

## Los Angeles Municipal Code

### SEC. 49.7.1. Relation to the City Charter.

The provisions of this Article ~~relating to contribution limitations~~ are in addition to and supplement the regulations contained in Charter Sections 470 and, 471, 609(e), and 700 *et seq.* The provisions of this Article ~~relating to public financing and expenditure limitations~~ are adopted pursuant to the authorization contained in Charter Section 471.

### SEC. 49.7.2. Definitions.

The following terms have the meanings identified below. Other terms used in this Article have the meanings identified in the Political Reform Act. ~~All terms used in this Article shall be interpreted in accordance with the Political Reform Act.~~

A. “Behested” means made at the request of, at the suggestion of, with the cooperation of, in concert with, in consultation with, in coordination with, under the direction of, or under any arrangement with a candidate or candidate’s City controlled committee.

1. There is a rebuttable presumption that a communication is behested in any of the following circumstances:

- a. The ~~spender~~communicator and the candidate retain the same individual or entity to provide non-ministerial, campaign-related professional services, including but not limited to polling, campaign research, media consultation or production, direct mail consultation, and fundraising, in the same election cycle.
- b. The communication reproduces or redistributes, in whole or substantial part, a campaign, officeholder, or legal defense communication.
- c. The communication includes information about a candidate’s campaign plans, projects, or needs that is not generally available to the public or is provided directly or indirectly by the candidate.
- d. The ~~spender~~communicator discusses or negotiates the communication with the candidate.
- e. The ~~spender~~communicator is serving or has served in a formal advisory or policy-making position with the candidate or has participated in strategic or policy-making discussions with the candidate regarding the pursuit of nomination or election to office and, in the same election cycle, the candidate is pursuing the office that the campaign communication is intended to influence.
- f. The communication is made in connection with fundraising events or campaign activities co-sponsored by the candidate and the ~~spender~~communicator.

2. None of the following circumstances is sufficient in and of itself to constitute a behested campaign, officeholder, or legal defense communication:

- a. The ~~spender-communicator~~ interviews the candidate regarding legislative or policy issues that affect the spender or discusses campaign-related issues with the candidate but does not communicate with the candidate regarding the communication.
- b. The ~~spender-communicator~~ solicits or obtains a photograph, biography, position paper, press release, or similar material from the candidate and, without the candidate's prior knowledge, uses that material in the communication.
- c. The ~~spender-communicator~~ made a contributions to the candidate or the candidate's City controlled committee.
- d. The ~~spender-communicator~~ communicates to the candidate the intent to make a communication but does not discuss or negotiate the communication with the candidate.
- e. A member of a ~~spender-communicator~~ organization provides volunteer services to or works for the affected candidate's campaign. This exception does not apply if the member was also involved in the activities of the ~~spender's-communicator's~~ political action committee, makes payments on behalf of the ~~spender~~communicator, is serving or has served the candidate in a formal advisory or policy-making position, or is making or has engaged in strategic or policy-making discussions with the candidate.
- f. The communication was made in response to an unsolicited request from a political party leader or an agent of the leader.
- g. The ~~spender-communicator~~ employs or is under contract with a political consultant or pollster who previously rendered services to the candidate.

3. "Communicator" means a person who makes or incurs an expenditure for a communication or causes a communication to be distributed or displayed. Reference to a spender-communicator includes the spender's-communicator's agent. Reference to a candidate includes the candidate's agent and City controlled committees.

**B. "Campaign communication"** means a communication that expressly advocates the election or defeat of a clearly identified City candidate or ballot measure or, taken as a whole and in context, unambiguously urges a particular result in a City election and is authorized, distributed, paid for, or behested by a candidate for elected City office, or by a City controlled committee, a City recall committee, or a City ballot measure committee.

**C. "City controlled committee"** means a committee created for City purposes and controlled by an elected City officer or a candidate for elected City office. The term includes City campaign committees, City officeholder expense funds~~committees~~, City legal defense funds ~~relating to City office~~committees, and recall and ballot measure committees involving City issues. The term does not include a committee created for election to or the holding of a non-City office.

**D. "City official"** has the same meaning as in Section 49.5.2(C).

**DE. "Citywide office"** means the offices of City Attorney, Controller, or Mayor.

**EE. "Communication"** means a message that conveys information or views in a scripted or reproduceable format, including but not limited to paper, audio, video, telephone, electronic, Internet, ~~w~~Web logs, and social media.

**FG. "Elected City Office"** means the office of City Council member, City Attorney, Controller, or Mayor.

**GH. "Elected City officer"** means a person who holds elected City office, whether appointed or elected.

**HI. "Fundraising event"** means an event designed for political fundraising, at which contributions for an elected City officer, a candidate for elected City office, or a City controlled committee are solicited or received.

**IJ. "General election"** means a regular or special general municipal election ~~for at which an~~ elected City office or a City measure is on the ballot.

**JK. "Independent expenditure communication"** means a communication that expressly advocates the election or defeat of a clearly identified City candidate or ballot measure or, taken as a whole and in context, unambiguously urges a particular result in a City election and is not authorized, distributed, paid for, or behested by the affected candidate or committee. The term includes member communications, as defined in the Political Reform Act, if any of the following applies:

1. The communication is not a type that is routinely distributed by the member organization;
2. The communication is not directed solely to and intended only for the member organization's own members; or
3. The cost of the communication exceeds the amount that the member organization routinely spends for that type of communication.

**KL. "Legal defense communication"** means a communication permitted for legal defense committees and authorized, distributed, paid for, or behested by a legal defense fund committee or the person who controls the committee.

**LM. "Non-participating candidate"** means a candidate for elected City office who has ~~declined~~ not agreed to participate in the public matching funds program, has subsequently declined to participate in the public matching funds program, or has been disqualified from participating in the public matching funds program.

**MN. "Officeholder communication"** means a communication permitted for City officeholders and authorized, distributed, paid for, or behested by a City officeholder or an officeholder committee.

**NO. "Participating candidate"** means a candidate for elected City office who has agreed to participate in the public matching funds program, has filed a statement of acceptance of matching funds, has not subsequently declined to participate in the matching funds program, and has not been disqualified from participating in the matching funds program.

**OP. "Political communication"** means a campaign communication, an independent expenditure communication, a legal defense communication, or an officeholder communication.

**PQ. "Political Reform Act"** means the California Political Reform Act of 1974 (California Government Code Sections 81000 *et seq.*) and the related regulations of the California Fair Political Practices Commission.

**QR. "Primary election"** means a regular or special primary nominating election ~~for~~ at which an elected City office or a City measure is on the ballot.

**RS. "Qualified contribution"** means a contribution ~~that may be matched with public funds because it meets all of the following criteria:~~

1. The contribution is lawful under ~~S~~federal, state, and City law.
2. The contribution was received by a participating candidate.
3. The contribution was not received from the participating candidate or the participating candidate's immediate family.
4. The contribution was received from an individual. ~~Beginning with the 2015 regular City elections, the contribution was received from an individual residing within the City.~~
5. The contribution is monetary and is not a loan or pledge.
6. The contribution was received no later than three months after the date of the election, ~~no earlier than the opening of the applicable fundraising window in Section 49.7.10, and no earlier than the following dates:~~
  - a. ~~For regular primary elections, 12 months prior to the date of the election~~the date on which the candidate filed a Declaration of Intent to Solicit and Receive Contributions.
  - b. ~~For special primary elections, the later of 12 months prior to the date of the election or the date the candidate filed a Declaration of Intent to Solicit and Receive Contributions.~~
  - c. ~~For general elections, the date on which the candidate was permitted to begin soliciting and accepting contributions.~~

### **SEC. 49.7.3. Charter-Based Adjustments.**

The Ethics Commission has a duty under Charter Section 702(h) to annually adjust limitations and disclosure thresholds in City law to reflect changes in the Consumer Price Index (CPI).

A. The duty applies to the following provisions in the City's campaign finance laws:

1. The per-person limits on campaign contributions in Charter Sections 470(c)(3) and 470(c)(4).
2. The per-person limits on loans in Charter Section 470(c)(8).
3. The aggregate limits on campaign contributions in Charter Section 470(c)(6).

