

# **Common Counsel Foundation**

Financial Statements

December 31, 2022

# Common Counsel Foundation

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Table of Contents  
December 31, 2022

	<u>Page</u>
<b>Independent Auditors' Report</b>	1
<b>Financial Statements</b>	
Statement of Financial Position	3
Statement of Activities	4
Statement of Functional Expenses	5
Statement of Cash Flows	6
Notes to Financial Statements	7

## **Independent Auditors' Report**

To the Board of Trustees of  
Common Counsel Foundation

### **Opinion**

We have audited the financial statements of Common Counsel Foundation (a California nonprofit organization) (the Organization), which comprise the statement of financial position as of December 31, 2022, and the related statements of activities, functional expenses, and cash flows for the year then ended, and the related notes to the financial statements.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Organization as of December 31, 2022, and the changes in its net assets and cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

### **Basis for Opinion**

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditors' Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Organization and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### **Emphasis of Matter**

As discussed in Note 3 to the financial statements, the opening balance of Common Counsel Foundation's net assets as of January 1, 2022 have been restated to correct a misstatement. Our opinion is not modified with respect to this matter.

### **Responsibilities of Management for the Financial Statements**

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Organization's ability to continue as a going concern within one year after the date that the financial statements are available to be issued.

### **Auditors' Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Organization's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Organization's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings and certain internal control-related matters that we identified during the audit.

*Baker Tilly US, LLP*

San Francisco, California  
July 17, 2023

## Common Counsel Foundation

### Statement of Financial Position

December 31, 2022

#### Assets

##### Current Assets

Cash and cash equivalents	\$ 68,379,161
Investments	2,772,773
Programmatic investments, net	687,218
Grants and contributions receivable, current	10,117,066
Accounts receivable	632,728
Prepaid expenses	329,015

Total current assets	82,917,961
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##### Other Assets

Grants and contributions receivable, net of current portion	14,221,459
Right of use asset	134,692
Furniture and equipment, net	64,649
Deposits	20,301

Total assets	\$ 97,359,062
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#### Liabilities and Net Assets

##### Current Liabilities

Accounts payable	\$ 1,188,785
Accrued expenses	447,340
Grants payable	578,000
Accrued vacation	478,647
Deferred revenue	368,648
Current portion of operating lease liabilities	66,585

Total current liabilities	3,128,005
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##### Noncurrent Liability

Operating lease liabilities, net of current portion	75,669
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Total liabilities	3,203,674
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##### Net Assets

Without donor restrictions	15,172,931
With donor restrictions	78,982,457

Total net assets	94,155,388
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Total liabilities and net assets	\$ 97,359,062
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See notes to financial statements

**Common Counsel Foundation**

## Statement of Activities

Year Ended December 31, 2022

	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
<b>Support and Revenue</b>			
Foundation grants	\$ 90,233	\$ 30,129,442	\$ 30,219,675
Contributions	19,481,088	3,243,877	22,724,965
Contributed nonfinancial assets	-	122,005	122,005
Program service income	1,274,690	-	1,274,690
Fees for donor services	232,688	-	232,688
Investment return, net	172,350	332,698	505,048
Miscellaneous revenue	16,487	-	16,487
Net assets released from restrictions	27,091,213	(27,091,213)	-
<b>Total support and revenue</b>	<b>48,358,749</b>	<b>6,736,809</b>	<b>55,095,558</b>
<b>Expenses</b>			
Program services	49,115,329	-	49,115,329
Management and general	1,495,182	-	1,495,182
Fundraising	255,890	-	255,890
<b>Total expenses</b>	<b>50,866,401</b>	<b>-</b>	<b>50,866,401</b>
<b>Fund Closeout</b>	<b>-</b>	<b>(3,375,416)</b>	<b>(3,375,416)</b>
<b>Change in net assets</b>	<b>(2,507,652)</b>	<b>3,361,393</b>	<b>853,741</b>
<b>Net Assets, Beginning of Year, as Restated</b>	<b>17,680,583</b>	<b>75,621,064</b>	<b>93,301,647</b>
<b>Net Assets, Ending</b>	<b>\$ 15,172,931</b>	<b>\$ 78,982,457</b>	<b>\$ 94,155,388</b>

