay in accordance with the terms of the agreement and does not have actual knowledge that the candidate or controlled committee may not be able to pay in accordance with such terms; and

(e) The provider of goods or services makes reasonable efforts to collect the full amount of the balance owed within 60 days of

the date that the payment for the goods or services becomes due under the terms of the agreement.

(f) Nothing in this section is intended to limit the amount of his or her own money or property that a candidate may contribute, loan to or expend on behalf of the candidate's own campaign. (Ord. No. 2003-1169, 1/28/03)

(g) No candidate or controlled committee shall accept anonymous contributions in an amount exceeding ninety-nine dollars (\$99). (Ord. No. 2003-1169, 1/28/03)

(The remainder of Section 2.16.030, subsections (g) and (h), are unchanged).

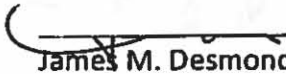
SECTION 3. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall certify to the passage of this Ordinance and shall publish this Ordinance, or the title thereof, as a summary as required by state law, in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 10th day of September, 2013; and

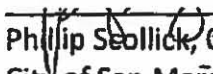
PASSED, APPROVED AND ADOPTED by the City Council of the City of San Marcos at a regular meeting held on the 24th day September, 2013, by the following roll call vote:

AYES: COUNCILMEMBERS: JABARA, JENKINS, JONES, DESMOND
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: ORLANDO



James M. Desmond, Mayor
City of San Marcos

ATTEST:



Philip Seollick, City Clerk
City of San Marcos

APPROVED AS TO FORM:



Helen Holmes Peak, City Attorney
City of San Marcos