4. The aggregate limits on campaign contributions from non-individuals in Charter Section 470(c)(7).
  5. The per-person limit on cash contributions in Charter Section 470(d).
  6. The aggregate limit on anonymous contributions in Charter Section 470(e).
  7. The limits on the expenditure of personal funds in a campaign in Section 49.7.23(C)(4).
  8. The limits on expenditures by participating candidates in Section 49.7.24.
  9. The independent expenditure threshold that lifts the expenditure ceilings for participating candidates in Section 49.7.25.
- B. Pursuant to Charter Sections 240, 470(f), and 702(h), the following apply to CPI adjustments.
1. The adjustments shall be automatically calculated and published by the Ethics Commission staff no later than March 1 of each year.
  2. Adjustments shall reflect the percent change in CPI for All Urban Consumers that is published by the United States Bureau of Labor Statistics for the region that includes the Los Angeles metropolitan area from December 2011 to the December immediately prior to the adjustment using the following formula: divide the CPI for the December immediately prior to the adjustment by 231.567 (the CPI for December 2011); multiply the resulting number by each value below; and round as specified in paragraph 3.
    - a. \$700 for the per-person limits on contributions and loans to City Council candidates.
    - b. \$1,300 for the per-person limits on contributions and loans to Citywide candidates.
    - c. (\$700 times the number of City Council offices on a ballot) plus (\$1,300 times the number of Citywide offices on a ballot), but not less than (two times the limit on contributions to City Council candidates), for a person's aggregate limit on contributions in a single election.
    - d. The following aggregate limits on non-individual contributions:
      - i. \$202,300 to City Council candidates.
      - ii. \$539,400 to City Attorney and Controller candidates.
      - iii. \$1,213,800 to Mayoral candidates.
    - e. \$25 for the per-person limit on cash contributions.
    - f. \$200 for the aggregate limit on anonymous contributions.
    - g. The following limits on the expenditure of personal funds by participating candidates:
      - i. \$31,100 for City Council candidates.
      - ii. \$124,500 for Citywide candidates.

h. The following expenditure limits for participating candidates in primary elections:

- i. \$480,000 for City Council candidates.
- ii. \$1,119,000 for Controller candidates.
- iii. \$1,259,000 for City Attorney candidates.
- iv. \$2,798,000 for Mayoral candidates.

j. The following expenditure limits for participating candidates in general elections:

- i. \$400,000 for City Council candidates.
- ii. \$840,000 for Controller candidates.
- iii. \$979,000 for City Attorney candidates.
- iv. \$2,237,000 for Mayoral candidates.

k. The following independent expenditure thresholds that lift the expenditure limits for participating candidates:

- i. \$77,000 in City Council races.
- ii. \$155,000 in Controller and City Attorney races.
- iii. \$309,000 in Mayoral races.

3. Adjustments shall be rounded as follows:

- a. To the nearest \$10 for the value in subsection B(2)(e).
- b. To the nearest \$100 for the values in subsections B(2)(a) through B(2)(d) and B(2)(f).
- c. To the nearest \$1,000 for the values in subsections B(2)(g) through B(2)(j).

4. Adjustments that apply to limits and thresholds related to elections apply as of the next primary election for an elected City office for which no City fundraising window has opened. All other adjustments apply beginning ~~the~~ July 1 of the same calendar year.

5. Adjustments may not exceed an applicable limit or threshold in ~~S~~state law.

#### **SEC. 49.7.4. Aggregation of Contributions and Expenditures.**

For purposes of the limitations, prohibitions, and requirements contained in Charter Section 470 and this Article, contributions and expenditures from the following sets of persons will be aggregated and considered to be made by a single person. An aggregated contribution may not exceed the lowest ~~permissible contribution from~~ permissible contribution from ~~allowed for either person.~~

- | A. Two persons, ~~one of whom~~ when one controls the other's contribution activity.
- | B. A business entity and another person when the person participates in the business entity's decision to make a contribution, is personally prohibited from making the contribution, and holds an ownership interest of at least 20 percent in the business entity.
- | C. A sponsored committee, as defined in Government Code Section 82048.7, and its sponsoring organization.
- | D. A committee and another person when the person participates in the committee's decision to make a contribution, is personally prohibited from making the contribution, and provides (along or in conjunction with other similarly prohibited persons) 20 percent or more of the committee's funding.
- | ~~GE.~~ Two entities when the same individuals constitute a majority of each entity's board of directors.
- | ~~DE.~~ Two entities that share the same officers or a majority of officers. For the purposes of this Subsection, an officer does not include an individual who serves only as a member of the entity's board of directors.
- | ~~EG.~~ A corporation or limited liability company that shares the same majority shareholders or members as or holds a majority of the voting rights in another corporation or limited liability company.
- | ~~FH.~~ Two corporations in a parent-subsidiary relationship, provided that at least one of the corporations is not publicly traded.
- | ~~GI.~~ An individual and a corporation, limited liability company, firm, joint venture, syndicate, business trust, company, or other business entity other than a sole proprietorship or a general or limited partnership, in which the individual owns an investment of 50 percent or more, or holds a majority of the voting rights.
- | ~~HJ.~~ An individual and a sole proprietorship owned by the individual.
- | ~~IK.~~ A general partner and a general or limited partnership in which the general partner owns an investment of 50 percent or more, or holds a majority of the voting rights.

#### **SEC. 49.7.10. Fundraising Windows.**

- | A. In regular City elections, the following fundraising windows apply.
  - 1. Candidates for City Council and their controlled committees for election to City office may not solicit or accept a contributions from another person or cause a contributions from another person to be solicited or accepted more than 18 months before the date of the primary election at which they seek office.
  - 2. Citywide candidates and their controlled committees for election to City office may not solicit or accept a contributions from another person or cause a contributions from another

| person to be solicited or accepted more than 24 months before the date of the primary election at which they seek office.

B. In special City elections, candidates for elected City office and their controlled committees for election to City office may not solicit or accept a contribution from another person or cause a contribution from another person to be solicited or accepted before the election has been ordered under Charter Section 409(b).

C. Candidates for elected City office and their controlled committees for election to City office may not solicit or receive a contributions from another person or cause a contributions from another person to be solicited or received more than 12 months after the date of the general election at which they seek City office occurs or is scheduled to occur.

~~1. Candidates and their controlled committees for election to City office may request one three-month extension. The request shall be submitted in writing and shall state the reasons for the request. The request may be granted by the Executive Officer if the Executive Officer determines that extraordinary circumstances outside the candidate's or committee's control have substantially affected the candidate's or committee's ability to engage in fundraising following the election.~~

~~2. Contributions solicited or received or caused to be solicited or received following an election shall be used only to retire the candidate's or committee's campaign debt for that election, except to the extent prohibited by Section 49.7.9, or to pay the candidate's or committee's compliance, fundraising, or inauguration expenses for that election.~~

#### **SEC. 49.7.11. Solicitation and Delivery of Campaign Contributions.**

A. The following definitions apply to this Section.

1. "Personally deliver" means to deliver a contribution in person or to cause a contribution to be delivered in person by an agent or intermediary.
2. "Prohibited fundraising" means any of the following:
  - a. Requesting that another person make a contribution;
  - b. Inviting a person to a fundraising event;
  - c. Supplying names to be used for invitations to a fundraising event;
  - d. Permitting one's name or signature to appear on a solicitation for contributions or an invitation to a fundraising event;
  - e. Permitting one's official title to be used on a solicitation for contributions or an invitation to a fundraising event;
  - f. Providing the use of one's home or business for a fundraising event;
  - g. Paying for at least 20 percent of the costs of a fundraising event;



- h. Hiring another person to conduct a fundraising event;
- i. Delivering a contribution, other than one's own, either by mail or in person to an elected City officer, a candidate for elected City office, or a City controlled committee; or
- j. Acting as an agent or intermediary in connection with the making of a contribution.

B. A person shall not do either of the following:

- 1. Solicit contributions from a City official or employee to support or oppose the candidacy of a person for elected City office, support or oppose the recall of an elected City officer, or to contribute to an officeholder committee or legal defense ~~fund~~committee. This prohibition does not apply when a person makes a solicitation to multiple persons if the person unknowingly includes City ~~officers~~officials or employees and City ~~officers~~officials or employees do not make up more than five percent of the total number of persons included in that solicitation.
- 2. ~~R~~Solicit, receive, personally deliver, or attempt to personally deliver a contribution in a room or building that is owned by the City Hall, another City office building, or an office for which the City pays the majority of the rent or paid for or used by the City and occupied by a City official or agency employee in the discharge of City duties. This prohibition does not apply to the following:
  - a. A City property that is rented by a member of room or building that is available to the public, unless the lease or rental agreement expressly incorporates this prohibition for organized campaign activities, as long as its use does not violate Section 49.5.5.
  - b. A contribution that is received by mail, if it is forwarded to the candidate, the candidate's campaign treasurer, or the candidate's controlled committee within seven working days of its receipt.