See notes to financial statements

## Common Counsel Foundation

### Statement of Functional Expenses

Year Ended December 31, 2022

	Program Services				Supporting Services		
	Donor Services	Grants to Others	Fiscal Sponsorship	Total Program Services	Management and General	Fundraising	Total
Grants	\$ -	\$ 33,923,061	\$ -	\$ 33,923,061	\$ -	\$ -	\$ 33,923,061
Salaries	1,080,218	-	4,377,512	5,457,730	776,144	151,384	6,385,258
Travel	54,380	-	1,266,228	1,320,608	10,075	1,966	1,332,649
Employee benefits	210,353	-	825,680	1,036,033	148,083	28,899	1,213,015
Office expenses	93,836	-	956,404	1,050,240	91,836	16,228	1,158,304
Payroll taxes	78,844	-	346,644	425,488	54,965	10,727	491,180
Conferences/meetings	86,909	-	287,823	374,732	23,512	4,561	402,805
Accounting	20,000	-	130,537	150,537	159,781	-	310,318
Consultants	1,354,064	-	3,682,809	5,036,873	159,916	31,209	5,227,998
Legal	47,689	-	119,654	167,343	14,528	2,835	184,706
Member fund expenses	-	-	122,699	122,699	-	-	122,699
Insurance	29,579	-	171	29,750	37,490	7,317	74,557
Miscellaneous	1,663	-	3,220	4,883	15,267	64	20,214
Equipment rental	3,994	-	5,199	9,193	1,676	327	11,196
Depreciation	1,455	-	4,704	6,159	1,909	373	8,441
	\$ 3,062,984	\$ 33,923,061	\$ 12,129,284	\$ 49,115,329	\$ 1,495,182	\$ 255,890	\$ 50,866,401

See notes to financial statements

## Common Counsel Foundation

### Statement of Cash Flows

Year Ended December 31, 2022

#### Cash Flows From Operating Activities

Change in net assets	\$ 853,741
Adjustments to reconcile change in net assets to net cash provided by operating activities:	
Depreciation	8,441
Net unrealized and realized loss on investments	66,950
(Increase) decrease in operating assets:	
Grants and contributions receivable	1,901,854
Accounts receivable	(215,181)
Prepaid expenses	(126,449)
Deposits	(16,843)
Increase (decrease) in operating liabilities:	
Accounts payable	437,841
Accrued expenses	(1,312)
Grants payable	(1,029,424)
Accrued vacation	164,909
Deferred revenue	(5,987)
Operating lease liabilities	7,562
Net cash provided by operating activities	<u>2,046,102</u>

#### Cash Flows From Investing Activities

Purchase of equipment	(72,956)
Purchases of investments	(729,073)
Proceeds from sales of investments	<u>1,800,000</u>
Net cash provided by investing activities	<u>997,971</u>

Net change in cash and cash equivalents	3,044,073
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Cash and Cash Equivalents, Beginning	<u>65,335,088</u>
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Cash and Cash Equivalents, Ending	<u><u>\$ 68,379,161</u></u>
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See notes to financial statements



## 1. Organization and Summary of Significant Accounting Policies

### Organization

Common Counsel Foundation (the Organization) is a California nonprofit organization. The purpose of the Organization is to advance equity and social justice through a combination of direct grantmaking, philanthropic advising to client member funds, and managing programmatic activities through projects focused on organizational development, leadership training and sustainability, and donor education.

The Organization has three major programs: donor services, grantmaking and fiscal sponsorship.

### Donor Services

The Organization provides strategic philanthropic advice and services to independent foundations and donor-advised funds that share a commitment to equity and social justice initiatives. Partnership with the Organization facilitates clients' grantmaking processes and deepens their impact. The Organization provides comprehensive grants program management and administration for foundations, including philanthropic advising, identifying a grantmaking strategy, research and due diligence, recommending charitable organizations for grants, trustee support, accounting, grants administration and legal compliance duties. The Organization is currently home to the following member funds, which it advises: the Abelard Foundation West, the Acorn Foundation, Colombe Peace Foundation, Oscar G. and Elsa S. Mayer Family Foundation, Tykeson Family Foundation, and the Kelley Family Foundation.

### Grantmaking

The Organization engages in direct grantmaking through its donor-advised funds, which include but are not limited to the David R. Stern Fund, the C.J. & Mattie Lowery Fund, DBEK Fund, Linked Fate Fund for Justice, Visionary Freedom Fund and Honeybee. The Organization also makes direct grants through five fields-of-interest funds, including Grassroots Exchange Fund, Social and Economic Justice Fund, the Environmental Action Fund, Native Voices Rising, and Fund for An Inclusive California.

Grassroots Exchange Fund (GXF) is a community-guided, rapid-response, small-grants program that facilitates training to strengthen organizational capacity, advocacy, and travel for joint strategizing, learning and bridge building for grassroots social-justice and environmental-justice organizations.