C. A member of a City board or commission who is required to file a statement of economic interests or a general manager or chief administrative officer of a City department shall not do either of the following:

- 1. Solicit, direct, or receive a contribution from a person who has or, in the preceding 12 months had, a matter involving City action pending before the board or commission member ~~or, general manager, or chief administrative officer.~~
- 2. Engage in prohibited fundraising on behalf of an elected City officer, a candidate for elected City office, or a City controlled committee. This prohibition does not apply to members of City boards or commissions ~~or, general managers, or chief administrative officers~~ who are engaging in fundraising on behalf of their own candidacies for elected office.

**SEC. 49.7.14. Campaign Statement Filing Deadlines.**

~~In addition to the campaign statements that must be filed pursuant to the Political Reform Act,~~  
~~e~~Candidates for elected City office, their City controlled committees, City recall committees, City ballot measure committees, or City general purpose committees, committees primarily formed to

support or oppose City candidates or City ballot measures, and persons who make independent expenditure communications in City elections and qualify as committees under the Political Reform Act shall file the campaign statements required by the Political Reform Act and shall also file campaign statements by the following dates prior to an election in which the candidate or measure appears on the ballot:

- A. The Friday before an election, covering activity through the Wednesday before the election, if the candidate or committee is required by the Political Reform Act to file a pre-election campaign statement.
- B. October 10, covering activity from July 1 through September 30 in years prior to a City primary election that is held in March of an odd-numbered year.
- C. January 10, covering activity from October 1 through December 31 in years prior to a City primary election that is held in March of an odd-numbered year.

#### **SEC. 49.7.15. Campaign Committee Information.**

A. ~~In addition to the information required by State law, candidates for elected City office and their City controlled committees~~ the persons identified in Subsection C shall file the following information with the Ethics Commission: the non-government email addresses, web sites, and social media accounts they maintain to communicate regarding City elections.

- ~~1. A non-government email address for the candidate or committee;~~
- ~~2. The campaign's web sites, if any; and~~
- ~~3. The campaign's social media accounts, if any.~~

B. ~~If any of the information in Subsection A that has been filed regarding a campaign changes, the candidate or committee person shall file amended information within ten calendar days after the change occurs.~~

C. This section applies to candidates for elected City office, their City controlled committees, City recall committees, City ballot measure committees, City general purpose committees, committees primarily formed to support or oppose City candidates or City ballot measures, and persons who make independent expenditure communications in City elections and qualify as committees under the Political Reform Act.

#### **SEC. 49.7.16. Contributor Information.**

A. A contribution may not be deposited into the checking account of a City controlled committee unless the following is on file in the committee's records:

1. For individuals, the contributor's name, address, occupation, and employer.
2. For non-individuals, the contributor's name and address.

B. All fundraising and contribution forms ~~with a signature line or and the~~ electronic equivalent shall allow contributors the option to certify the following information:

1. ~~The contribution is not being made under a false name, is not being made under another person's name, and has not been and will not be reimbursed;~~

2. ~~The contribution is not being made under another person's name unless the contributor is acting as an intermediary and has identified the information in Subsection A or B for the source of the contribution;~~

3. ~~The contribution is not being made under a name other than the name by which the contributor is identified for legal purposes;~~

42. The contribution does not exceed the contributor's aggregate contribution limit in Charter Section 470(c)(6);

53. The contribution is not from a lobbyist or lobbying firm ~~that person who~~ is prohibited from contributing, including the following:

a. A lobbyist or lobbying firm who is prohibited from contributing under Charter Section 470(c)(11); and

6b. ~~The contribution is not from a~~ bidder, sub-contractor, principal, or underwriting firm that is prohibited from contributing under Charter Section 470(c)(12) or Charter Section 609(e).

C. Obtaining the certification in subsection B is evidence that the committee that received the contribution acted in good faith.

#### **SEC. 49.7.17. Filing and Recordkeeping Requirements.**

A. A person required by the Charter or this Article to file a document or other item with the Ethics Commission shall do so in a method prescribed ~~and published by~~ the Ethics Commission.

1. If an electronic filing is required, the Ethics Commission shall provide a unique identifier to the person who is required to file, to be used in place of a physical signature for submitting and verifying data under penalty of perjury. An electronic filing shall be presumed to be filed under penalty of perjury by the filer.

2. If a paper filing is required, it shall contain the physical signature of the person who is required to file. It is considered filed on the earlier of the date of receipt by the Ethics Commission or the date of the postmark if it is mailed and bears the correct address and postage.

B. A City campaign, officeholder, legal defense, recall, ballot measure, primarily formed, or general purpose committee shall file campaign statements electronically once the committee has received contributions or made expenditures of \$10,000 or more. This requirement continues until the committee is no longer required to file campaign statements with the Ethics Commission. A person who is not required to file electronically, may do so voluntarily.

- C. A person required by the Charter or this Article to file a document or other item with the Ethics Commission, shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four years following the filing deadline.

#### **SEC. 49.7.18. Reproduction of Materials.**

A person who reproduces, broadcasts, or distributes in whole or substantial part any material that is drafted, printed, prepared, or previously broadcast or distributed by a candidate or a City controlled committee shall report the expenditure as has made a non-monetary contribution to the candidate or committee. If the material that is reproduced is that of a candidate or a City controlled committee, the person who reproduced the material shall notify the candidate or City controlled committee of the reproduction. A candidate or committee whose material was reproduced is not liable for any violations resulting from the reproduction if it provides sufficient evidence to show that it had no prior knowledge of the reproduction.

#### **SEC. 49.7.22. Acceptance or Rejection of Matching Funds.**

- A. At the time of filing the Declaration of Intention to Become a Candidate pursuant to City Election Code Section 301, eEach candidate for elected City office shall file with the Ethics Commission a statement of acceptance or rejection of matching funds. The statement may not be filed earlier than the date the candidate files a Declaration of Intent to Solicit and Receive Contributions under Charter Section 470(c)(1) and may not be filed later than the final date to file a Declaration of Intention to Become a Candidate under City Election Code Section 301.
- B. A candidate who agrees to accept matching funds shall comply with the requirements of the program, including but not limited to the expenditure ceilings.
- BC. A candidate who has filed a statement of acceptance of matching funds may subsequently reject matching funds up to five business days after the final filing date for the Declaration of Intention to Become a Candidate if another candidate in the same race has rejected matching funds. The A candidate who subsequently rejects matching funds is a non-participating candidate, shall return to the City any matching funds payments received for that election, and may not receive any further matching funds payments for that election.

#### **SEC. 49.7.23. Participation and Qualification Requirements.**

- A. Agreeing to participate in the matching funds program is binding on the candidate for both the primary election and the general election.
- B. A participating candidate who qualifies to receive matching funds in the primary election automatically qualifies to receive matching funds in the general election. A participating candidate who does not qualify to receive matching funds in the primary election, may qualify to receive matching funds through the candidate's controlled committee for the general election.

C. Qualification means that a participating candidate has met all of the following requirements:

1. The candidate and the candidate's controlled committee received qualified contributions that meet the following criteria:

a. The contributions meet or exceed the following aggregate amounts:

- i. \$25,000 for City Council candidates;
- ii. \$75,000 for City Attorney and Controller candidates;
- iii. \$150,000 for Mayoral candidates.

The first \$500 of each contribution counts toward the threshold for Citywide candidates, and the first \$250 of each contribution counts toward the threshold for City Council candidates. Loans, pledges, and non-monetary contributions do not count toward the thresholds.

b. The contributions are not from the candidate or the candidate's immediate family.