Social and Economic Justice Fund (SEJ) supports collaboration between grassroots groups and their allies. Currently, the Fund is focused on racial justice and criminal justice reform.

Environmental Action Fund supports environmental health and justice.

Native Voices Rising (NVR) is a joint research and re-granting project of Native Americans in Philanthropy and the Organization. NVR is intended to focus philanthropic attention on the need for increased investment in and sustained support for Native-led grassroots community organizing and advocacy in American Indian, Alaska Native, and Native Hawaiian communities.

Fund for an Inclusive California (F4ICA) is a grantmaking program that supports organizations throughout California working on issues of gentrification, displacement in order to create equitable development. It includes philanthropic partners that have pooled their investments to benefit low-income, communities of color in five regions of California.

## Common Counsel Foundation

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Notes to Financial Statements

December 31, 2022

### **Fiscal Sponsorship**

The Organization acts as the fiscal sponsor for various projects. Currently, the Organization is the fiscal sponsor for Color Congress, Windcall Institute, RoadMap, Movement for Black Lives and the Kindle Project.

The Color Congress is an intermediary and a funder that is building a national collective of majority people of color (POC) and POC-led organizations aimed at centering and strengthening nonfiction storytelling by, for and about people of color across the United States and territories. The Color Congress does this by supporting, resourcing, and connecting these organizations and building their collective power so they can be a more powerful force for change.

Windcall Institute supports and sustains labor and community organizers, particularly people of color and women through our signature Residency experience and Staying Power programming. Windcall believes that when our organizations are more life sustaining, imaginative, and visionary, our people and movements will more profoundly contribute to dismantling all forms of oppression.

RoadMap is a national network of organizational-development consultants dedicated to strengthening grassroots organizations. It also serves as a forum for peer exchange and innovation among organizational-development consultants. Continually RoadMap is developing and testing new strategies to build healthier and more sustainable organizations, networks, coalitions and alliances.

The Movement for Black Lives (M4BL) formed in December of 2014, was created as a space for Black organizations across the country to debate and discuss the current political conditions, develop shared assessments of what political interventions were necessary in order to achieve key policy, cultural and political wins, convene organizational leadership in order to debate and co-create a shared movement wide strategy. Under the fundamental idea that we can achieve more together than we can separately.

The Kindle Project is based in Santa Fe, New Mexico. It seeks to foster a nexus of creative ideas and cultivators to inspire and support possibilities for change. During the year ended December 31, 2022, the Kindle Project fiscal sponsorship was closed out and \$3,375,416 was recorded as fund closeout on the Statement of Activities.

### **Basis of Accounting**

The Organization maintains its records using the accrual method of accounting in accordance with generally accepted accounting principles in the United States of America for Not-for-Profit Organizations (U.S. GAAP).

### **Description of Net Assets**

The Organization reports information regarding its financial position and activities according to two classes of net assets as follows:

#### **Net Assets Without Donor Restrictions**

Those net assets and activities which represent the portion of expendable funds that have no use or time restrictions. The Organization's Board of Directors may designate net assets without restrictions for a specific purpose. At December 31, 2022, there were no board designated net assets without donor restrictions.

### **Net Assets With Donor Restrictions**

Those net assets that are subject to donor-imposed restrictions. Some donor-imposed restrictions are temporary in nature, such as those that will be met by passage of time or the events specified by the donor. Other donor-imposed restrictions are perpetual in nature, where the donor stipulates that resources be maintained in perpetuity. Donor-imposed restrictions are released when specific stipulations are met.

### **Cash and Cash Equivalents**

For purposes of the statement of cash flows, the Organization considers all unrestricted, highly liquid investments with an initial maturity of three months or less to be cash equivalents. Certain cash and cash equivalents held in the investment portfolio are recorded as cash in the investments.

### **Grants and Contributions Receivable**

Grants and contributions receivable represents promises to give from donors that have been accrued for and have not yet been collected. Promises to give which are expected to be collected in future years are initially recorded at fair value using present value techniques incorporating risk-free discount rates ranging from 0.84% to 4.27%, designed to reflect the assumptions market participants would use in pricing the asset.

The Organization uses the allowance method to account for uncollectible grants and contributions receivable. The allowance is based on historical experience and management's evaluation of outstanding grants and contributions receivable as of year-end. At December 31, 2022, the Organization believes all grants and contributions receivable are fully collectible, therefore, there is no allowance for uncollectible grants and contributions receivable.

### **Accounts Receivable**

Accounts receivables represents amounts billed and accrued for that have not yet been collected related to services rendered. The Organization uses the allowance method to account for uncollectible accounts receivable. The allowance is based on historical experience and management's evaluation of outstanding accounts receivable as of year-end. At December 31, 2022, the Organization believes all accounts receivable are fully collectible, therefore, there is no allowance for accounts receivable.

### **Furniture and Equipment**

Furniture and equipment with an original purchase price in excess of \$2,500 are carried at cost. Contributed property and equipment are recorded at their estimated fair market values at the date of donation. Depreciation is provided on the straight-line method over the estimated useful lives of the respective assets. Repairs and maintenance which neither materially add to the value of the property or equipment nor appreciably prolong its life are charged to expense as incurred.

### **Investments**

The Organization's investments consist of equity securities and certificates of deposit and are recorded at fair value. Certain cash and cash equivalents held in the investment portfolio are recorded as cash in the investments. Certificates of deposit are valued at amortized cost, which approximates fair value. The fair values of equity securities are based on quoted market prices for those investments. Realized and unrealized gains and losses are included in the statement of activities. Gain and losses are reflected as increases or decreases in the net assets without donor restrictions unless the donor or relevant laws place a restriction on the gains and losses, they will then be recorded as net assets with donor restrictions.

## **Common Counsel Foundation**

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### Notes to Financial Statements

December 31, 2022

#### **Programmatic Investments**

Programmatic investments includes recoverable grants that represents various loans made to other organizations and are recorded at net realizable value. Upon origination of the donation, the Organization determines the probability of repayment. The difference between the cash transferred and the present value of the contractual payments is considered an inherent contribution and as a contribution expense.

Each year, management evaluates the collectability of the remaining recoverable grant receivable. At December 31, 2022, there is no additional allowance reflected in the financial statements.

#### **Fair Value Measurements**

The Organization is required to consider the use of market-based information over entity-specific information in valuing its financial assets measured at fair value, using a three-level hierarchy for fair value measurements based on the nature of inputs used in the valuation of an asset or liability as of the measurement date.

The three-level hierarchy for fair value categorizes the inputs as follows:

Level 1 - Quoted prices (unadjusted) in active markets for identical assets or liabilities that the Organization can access at the measurement date.

Level 2 - Inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. These include quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, inputs other than quoted prices that are observable for the asset or liability, and market-corroborated inputs.

Level 3 - Unobservable inputs for the asset or liability using the best information available in the circumstances.

The asset's or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the observable inputs and minimize the use of unobservable inputs. At December 31, 2022, there have been no changes in the methodologies used.

#### **Accrued Paid Time Off**

The Organization accrues vacation liabilities as the vacation hours are earned by employees. The sabbatical policy has been simplified; starting in 2015, an employee is eligible for a two-month sabbatical based on the regular hours that they worked per week after completing five years of service. Sabbatical liabilities are accrued only when it is probable that an employee will reach the year for the sabbatical, which is assumed to have been achieved at the beginning of the fourth year of employment. Prior to 2015, the Organization allowed a three-month sabbatical for permanent employees that worked at least 30 hours a week and a six-week sabbatical for permanent employees that worked less than 30 hours per week after the employee reached 9,100 hours of services and five years.

## Revenue Recognition

### Grants and Contributions

Unconditional promises to give are recorded as revenue at fair value when the promise is made by the donor/grantor. Conditional grants and contributions are those with a barrier to entitlement that the Organization must overcome and a right of return if the conditions are not met. Cash collected for conditional grants and contributions are accounted for as a liability initially until the barrier to entitlement is overcome, at which point, the revenue is recognized at fair value. Grants and contributions that are restricted by the donor are reported as increases in net assets with donor restrictions. When the Organization incurs qualifying expenditures towards the restricted purpose, net assets with donor restrictions are reclassified to net assets without donor restrictions.

The Organization receives contributions from donors under donor-advised fund agreements (DAFs). While the named advisors to the DAFs have the right to, and are encouraged to, make grant recommendations for grants to nonprofit organizations, the Organization retains variance power and, therefore, has ultimate discretion regarding the use of the funds. Contributions received under DAFs are recognized at fair value on the date promised and are recorded as increases to net assets without donor restrictions.

### Program Service Income

Revenue recognition for program service income is evaluated through the following five steps: (i) identification of the contract or contracts with a customer; (ii) identification of the performance obligations in the contract; (iii) determination of the transaction price; (iv) allocation of the transaction price in the contract; and (v) recognition of revenue when or as a performance obligation is satisfied. The Organization utilizes the portfolio approach practical expedient to account for program service income as the contracts and performance obligations have similar characteristics and the Organization reasonably expects that the effects on the financial statements from applying the portfolio method are not materially different than the individual contracts.