~~c. For regular elections, the contributions were received prior to the date of the election and after the opening of the applicable fundraising window, as specified in Section 49.7.10(A). For special elections, the contributions were received prior to the date of the election, after the election has been called, and after the Declaration of Intent to Solicit and Receive Contributions has been filed.~~

~~d. Beginning with the 2015 regular City elections, the contributions were received from individuals residing within the City.~~

~~e2. Beginning with the 2015 regular City elections, the candidate contributions include 200 receives qualified contributions of at least five dollars each from 200 individuals residing within the City or, for City Council candidates, within the council district for which election is sought.~~

~~23. The candidate is certified to appear on the ballot for the election and is not a write-in candidate.~~

~~34. The candidate is opposed by a candidate running for the same office who has qualified to appear on the ballot for that election and is not a write-in candidate.~~

~~45. The candidate does not contributes no or lend more than the following aggregate amounts in personal funds to the campaign per election:~~

- a. \$31,100 for City Council candidates.
- b. \$124,500 for Citywide candidates.

These amounts are subject to adjustment under Section 49.7.3.

~~56. The candidate agrees in writing to participate in at least one debate with opponents in the primary election and in at least two debates with the opponent in the general election.~~

67. The candidate agrees in writing not to exceed the applicable expenditure ceilings.

78. The candidate or the candidate's controlled committee has filed all previously due campaign statements required by the Political Reform Act, the Charter, this Code, or the Administrative Code.

9. The candidate and the candidate's treasurer have attended the training required under Section 49.7.12

10. The candidate does not use matching funds in violation of federal, state, or City law.

11. The candidate does not use matching funds to pay fines, penalties, or inauguration expenses.

D. A participating candidate who ~~violates~~ does not abide by the terms of the Matching Funds Program is disqualified from receiving matching funds for the remainder of the election cycle and may be required to return all matching funds received for that election cycle.

#### **SEC. 49.7.24. Expenditure Ceilings.**

A. Participating candidates and their controlled committees for election to City office may not make or incur campaign expenditures above the following amounts:

1. City Council candidates: \$480,000 per primary election and \$400,000 per general election.
2. Controller candidates: \$1,119,000 per primary election and \$840,000 per general election.
3. City Attorney candidates: \$1,259,000 per primary election and \$979,000 per general election.
4. Mayoral candidates: \$2,798,000 per primary election and \$2,237,000 per general election.

B. The expenditure ceilings are subject to adjustment under Section 49.7.3.

C. The following payments do not count toward the expenditure ceilings when made by the participating candidate in connection with candidacy for the office specified in the participating candidate's Declaration of Intent to Solicit and Receive Contributions:

1. Fees paid under Election Code Section 310(c) or California Government Code Section 84101.5.
2. Refunded campaign contributions.
3. Returned matching funds.

#### **SEC. 49.7.25. Expenditure Ceilings Lifted.**

The applicable expenditure ceiling is no longer binding on a participating candidate in either of the following scenarios:

- A. A non-participating candidate in the same race makes or incurs campaign expenditures in excess of the expenditure ceiling; or
- B. Independent expenditure communications under Section 49.7.31(A)(1) in support of or opposition to any candidate in the same race exceed, in the aggregate, the following amounts:
  - 1. \$77,000 in a City Council ~~race~~election;
  - 2. \$155,000 in a City Attorney or Controller ~~race~~election;
  - 3. \$309,000 in a Mayoral ~~race~~election.

These amounts are subject to adjustment under Section 49.7.3.

#### **SEC. 49.7.26. Notice Regarding Expenditure Ceilings.**

A candidate shall notify the Ethics Commission ~~on the~~ in writing within one calendar day of the date the candidate raises ~~has received~~ more than 100 percent of the applicable expenditure ceiling and again on the day the candidate ~~spends~~ makes or incurs expenditures totaling more than 100 percent of the applicable expenditure limit. The Ethics Commission shall notify all other candidates for the same office within one business day of receiving the candidate's notice.

#### **SEC. 49.7.27. Matching Funds Formula.**

- A. A qualified contribution will be matched with public funds up to the following amounts:
  - 1. \$250 per qualified contribution for City Council candidates;
  - 2. \$500 per qualified contribution for Citywide candidates.
- B. ~~Beginning with the 2015 regular elections, a qualified~~ A qualified contribution will be matched with public funds at the following rates:
  - ~~1. For participating candidates who have qualified to receive matching funds but have not met the criteria in Subsection C, one dollar in matching funds will be paid for each dollar in qualified contributions in both the primary election and the general election.~~
  - ~~2. For participating candidates who have qualified to receive matching funds and have met the criteria in Subsection C, two~~ In a primary election, six dollars in matching funds will be paid for each dollar in qualified contributions ~~for the primary election and four dollars in matching funds will be paid for each dollar in qualified contributions for the general election, up to the maximum in Section 49.7.29(A).~~

32. In a general election, each participating candidate will receive a grant of one-fifth of the amount specified in Section 49.7.29(B) upon the later of being certified to appear on the general election ballot or qualifying to receive matching funds. The remaining four-fifths will be paid at the rate that applies under either paragraph 1 or paragraph 2 of six dollars in matching funds for each dollar in qualified contributions, up to the maximum in Section 49.7.29(B).

~~C. Beginning with the 2015 regular elections, participating candidates who have qualified to receive matching funds are eligible for the rate of match in Subsection B(2) if they submit to the City Clerk either of the following by the last date to submit nominating petitions for the primary election:~~

- ~~1. For candidates choosing not to pay a filing fee pursuant to Section 310 of the City Elections Code, a nominating petition that includes the signatures of at least 1,000 qualified registered voters; or~~
- ~~2. For candidates choosing to pay a filing fee pursuant to Section 310 of the City Elections Code, a nominating petition that includes the signatures of at least 500 qualified registered voters and a Matching Funds Additional Signatures Form, prescribed by the Ethics Commission, that includes the signatures of at least 500 and no more than 1,000 additional qualified registered voters of the City for Citywide candidates, or of the district for Council candidates.~~
  - ~~a. The City Clerk shall review and verify the signatures on the Matching Funds Additional Signatures Form using the same process that is used for reviewing and verifying the signatures on nominating petitions, and the City Clerk's process for nominating petitions shall not be altered by this requirement. The City Clerk shall only review the signatures on a candidate's Matching Funds Additional Signatures Form after the City Clerk has determined that the candidate has qualified for the ballot.~~
  - ~~b. Extra signatures that are submitted on a nominating petition but are not required for qualification for the ballot shall not be counted for purposes of determining a candidate's qualification for the rate of match in Subsection B(2).~~
  - ~~c. The signatures on the Matching Funds Additional Signatures Form that are used to qualify for the rate of match in Subsection B(2) must be distinct from the signatures on the nominating petition that are used to qualify for the ballot, so that the candidate obtains signatures from at least 1,000 qualified registered voters of the City for Citywide candidates, or of the district for Council candidates.~~
  - ~~d. The City Clerk's review of the Matching Funds Additional Signatures Form shall be completed by the last day of the City Clerk's review period for nominating petitions.~~

~~Within one business day after the close of the review period for nominating petitions, the City Clerk shall notify the Ethics Commission of all candidates who have been verified as having submitted the signatures of at least 1,000 qualified registered voters.~~

~~B. For elections occurring prior to the 2015 regular City elections, a qualified contribution will be matched with public funds at the following rates:~~



1. ~~In the primary election, two dollars in matching funds will be paid to qualified participating candidates for each dollar in qualified contributions.~~
2. ~~In the general election, each participating candidate who has qualified to receive matching funds will, upon certification for the ballot, receive a grant of one-fifth of the amount specified in Section 49.7.29(B) upon the latter of being certified to appear on the general election ballot or qualifying to receive matching funds. The remaining four-fifths will be paid at the rate of four dollars in matching funds for each dollar in qualified contributions.~~

#### **SEC. 49.7.28. Requests for Matching Funds Payments.**

- A. A participating candidate may not request a single matching funds payment for that represents less than \$10,000 in matchable portions of qualified contributions, as determined by the formula in Section 49.7.27(A) at any one time up to 14 days preceding an election, except in the following circumstances.
  1. Beginning 14 days before an election and ending on the last day to submit requests for payment, as identified in Administrative Code Section 24.34(c)(3), a participating candidate may request a single matching funds payment for that represents \$1,000 or more in matchable portions of qualified contributions at any one time.
  2. A participating candidate may request a matching funds payment that represents any amount in matchable portions of qualified contributions if the payment requested would result in the participating candidate receiving the maximum matching funds for that election.
- B. If a contribution that forms the basis of a request for a matching funds payment cannot be negotiated or is returned or refunded, the candidate must either return all matching funds received as a result of that contribution or submit an alternate qualified contribution.
- C. Requests for matching funds payments shall contain the information required by the Ethics Commission.
- GD. A candidate who makes a request for matching funds payment and knows or should know that the request is false or that a contribution that forms the basis of the request is misrepresented is guilty of a misdemeanor and shall return all matching funds received as a result of the request. If the candidate holds or is elected to office, the false request constitutes a violation of official duties and, if it is deemed appropriate by a court under Charter Section 207(c), shall be removed from office.