The performance obligation related to program service income contracts is to provide consulting services to other organizations. The Organization recognizes program service income over time in the period that services are rendered. The Organization bills for services on a quarterly basis. Payment is typically due within 30 days after billing. Payments collected in excess of the related program service income recognized as of year-end are recorded as deferred revenue.

### Fees for Donor Services

Fees for donor services include management service fees from providing administrative and management services provided by the Organization. These contracts are generally long-term. Revenue is recognized over the period the services are provided. These services are delivered as a single performance obligation and are billed for a fixed amount on a periodic basis. Revenue is measured as the amount of consideration it expects to receive in exchange for providing a service.

### Contributed Nonfinancial Assets

Donated materials and equipment are recorded as contribution revenue at their estimated fair value on the date of receipt. Such donations are reported as support without donor restrictions unless the donor has restricted the donated asset for a specific purpose.

## Common Counsel Foundation

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### Notes to Financial Statements

December 31, 2022

The Organization records contribution revenue for certain services received at the fair value of those services, if the services (a) create or enhance nonfinancial assets, or (b) require specialized skills, are provided by individuals possessing those skills, and would be purchased if not donated.

### Grants Expense

Unconditional grants made by the Organization to unrelated nonprofit organizations are recorded as expense when promised. Conditional grants made by the Organization to unrelated nonprofit organizations are recorded as expense when the underlying conditions have been met by the recipient.

### Functional Allocation of Expenses

The costs of providing the various program and supporting activities have been summarized on a functional basis in the statement of activities. Expenses are allocated to program and supporting services based on the nature of each expense and services provided for each function. Accordingly, certain expenses have been allocated to program and supporting services based on employee time estimates.

### Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

### Income Taxes

The Organization is exempt from paying federal and state income taxes under Internal Revenue Code Section 501(c)(3) and by the California Revenue and Taxation Code under Section 23701(d). Accordingly, no provision has been made for such taxes in the accompanying financial statements.

Each year, management considers whether any material tax position the Organization has taken is more likely than not to be sustained upon examination by the applicable taxing authority. Management believes that any position the Organization has taken is supported by substantial authority and hence does not need to be measured or disclosed in these financial statements.

### Recently Issued Accounting Standards

During June 2016, FASB issued ASU No. 2016-13, *Measurement of Credit Losses on Financial Instruments*. ASU No. 2016-13 requires financial assets measured at amortized cost to be presented at the net amount expected to be collected, through an allowance for credit losses that is deducted from the amortized cost basis. The measurement of expected credit losses is based on relevant information about past events, including historical experience, current conditions, and reasonable and supportable forecasts that affect the collectability of the reported amount. FASB has issued subsequent standards to clarify, correct errors in or improve the guidance. ASU No. 2016-13 (as amended) is effective for annual periods and interim periods within those annual periods beginning after December 15, 2022.

The Organization is currently assessing the effect of these Accounting Standard Updates will have on its financial statements.

## Subsequent Events

Management has evaluated events and transactions for potential recognition or disclosure through July 17, 2023, which represents the date the financial statements were available to be issued.

## 2. New Accounting Pronouncement

During 2022, the Organization adopted Accounting Standards Update No. 2020-07, Not-for-Profit Entities (Topic 958) Presentation and Disclosures by Not-for-Profit Entities for Contributed Nonfinancial assets. ASU No. 2020-07 improves financial reporting by providing new presentation and disclosure requirements about contributed nonfinancial assets, including additional disclosure requirements for recognized contributed services. The adoption of ASU 2020-07 did not have a material impact on the Organization's financial statements.

Effective January 1, 2022, the Organization adopted Financial Accounting Standards Board (FASB) Accounting Standards Update (ASU) No. 2016-02, *Leases (Topic 842)*, and all related amendments using the modified retrospective approach. The Organization's 2021 financial statements continue to be accounted for under the FASB's Topic 840 and have not been adjusted.

ASU No. 2016-02 requires lessees to recognize the assets and liabilities that arise from leases on the statement of financial position. At lease inception, leases are classified as either finance leases or operating leases with the associated right-of-use asset and lease liability measured at the net present value of future lease payments. Operating lease right-of-use assets are expensed on a straight-line basis as lease expense over the noncancelable lease term. Lease expense for the Organization's finance leases is comprised of the amortization of the right-of-use asset and interest expense recognized based on the effective interest method. At the date of adoption, the Organization recorded operating lease right-of-use assets and corresponding lease liabilities of \$200,311.