#### **SEC. 49.7.29. Maximum Matching Funds.**

- A. The following maximum amounts may be paid to qualified participating candidates in a primary election:
  1. ~~\$100~~150,000 for City Council candidates;
  2. ~~\$267~~400,000 for Controller candidates;

3. ~~\$300~~450,000 for City Attorney candidates; and

4. ~~\$667~~1,000,000 for Mayoral candidates.

B. The following maximum amounts may be paid to qualified participating candidates in a general election:

1. ~~\$125~~187,000 for City Council candidates;

2. ~~\$300~~450,000 for Controller candidates;

3. ~~\$350~~475,000 for City Attorney candidates; and

4. ~~\$800~~1,200,000 for Mayoral candidates.

#### **SEC. 49.7.30. Matching Funds Payments to Candidates.**

A. The Ethics Commission shall ~~certify~~ process each request for matching funds payment within ~~three-four~~ business days ~~after the later of receiving all information necessary to process the request or determining that the participating candidate has met all qualification requirements.~~

B. The Controller shall make matching funds payments in the amount certified by the Ethics Commission within two business days after receiving the certification from the Ethics Commission.

C. Except for the general election grant, a matching funds payment may not be made before the Ethics Commission determines the sufficiency of the Public Matching Funds Trust Fund under Administrative Code Section 24.33. If the Ethics Commission determines that the balance of the Public Matching Funds Trust Fund is not or may not be sufficient to pay the maximum matching funds to all qualified participating candidates, the Commission shall notify the Controller to withhold amounts sufficient to ensure that each qualified participating candidate will receive a pro rata share of the applicable maximum. The amounts withheld will be paid if the Ethics Commission subsequently determines that there is sufficient money to pay the maximum matching funds.

#### **SEC. 49.7.31. Disclosure of Independent Expenditure Communications.**

A. A person shall notify the Ethics Commission of an independent expenditure communication when either of the following occurs:

1. The person makes or incurs expenditures with an actual or fair market value of \$1,000 or more for ~~the one or more~~ communications; or

2. The person makes or incurs expenditures with an actual or fair market value of \$100 or more for ~~the one or more~~ communications and distributes the communications to the following number of persons:

a. 200 or more persons, if the distributor is a person who qualifies as a committee under the Political Reform Act.

- b. 1,000 or more persons, if the distributor is not a person who qualifies as a committee under the Political Reform Act.

Once a notification threshold is met, every subsequent \$100 in expenditures made or incurred regarding that measure or candidate shall also be disclosed as required by Subsections B and C.

B. The notification shall be submitted to the Ethics Commission within the following time frames:

1. From the first date an individual may file a Declaration of Intention to Become a Candidate with the City Clerk through the date of the associated general election, or during the 90 days prior to an election if no City candidates will be on the ballot, within 24 hours after making or incurring the expenditures.
2. At all other times, within five business days after making or incurring the expenditures provided, however, in no event later than the first date an individual may file a Declaration of Intention to Become a Candidate.

C. The notification shall include the following:

1. A declaration under penalty of perjury signed by the person and, if applicable, the committee treasurer, specifying the following:
  - a. Each candidate or measure supported or opposed by the communication;
  - b. The dates and amounts of the expenditure and the amount spent to support or oppose each candidate or measure;
  - c. For disclosure under Subsection A(2), the number of distributions;
  - d. Whether each candidate or measure was supported or opposed;
  - e. That the communication was not behested by any of the candidates who benefited from it;
  - f. The dates the communication was made or distributed and any expenditure was incurred or displayed, if applicable;
  - g. A description of the type of communication;
  - h. The name and address of the person making, distributing, or incurring the expenditures or distributing causing the communication to be distributed or displayed;
  - i. The name and address of the payee, if applicable, and any vendor or subvendor that provided service for the communication;
  - j. For committees, contributions of \$100 or more received by the committee since the latter later of the day after the closing date close of the filing period for the last campaign or independent expenditure statement filed by the committee or the first day of the current calendar year. This disclosure requirement does not apply to contributions that are earmarked for a non-City candidate or ballot measure; and

jk. Contributions of \$100 or more that the person made in the current calendar year to City candidates, City controlled committees, City ballot measure committees, City recall committees, committees primarily formed to support or oppose City candidates or measures, and City general purpose recipient committees.

2. A copy of the communication.

a. If the communication is a telephone call or similar ~~audio~~ communication, a copy of the script and, if the communication is recorded, the recording shall be provided.

b. If the communication is audio or video, a copy of the script and an audio or video file shall be provided.

D. If an independent expenditure communication supports or opposes a City candidate, the Ethics Commission staff will notify all candidates in the affected race within one business day after receiving the required notice. The notification will indicate the candidates supported or opposed by the independent expenditure communication, as indicated on the signed declaration, and will include a copy of the independent expenditure communication that has been filed with the Ethics Commission.

E. The Ethics Commission shall post on its website, without alteration, all copies of independent expenditure communications filed with the Ethics Commission. The Ethics Commission may not judge, comment upon, or edit the contents of an independent expenditure communication.

F. This Section shall not apply to a news story, commentary, or editorial by a newspaper, radio station, television station, or other recognized news medium, unless the disclaimer is required for a ~~paid communication~~ payment or promise of payment under Section 49.7.34.

#### **SEC. 49.7.32. Disclosure of Campaign, Officeholder, and Legal Defense Communications.**

A. A person who makes or distributes a campaign, officeholder, or legal defense communication to 200 or more persons shall file a copy of the communication with the Ethics Commission. For purposes of this section, a campaign, officeholder, or legal defense communication includes a slate mailer for which the person makes or incurs an expenditure.

B. The copy shall be filed within the following time frames:

1. From the first date an individual may file a Declaration of Intention to Become a Candidate with the City Clerk through the date of the associated general election, or during the 90 days prior to an election if no City candidate will be on the ballot, within 24 hours after making or incurring the expenditures.

2. At all other times, within five business days after first distributing the communication.

BC. If the campaign, officeholder, or legal defense communication is a telephone call or similar audio communication, a copy of the script and, if the communication is recorded, the recording shall be provided.

- | ~~CD~~. If the campaign, officeholder, or legal defense communication is audio or video, a copy of the script and an audio or video file shall be provided.
- | ~~DE~~. All copies of campaign, officeholder, and legal defense communications that are filed with the Ethics Commission shall be posted on the Ethics Commission's website without alteration. The Ethics Commission may not judge, comment upon, or edit the contents of a communication.
- | ~~EE~~. This Section shall not apply to the following:
  - 1. A news story, commentary, or editorial by a newspaper, radio station, television station, or other recognized news medium, unless the disclaimer is required for a paid communication payment or promise of payment under Section 49.7.34; or
  - 2. Officeholder communications paid for by and distributed by a person other than a City agency or official to advertise a City sponsored community or similar event.

**SEC. 49.7.33. Disclaimers on Political Communications.**

- A. A person shall incorporate the following statements in a campaign, officeholder, or legal defense communication:
  - 1. "Paid for by" immediately followed by the name, address, and city of that candidate or committee. The address and city are not required in an audio communication.
    - a. If the communication is made by a controlled committee, the name of the person controlling the committee shall also be included.
    - b. If an acronym is used to specify a committee name, the full name of any sponsoring organization of the committee shall also be included.
  - 2. "Additional information is available at [ethics.lacity.org](http://ethics.lacity.org)." A substantially similar statement that specifies the web site may be used as an alternative in audio communications.
- | B. A committee making an independent expenditure communication under Section 49.7.31(A)(1) or 49.7.31(A)(2) shall incorporate the following statements:
  - | 1. "Paid for by" immediately followed by the ~~person's~~ committee's name, address, and city. If an acronym is used to specify a committee name, the full name of the sponsoring committee shall also be included. The address and city are not required in an audio communication.
  - | 2. "Not authorized by or coordinated with a City candidate or a committee controlled by a candidate." This statement is not required if the independent expenditure communication supports or opposes only a City ballot measure.
  - | 3. "Major funding provided by [names of the two contributors who gave the most to the committee in the six months prior to the date of the payment for the independent expenditure communication], in the amount of [the total amount of contributions made by those contributors in the same six-month period]."

- a. However, the amount of the contributions is not required in an audio communication.
- b. If the committee had only one contributor of at least \$1,000 in the six months prior to the date of the payment for the independent expenditure communication, the statement may refer only to that contributor.
- c. This statement is not required if the committee did not have any contributors of at least \$1,000 in the six months prior to the date of the payment for the independent expenditure communication.

4. "Additional information is available at [ethics.lacity.org](http://ethics.lacity.org)." A substantially similar statement that specifies the web site may be used as an alternative in audio communications.

C. A person making an independent expenditure communication under Section 49.7.31(A)(23)(b) shall incorporate the following statements:

- 1. "Distributed by" immediately followed by the person's name, address, and city. The address and city are not required in an audio communication.
- 2. "Not authorized by or coordinated with a City candidate or a committee controlled by a candidate." This statement is not required if the independent expenditure communication supports or opposes only a City ballot measure.

23. "Additional information is available at [ethics.lacity.org](http://ethics.lacity.org)."

D. All disclaimers shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. Minimum requirements are specified below:

- 1. For written communications up to 24 inches by 36 inches, disclaimers shall be printed using a typeface that is easily legible to an average reader and is not less than 12-point type in a color that contrasts with the background on which it appears.
- 2. For written communications larger than 24 inches by 36 inches, the total height of the disclaimer shall constitute at least five percent of the total height of the communication, be printed using a typeface that is easily legible to an average reader, and be printed in a color that contrasts with the background on which it appears.
- 3. For video communications, the disclaimer shall be written in a typeface that is easily legible to an average reader, in a color that contrasts with the background on which it appears, and shall appear for at least four seconds at either the beginning or the end of the communication. A spoken disclaimer is also required if the written disclaimer does not appear for at least five seconds of a communication that is 30 seconds or less or for at least ten seconds of a communication that is longer than 30 seconds. A spoken disclaimer shall be clearly audible and spoken at the same speed and volume as the rest of the communication.
- 4. For audio communications, disclaimers shall be spoken in a clearly audible manner at either the beginning or end of the communication. The disclaimers shall be spoken at the same speed and volume as the rest of the communication and shall last at least five seconds.

E. Disclaimers are required for all political communications that shall be disclosed under Section 49.7.31 or 49.7.32-

1. ~~except for~~ This does not apply to slate mailers, wearing apparel, small promotional items, such as pens, pencils, mugs, potholders, and other items on which a disclaimer cannot be reasonably displayed in an easily legible typeface.

2. When the size limitations of an electronic communication render it impractical to include the full disclaimer, the disclaimer must state, at a minimum, "Paid for by" immediately followed by the committee identification number provided by the California Fair Political Practices Commission or, if the person is not a committee, the person's name. In addition, when a user interacts with the communication, the interaction must provide the user with the full disclaimer in a format that is easily legible and identifiable, such as through a rollover or pop-up or on the landing page of a linked Web site or application.

F. A person shall amend political communications within five business days after any information in the disclaimer changes. A committee shall be deemed to have complied with this requirement if, within five business days, the amended communication is sent to all affected recipients with a request that the previous communication immediately be replaced. For written communications, disclaimers shall be amended to reflect accurate disclosure information every time the communication is reproduced.

## **SEC. 49.7.34. Social Media Accounts.**

A. ~~Alf a candidate or for elected City office, a City controlled committee that, a City recall committee, a City ballot measure committee, a City general purpose committee, a committee primarily formed to support or oppose City candidates or ballot measures, or a person who makes independent expenditure communications in City elections and qualifies as a committee under the Political Reform Act elects to use social media accounts to communicate regarding the candidate's campaign~~ a City election, the candidate or committee shall include the following statement on each account's home page: "This account is being used for campaign purposes ~~for by~~ [name of candidate or committee]."

1. The statement shall be prominent, in a typeface that is easily legible to an average reader and in a color that contrasts with the background on which it appears.

2. The statement shall be displayed from the time the candidate or committee first begins to use the account for campaign purposes until the election for which it is used is over.

B. An elected City officer may not use a social media account ~~or Web site~~ for campaign purposes if the account ~~or site is used or has been used for~~ paid for, sponsored by, or hosted by the City purposes. ~~If an elected City officer communicates about campaign activity or City business using a social media account or Web site that is not City sponsored, the home page for the account or site shall include the following statement: "This [account or site] is not paid for, sponsored by, or hosted by the City." The statement shall be prominent, in a typeface that is easily legible to an average reader and in a color that contrasts with the background on which it appears.~~

## SEC. 49.7.35. Bidder Contribution and Fundraising Restrictions.

### A. Definitions. The following definitions apply for purposes of Charter Section 470(c)(12):

~~1. "Awarding Authority" means the City Council, a City board, commission, authorized employee, or authorized officer, including those who have control of their own special funds but excluding the City Purchasing Agent when acting pursuant to Section 9.1 of the Los Angeles Administrative Code, who makes or enters into a contract for the provision of goods or services of any kind or nature whatsoever to, for, or on behalf of the City. References to the awarding authority shall include references to staff when working on a matter subject to this Section.~~

~~21. "Approval by an elected City officer" means approval of a contract or selection of a pre-qualified list of persons to contract with the City in any of the following circumstances:~~

- ~~a. The elected City officer or the elected City officer's office is the awarding authority;~~
- ~~b. The contract involves services provided directly to or under the supervision of the elected City officer; or~~
- ~~c. The contract requires approval of the elected City officer or the elected City officer's office pursuant to City law, executive directive, or City Council action.~~

The term does not include approval by an elected City officer that is required pursuant to Charter Section 262, 271(d), or 370 for non-proprietary departments, provided that City Council approval is not otherwise required and the elected City offices identified in those Sections are neither the awarding authority nor supervising the services under the contract. The term does include approval by an elected City officer that is required pursuant to Charter Section 262, 271(d), or 370 for contracts with the Harbor, Water and Power, and Airport Departments.

~~2. "Awarding Authority" means the City Council, a City board, commission, authorized employee, or authorized officer, including those who have control of their own special funds but excluding the City Purchasing Agent when acting pursuant to Section 9.1 of the Los Angeles Administrative Code, who makes or enters into a contract for the provision of goods or services of any kind or nature whatsoever to, for, or on behalf of the City. References to the awarding authority shall include references to staff when working on a matter subject to this Section.~~

~~3. "Bidder" means a person who bids on or submits a proposal or other response to a City contract solicitation.~~

~~4. "Contract solicitation" means a request for proposals, request for bids, request for qualifications, or any other request, whether written or verbal, for purposes of entering into a contract. However, a solicitation does not include a request to enter into a contract that relies on other City agency's competitive process if the prior City contract was subject to the Charter Section 470(c)(12) restrictions and restrictions of this Section.~~

~~54. "Contract" means any agreement, franchise, lease, non-regulatory permit, land use license or easement, or concession, including any agreement for occasional professional or technical personal services, for the performance of any work or service or construction,~~



the provision of any materials, goods, equipment, or supplies, the sale or purchase of property, the making of grants, or the rendering of any service to the City, including any proprietary department, or to the public where all of the following apply:

- a. The contract is let, awarded, or entered into, with, or on behalf of the City or an awarding authority;
- b. The contract has an anticipated value of at least \$100,000, including exercising all anticipated options; and
- c. The contract requires approval by an elected City office.

The term includes any subsequent amendment that, by itself or in combination with the original contract and any other amendments, has an anticipated value of at least \$100,000 and requires approval by an elected City office. The term also includes the selection of a pre-qualified list of persons to contract with the City where the request for qualifications includes a not-to-exceed amount of at least \$100,000 and the list selection requires approval by an elected City office. The term does not include any contract with another government agency or a contract with an underwriting firm pursuant to Charter Section 609(e) for proprietary noncompetitive sales of revenue bonds.