The new standard provides for several optional practical expedients. Upon transition to Topic 842, the Organization elected:

- The package of practical expedients permitted under the transition guidance which does not require the Organization to reassess prior conclusions regarding whether contracts are or contain a lease, lease classification and initial direct lease costs.

The new standard also provides for several accounting policy elections, as follows:

- The Organization has elected the policy not to separate lease and nonlease components for all asset classes.
- When the rate implicit in the lease is not determinable, rather than use the Organization's incremental borrowing rate, the Organization elected to use a risk-free discount rate for the initial and subsequent measurement of lease liabilities for all asset classes.
- The Organization elected not to apply the recognition requirements to all leases with an original term of 12 months or less, for which the Organization is not likely to exercise a renewal option or purchase the asset at the end of the lease; rather, short-term leases will continue to be recorded on a straight-line basis over the lease term.

Additional required disclosures for Topic 842 are contained in Note 13.

## Common Counsel Foundation

### Notes to Financial Statements

December 31, 2022

#### 3. Restatement

The Organization previously received donations related to the Kindle Project of \$3,230,481 that were accounted for as the Kindle Project Donor Advised Fund (DAF) and recorded as net assets without donor restrictions. During the year ended December 31, 2022, the Organization uncovered additional information indicating that those funds should have originally been recorded as net assets with donor restrictions. Accordingly, the Organization adjusted the classification between net assets without donor restrictions and net assets with donor restrictions as of January 1, 2022. The opening balance of net assets without donor restrictions as of January 1, 2022 was decreased by \$3,230,481, and the opening balance of net assets with donor restrictions as of January 1, 2022 was increased by \$3,230,481 in order to properly reflect restricted contribution revenue from individuals relating to prior periods for the Kindle Project. There was no change in total net assets as a result of the adjustment.

	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>
Net assets, beginning of the year, as previously stated	\$ 20,911,064	\$ 72,390,583
Impact of restatement	(3,230,481)	3,230,481
Net assets, beginning of the year, as adjusted	<u>\$ 17,680,583</u>	<u>\$ 79,804,231</u>

#### 4. Liquidity and Availability of Financial Assets

The Organization is substantially supported by contributions, specifically funds held for Fiscally Sponsored Projects and Donor Advised Funds. Because a donor's restriction requires resources to be used a particular manner or in a future period, the Organization maintains sufficient resources to meet those responsibilities. These financial assets are not available for general expenditure within one year but are available for programmatic expenditure.

As part of the Organization's liquidity management, it has a policy to structure its financial assets to be available as its general expenditures, liabilities, and other obligations come due. The Organization invests cash in excess of daily requirements in short-term investments, certificates of deposit, and money market funds.

The General Fund holds unrestricted cash to meet the operational needs of the Organization. Short-term investments are structured in a way that ensures that adequate cash will be on hand to meet the grant obligations approved by the Board of Trustees on a quarterly basis.



## Common Counsel Foundation

### Notes to Financial Statements

December 31, 2022

At December 31, 2022, financial assets available for general expenditures consist of the following:

Cash and cash equivalents	\$ 68,379,161
Investments	2,772,773
Grants and contributions receivable	10,217,066
Accounts receivable	632,728
	<u>82,001,728</u>
Less amounts not available to meet general expenditures within one year:	
Net assets with donor restrictions	(14,855,000)
Fiscal sponsorship	(464,916)
Donor advised funds	(7,185,127)
	<u>(22,505,043)</u>
Financial assets available to meet general expenditures within one year	<u>\$ 59,496,685</u>

#### 5. Grants and Contributions Receivable

At December 31, 2022, grants and contributions receivable are due as follows:

Receivable within one year	\$ 10,117,066
Receivable within two to five years	14,855,000
Present value discount	(633,541)
	<u>\$ 24,338,525</u>

The Foundation recognizes conditional promises to give that is, those with a measurable performance or other barrier and a right of return when the conditions on which they depends have been met. At December 31, 2022, grants and contributions amounting to \$1,333,334 have not been recognized in the accompanying financial statements because of the barriers and right of returns on the grant have not been met.

#### 6. Investments and Fair Value Measurements

At December 31, 2022, the major categories of investments measured at fair value on a recurring basis during the year ended December 31, 2022 using quoted prices in active markets for identical assets (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3) consist of the following:

	Fair Value	Fair Value Measurements Using		
		Level 1	Level 2	Level 3
Cash equivalents	\$ 50,000	\$ 50,000	\$ -	\$ -
Certificates of deposits	2,722,773	50,000	2,722,773	-
	<u>\$ 2,772,773</u>	<u>\$ 100,000</u>	<u>\$ 2,722,773</u>	<u>\$ -</u>

## Common Counsel Foundation

### Notes to Financial Statements

December 31, 2022

#### 7. Programmatic Investments

Programmatic investments consist of various loans made to other organizations in 2022. Upon donation of the investment, management performs an assessment of the impairment of the loans. The difference between the cash transferred and the present value of the contractual payments of the loans at the effective interest rate is recognized as contribution expense and a discount on the loans. The loans mature at various times between 2022 and 2029.