5. **“Contract solicitation”** means a request for proposals, request for bids, request for qualifications, or any other request, whether written or verbal, for purposes of entering into a contract. The term does not include a request to enter into a contract that is based on a prior City contract that previously went through a competitive contracting process if the prior contract was subject to the restrictions and the contractor fulfilled its obligations under this Section and Charter Section 470(c)(12).

6. **“Principal”** means the following with regard to persons who are bidders and sub-contractors:

- a. The person’s board chair, president, chief executive officer, chief operating officer, and an individual who serves in the functional equivalent of one or more of those positions;
- b. An individual who holds an ownership interest in the person of 20 percent or more; and
- c. An individual employee of the bidder or sub-contractor authorized by the bid or proposal to represent the person before the City.

7. **“Prohibited fundraising”** means the following activities:

- a. Asking the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to make a contribution;
- b. Inviting the bidder, sub-contractor, or an employee, officer or principal of the bidder or sub-contractor to a fundraising event;
- c. Supplying the name of the bidder, sub-contractor, or an employee, officer or principal of the bidder or sub-contractor to be used for an invitation to a fundraising event;

- d. Permitting one's name to appear on a solicitation for contributions or an invitation to a fundraising event sent to the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor;
  - e. Providing the use of one's home or business to hold a fundraising event if the bidder, sub-contractor or an employee, officer, or principal of the bidder or sub-contractor attends the event;
  - f. Paying for at least 20 percent of the costs of a fundraising event if the bidder, sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor attends the event;
  - g. Hiring another person to conduct a fundraising event if the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor attends the event;
  - h. Delivering a contribution, either in person or by mail, of the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to the elected City officer, candidate for elected City office, or an agent of the officer or candidate; or
  - i. Acting as an agent or intermediary in connection with the making of a contribution of the bidder, a sub-contractor, or an employee, officer, or principal of the bidder or sub-contractor to an elected City officer, a candidate for elected City office, or a City controlled committee.
8. **"Sub-contractor"** means a person who is expected to receive at least \$100,000 as a result of performing some or all of a bidder's contract obligations and includes a subtenant where the subtenant is expected to receive at least \$100,000 as a result of performing a portion of the contract obligations of the contractor and is required to pay the contractor at least \$100,000.

B. For purposes of Charter Section 470(c)(12), the following apply:

- 1. **"Timing of Fundraising and Contribution Restrictions."** In addition to the restrictions provided in Charter Section 470(c)(12), except as otherwise provided in Subsection B(5), bidders, sub-contractors, and principals may not make contributions to or engage in prohibited fundraising for elected City officers, candidates for elected City office, or City controlled committees from the date a bid is submitted until one of the following dates:
  - a. For unsuccessful bidders, the date the contract is signed or the solicitation is withdrawn or canceled.
  - b. For successful bidders, 12 months after the contract is signed.
- 2. **"Contract Solicitations and Notifications."** Each awarding authority shall include in each contract solicitation the form identified in Subsection B(3) and a description of the prohibitions and requirements of Charter Section 470(c)(12).
  - a. The awarding authority shall determine whether the form is complete for responsiveness purposes ~~and electronically.~~

b. ~~The awarding authority shall submit the form to the City Ethics Commission, in a Portable Document Format (PDF) or other electronic format pre-approved by the Commission,~~ within ten business days of the bid due date. The awarding authority must also comply with the reporting requirements in Section 49.5.11(B).

c. The awarding authority shall either notify bidders who are not awarded a contract of the date that the contract was signed or the contract solicitation was terminated or withdrawn or notify the bidders how they may obtain or request the date that the contract was signed or the contract solicitation was terminated or withdrawn, unless that information is available on a City website.

2.3. **"Disclosure Form."** As provided in Subsection B(2), every bidder shall file a form with the awarding authority, at the time the bid or other response is submitted, that contains the following information and is submitted under oath in a form and format approved by the City Ethics Commission:

- a. A description of the contract, including any City reference number associated with it, or if selection is of a pre-qualified list, a short description of the services to be provided, including any City reference number associated with it;
- b. The name of the awarding authority;
- c. The date the bid or other response was submitted to the awarding authority;
- d. The name of the bidder;
- e. The address of the bidder;
- f. The phone number of the bidder;
- g. The names and titles of the bidder's principals;
- h. The names of the bidder's sub-contractors;
- i. The names and titles of each sub-contractor's principals; and
- j. A certification that the bidder understands, will comply with, and will notify its principals and sub-contractors of the prohibitions and restrictions in this Section and Charter Section 470(c)(12).

3.4. **"Requirement to Amend Form."** If the information submitted pursuant to Subsection B(3) changes after the bid is submitted, the bidder shall amend the form and submit it to the awarding authority within ten business days of the change.

a. The requirement to amend the form applies whenever the prohibitions and restrictions in Charter Section 470(c)(12) apply to the bidder, including after the contract approval for successful bidders.

b. The awarding authority shall electronically submit the form to the ~~City Ethics Commission, in a Portable Document Format (PDF) or other electronic format pre-approved by the~~ Ethics Commission, within ten business days of receipt.

4.5. **“Contract Amendments.”** If a contract amendment requires approval by an elected City officer and, by itself or in combination with the original contract and any other amendments, makes the total anticipated value of the contract \$100,000; or more for the first time, the ~~prohibitions and restrictions~~ in Charter Section 470(c)(12) apply from the date the awarding authority first discusses the amendment and terminates 12 months after the date the amendment is approved, disapproved, or withdrawn. However, the restrictions in Charter Section 470(c)(12) do not apply to any subsequent amendments if the contract was previously subject to the restrictions and the contractor fulfilled its obligations under the ~~Charter and this Section and Charter Section 470(c)(12).~~

- a. The awarding authority shall notify ~~bidders who were not previously required to submit the form identified in Subsection B(3)~~ contractors of the requirements in this Section and Charter Section 470(c)(12) at the time the awarding authority first discusses the amendment with the ~~bidder~~ contractor.
- b. ~~Bidders who were not previously required to submit the form identified in Subsection B(3)~~ Contractors shall submit the form identified in Subsection B(3) within ten business days of the date the awarding authority first discusses the amendment with the ~~bidder~~ contractor. The awarding authority shall ~~electronically submit the form to the City Ethics Commission in a Portable Document Format (PDF) or other electronic format pre-approved by the Commission within ten business days of receipt~~ as required by Section B(2).
- c. This provision does not apply to the exercise of an option that has been previously approved in a written contract.

5.6. **“Business Assistance Virtual Network.”** In the event that the City’s Business Assistance Virtual Network or similar electronic system is used by a bidder to submit the forms required by this Section to the awarding authority and the Business Assistance Virtual Network or similar electronic system sends the submitted data and the forms to the City Ethics Commission, the awarding authority shall not be required to submit the form(s) to the ~~City Ethics Commission.~~

### C. Violations and Debarment.

1. In addition to any other penalties or remedies established by this Article, a person who is found to have violated or to have aided and abetted a violation of this Section or Charter Section 470(c)(12) shall not be eligible to bid on or be considered for a contract, extension, or amendment unless the Ethics Commission, as a body, determines that mitigating circumstances exist concerning such violation. Debarment also applies to an entity that has the same or similar management, ownership, or principal employees as the debarred person and is organized after the proceeding that results in the person’s debarment has been initiated.
2. The Ethics Commission, as a body, shall determine whether mitigating circumstances apply whenever a violation of this Section or Charter Section 470(c)(12) is determined to have occurred. If the Ethics Commission determines that mitigating circumstances do not exist, the person found to be in violation shall be debarred for the following periods of time after the Ethics Commission’s determination:

- a. One year for the first violation;
  - b. Two years for the second violation;
  - c. Three years for the third violation; and
  - d. Four years for the fourth and subsequent violations.
3. The Ethics Commission may adopt regulations regarding mitigating circumstances, including what constitutes mitigating circumstances and any other information determined to be necessary.
  4. The Ethics Commission staff shall notify all agencies, departments, board and offices of a determination of debarment within ten business days of the determination. The Ethics Commission's determination regarding debarment is final as to all offices, departments, boards, and agencies and may not be waived.
  5. If an awarding authority has an existing contract with a person who is identified in a debarment notice from the Ethics Commission staff, the awarding authority shall determine in writing and, if the awarding authority is a City board, commission, or City Council, at a public meeting whether it is the best interests of the City to terminate the contract.
  6. An awarding authority shall not determine whether a violation of this Article or any other City law regarding campaign financing, lobbying, or governmental ethics has occurred.
  7. A person who fails to submit a complete disclosure form as required by this Section shall be deemed nonresponsive. However, an awarding authority may award the contract to a bidder who did not submit a complete disclosure form under the following circumstances:
    - a. The contract is a sole source contract for work (as defined in U.S. copyright law) that is protected under an exclusive copyright interest or a subject matter (as defined in U.S. patent law) that is protected by a U.S. patent or a foreign patent that is enforceable in the United States; and
    - b. Before awarding the contract, the awarding authority does the following:
      - i. Makes a written finding that entering into the contract is in the best interests of the City; and
      - ii. Notifies the contractor that the contractor, sub-contractor, and principals that, notwithstanding the failure to complete the disclosure form, they are not relieved of their obligations to comply with the requirements of the Charter and this Section or the penalties that may result from failing to comply with those requirements.