The grant and accumulated inherent contribution at December 31, 2022 are as follows:

Recoverable grant	\$	805,000
Inherent contribution		(117,782)
	\$	<u>687,218</u>

#### 8. Furniture and Equipment

At December 31, 2022, furniture and equipment consist of the following:

Equipment	\$	37,871
Furniture		<u>61,872</u>
		99,743
Less accumulated depreciation		<u>(35,094)</u>
Total	\$	<u>64,649</u>

#### 9. Net Assets With Donor Restrictions

During the year ended December 31, 2022, net assets with donor restrictions consist of the following:

Subject to expenditure for specific purpose:	
Movement 4 Black Lives	\$ 68,145,101
Color Congress Initiative	1,965,246
Fund for Inclusive California	1,839,589
Native Voices Rising	4,085,015
Visionary Freedom Fund	1,594,145
Environmental Action Fund	75,000
Windcall	20,936
Linked Fate	13,321
Health Impact Fund	<u>1,104</u>
	<u>77,739,457</u>
Subject to purpose and passage of time:	
RoadMap	400,000
Kindle Project	373,000
Windcall	<u>295,000</u>
	<u>1,068,000</u>
Subject to passage of time:	<u>175,000</u>
	<u>\$ 78,982,457</u>

## Common Counsel Foundation

### Notes to Financial Statements

December 31, 2022

Net assets with donor restrictions released for donor-restricted purpose expenses during the year ended December 31, 2022, are as follows:

Movement 4 Black Lives	\$ 13,702,600
Native Voices Rising	5,667,695
Kindle Project	1,618,300
Fund for Inclusive CA	1,886,903
Color Congress Initiative	1,576,037
Visionary Freedom Fund	1,190,741
RoadMap	612,351
Windcall	429,310
Linked Fate	138,971
Health Impact Fund	99,385
Social and Economic Justice Fund	71,158
Environmental Action Fund	60,000
Grassroots Exchange Fund	37,762
	<u>\$ 27,091,213</u>

## 10. Fiscal Sponsorships

The Organization enters into agreements with some projects that are determined to be consistent with the Organization's charitable mission to serve as their fiscal sponsor. These projects are unincorporated charitable associations established to manage the affairs of the projects.

The Organization has the ultimate responsibility of the activities conducted by the projects and the project employees are at-will employees of the Organization. The fiscal sponsorship shall terminate when the Organization can no longer reasonably accomplish the objectives of the project, or the fiscal sponsorship can be terminated by a 90-day written notice to the other party as long as another acceptable nonprofit organization (not classified as private foundation) is found and is willing and able to sponsor the project. Upon termination, all assets and liabilities existing at the time of termination will be transferred to the successor fiscal sponsor. In addition, either party can terminate the sponsorship agreement by giving a 30-day written notice to the other party upon a material breach of the fiscal-sponsorship agreement.

For administrative services, the Organization charges a percentage of funds raised. These revenue and expenses are eliminated in these financial statements since they are internal charges.

As of December 31, 2022, net assets of fiscally sponsored projects are as follows:

	Without Donor Restrictions	With Donor Restrictions	Total
Movement 4 Black Lives	\$ -	\$ 68,845,101	\$ 68,845,101
Color Congress Initiative	-	1,965,246	1,965,246
RoadMap	453,835	400,000	853,835
Windcall	11,081	420,936	432,017
	<u>\$ 464,916</u>	<u>\$ 71,631,289</u>	<u>\$ 72,096,199</u>

### 11. Concentrations

#### Credit and Investment Risk

Financial instruments that potentially subject the Organization to concentrations of credit risk consist principally of cash, cash equivalents, investments, and receivables. Risks associated with cash and cash equivalents are mitigated by banking with various creditworthy institutions. Cash and cash equivalents in accounts held by Royal Bank of Canada are insured up to the limit set by the Canadian Deposit Insurance Corporation (CDIC) (currently \$100,000 per depositor). All other cash and cash equivalents accounts, which are held by institutions in the United States, are insured up to the limit set by the Federal Deposit Insurance Corporation (FDIC) (currently \$250,000 per depositor). The Organization has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk.

Investments, in general, are exposed to various risks, such as interest rate, credit and overall market volatility. Certain investments are insured up to the limit set by the Securities Investor Protection Corporation (SIPC) (currently \$500,000 per depositor). At December 31, 2022, the Organization held investments in excess of the SIPC insurance limits.

The Organization minimizes its risk of loss by holding cash and cash equivalent funds in Certificate of Deposit Account Registry Services (CDARS) or insured credit sweep accounts, which allow for more than \$250,000 to be held in a single account and maintain FDIC protection.

#### Major Donors

During the year ended December 31, 2022, about \$13 million of foundation grant revenue was derived from six donors to support Movement 4 Black Lives. During the year ended December 31, 2022, 82% of contribution revenue was derived from two donors. At December 31, 2022, 12% of grants and contributions receivable were due from two donors.

### 12. Retirement Plan

The Organization adopted a Simple IRA plan (the Plan) effective January 1, 2014. An employee who has received at least \$5,000 compensation in the prior year and is reasonably expected to receive at least \$5,000 in compensation in the current year is eligible to participate in the Plan. The Organization contributes a percentage (3% for the year ended December 31, 2022) of eligible employees' prior year compensation to the Plan. During the year ended December 31, 2022, employer contributions under the Plan totaled \$179,239.

### 13. Leases

Right-of-use assets represent the Organization's right to use an underlying asset for the lease term, while lease liabilities represent the Organization's obligation to make lease payments arising from the lease. Right-of-use assets and lease liabilities are recognized at the commencement date of a lease based on the net present value of lease payments over the lease term.

## Common Counsel Foundation

### Notes to Financial Statements

December 31, 2022

Certain of the Organization's leases include options to renew or to terminate the lease. The exercise of lease renewal or early termination options is at the Organization's sole discretion. The Organization regularly evaluates the renewal and early termination options and when they are reasonably certain of exercise, the Organization includes such options in the lease term. Additionally, upon adoption of the new standard, the Organization made judgments regarding lease terms for certain of its real property leases that were in month-to-month status or that contained auto-renewal clauses. The Organization estimated a lease end date based on the required length of usage of the property and calculated a right-of-use asset and lease liability with the resulting estimated lease term.

In determining the discount rate used to measure the right-of-use assets and lease liabilities, the Organization uses the rate implicit in the lease, or if not readily available, the Organization uses a risk-free rate based on U.S. Treasury notes for similar terms.

Right-of-use assets are assessed for impairment in accordance with the Organization's long-lived asset policy. The Organization reassesses lease classification and remeasures right-of-use assets and lease liabilities when a lease is modified and that modification is not accounted for as a separate new lease or upon certain other events that require reassessment in accordance with Topic 842.

The Organization made significant assumptions and judgments in applying the requirements of Topic 842. In particular, the Organization:

- Evaluated whether a contract contains a lease, by considering factors such as whether the Organization obtained substantially all rights to control an identifiable underlying asset and whether the lessor has substantive substitution rights;
- Determined whether contracts contain embedded leases;
- Evaluated leases with similar commencement dates, lengths of term, renewal options or other contract terms, which therefore meet the definition of a portfolio of leases, whether to apply the portfolio approach to such leases;

The Organization does not have any material leasing transactions with related parties.

The following table summarizes the operating lease right-of-use assets and operating lease liabilities as of December 31, 2022:

Operating lease right-of-use assets	<u>\$ 134,692</u>
Operating lease liabilities:	
Current	66,585
Long-term	<u>75,669</u>
Total operating lease liabilities	<u>\$ 142,254</u>

During the year ended December 31, 2022, the expense incurred pertaining to leases totaled \$68,722. The right-of-use assets and lease liabilities were calculated using a discount rate of 1.76%. As of December 31, 2022, the remaining lease term was 2.08 years.

## Common Counsel Foundation

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Notes to Financial Statements  
December 31, 2022

The table below summarizes the Organization's scheduled future minimum lease payments for years ending after December 31, 2022:

Years ending:	
2023	\$ 68,555
2024	70,556
2025	<u>5,894</u>
Total lease payments	145,005
Less present value discount	<u>2,751</u>
Total lease liabilities	142,254
Less current portion	<u>66,585</u>
Long-term lease liabilities	<u>\$ 75,669</u>

The following table includes supplemental cash flow and noncash information related to the leases for the year ended December 31, 2022:

Cash paid for amounts included in the measurement of lease liabilities:	
Operating cash flows from operating leases	\$ 61,160
Operating lease right-of-use assets obtained in exchange for lease liabilities	200,311