#### **SEC. 49.7.36. Underwriter Contribution and Fundraising Restrictions.**

**A. Definitions.** For purposes of Charter Section 609(e), the definition of awarding authority in Section 49.7.35(A) applies. The following definitions also apply:

1. **"Prohibited Fundraising"** means the following activities:

- a. Asking the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to make a contribution;
  - b. Inviting the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to a fundraising event;
  - c. Supplying the name of the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor to be used for an invitation to a fundraising event;
  - d. Permitting one's name to appear on a solicitation for contributions or an invitation to a fundraising event sent to the underwriting firm, sub-contractor, or an employee or officer of one of those persons;
  - e. Providing the use of one's home or business to hold a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;
  - f. Paying for at least 20 percent of the costs of a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;
  - g. Hiring another person to conduct a fundraising event if the underwriting firm, sub-contractor, or an employee, officer, or principal of the underwriting firm or sub-contractor attends the event;
  - h. Delivering a contribution, either in person or by mail, of the underwriting firm, sub-contractor, or to an employee, officer, or principal of the underwriting firm or sub-contractor to an elected City officer, a candidate for elected City office, or an agent of the officer or candidate; or
  - i. Acting as an agent or intermediary in connection with the making of a contribution by the underwriting firm, sub-contractor, or to an employee, officer, or principal of the underwriting firm or sub-contractor to an elected City officer, a candidate for elected City office, or a City controlled committee.
2. **"Sub-contractor"** means a person who is expected to receive at least \$100,000 as a result of performing some or all of the underwriting firm's contract obligations but does not include an underwriting firm member of the syndicate in the applicable revenue bond sale.
3. **"Underwriting firm"** means any firm that seeks to provide underwriting services for noncompetitive sales of revenue bonds for the Airport, Harbor, or Water and Power Departments as provided in Charter Section 609 in response to a solicitation from an awarding authority.

B. For purposes of Charter Section 609(e), the following apply:

1. **Timing of Fundraising and Contribution Restrictions.** In addition to the restrictions provided in Charter Section 609(e), underwriting firms, sub-contractors, and principals may not make any contributions to or engage in prohibited fundraising for elected City officers, candidates for elected City office, or City controlled committees from the date a response is

submitted to a solicitation to be included on a pre-qualified list of underwriters or any subsequent solicitation for selection of an underwriter until one of the following dates:

- a. For underwriting firms that are not selected to be on the pre-qualified list, the date the list selection is made.
  - b. For underwriting firms that are on the pre-qualified list, but not selected to contract after a subsequent solicitation, and are not members of the syndicate providing underwriting services on the sale of the revenue bonds, 12 months following the date of the list selection, and following the solicitation, on the date of the selection of the underwriting firm for a noncompetitive bond sale, or the date the solicitation is withdrawn or canceled.
  - c. For underwriting firms that are on the pre-qualified list, and are selected to contract after a subsequent solicitation, or are members of the syndicate providing underwriting services on the sale of the revenue bonds, 12 months following the date of the list selection, and 12 months after the underwriter selection is made.
2. **Contract Solicitations and Notifications.** Each awarding authority shall include in each contract solicitation for underwriting firm services regarding a noncompetitive sale for revenue bonds, including selection of a pre-qualified list of underwriters, the form identified in Subsection B(3) and a description of the prohibitions and requirements in the City Charter Section 609(e) and this Section.
- a. The awarding authority shall determine whether the form is complete for responsiveness purposes and shall electronically.
  - b. The awarding authority shall submit the form to the City Ethics Commission, in a Portable Document Format (PDF) or other electronic format pre-approved by the Commission, within 10 business days of the due date of the proposals. The awarding authority must also comply with the reporting requirements in Section 49.5.11(B).
  - c. The awarding authority shall notify each underwriting firm that is not selected as pre-qualified underwriter or not selected as the underwriter on a particular noncompetitive sale of revenue bonds, the date the selection was made, terminated, or withdrawn, unless that information is available on a City website.
3. **Disclosure Form.** Every underwriting firm seeking to provide services regarding noncompetitive sales of revenue bonds under Charter Section 609(e) shall file a form with the awarding authority, at the time the response is submitted, that contains the following information and is submitted under oath in a form and format approved by the City Ethics Commission:
- a. A description of the contract, including any City reference number associated with it, or if selection is of a pre-qualified list, a short description of the services to be provided, including any City reference number associated with it;
  - b. The name of the awarding authority;
  - c. The date the bid or other response was submitted to the awarding authority;
  - d. The name of the underwriting firm;

- e. The address of the underwriting firm;
  - f. The phone number of the underwriting firm;
  - g. The names and titles of the underwriting firm's principals;
  - h. The names of the underwriting firm's sub-contractors;
  - i. The names and titles of each sub-contractor's principals;
  - j. A certification that the underwriting firm understands, will comply with, and will notify its principals and sub-contractors of the prohibitions and restrictions in this Section and Charter Section 609(e); and
  - k. A certification that the underwriting firm and its principals have not made prohibited gifts or contributions during the 12 months prior to selection for a contract, unless the matter is only a selection of a pre-qualified list of underwriters.
4. **Requirement to Amend Form.** If the information submitted pursuant to Subsection B(3) changes after the response is submitted, the underwriting firm shall amend the form and submit it to the awarding authority within ten business days of the change.
- a. The requirement to amend the form applies whenever the prohibitions and restrictions in Charter Section 609(e) apply to the underwriting firm, including after the contract approval for underwriting firms that are selected or are performing underwriting service as a member of a syndicate on the revenue bond sale.
  - b. The awarding authority shall electronically submit the form to the ~~City~~ Ethics Commission, in a Portable Document Format (PDF) or other electronic format pre-approved by the Commission, within 10 business days of receipt.
5. **Business Assistance Virtual Network.** In the event that the City's Business Assistance Virtual Network or similar electronic system is used by a bidder to submit the forms required by this Section to the awarding authority and the Business Assistance Virtual Network or similar electronic system sends the submitted data and the forms to the ~~City~~ Ethics Commission, the awarding authority shall not be required to submit the form(s) to the ~~City~~ Ethics Commission.
6. **Violations and Debarment.** The provisions of Section 49.7.35(C) shall also apply to violations of this Section and Charter Section 609(e).

#### **SEC. 49.7.37. Recordkeeping.**

Persons subject to this Article shall keep records that demonstrate compliance with this Article and the related Charter and Administrative Code provisions for four years.



## **SEC. 49.7.38. Enforcement.**

### **A. Criminal Enforcement.**

1. A person who knowingly or willfully violates a provision of this Article is guilty of a misdemeanor. Any person who knowingly or willfully causes another person to violate a provision of this Article, or who aids and abets another person in the violation of a provision of this Article, is liable under the provisions of this Section.
2. Prosecution of a violation of this Article shall be commenced within four years after the date of the violation.
3. A person convicted of a misdemeanor under this Article may not act as a City lobbyist or as a City contractor for four years following the date of the conviction, unless the court specifically determines at the time of sentencing that this provision should not be applied. For purposes of this Subsection, a plea of *nolo contendere* is a conviction.

### **B. Civil Actions.**

1. A person who intentionally or negligently violates a provision of this Article is liable in a civil action brought by the City Attorney, the Ethics Commission, or a person residing within the City. The amount of liability may not exceed the greater of \$5,000 per violation or three times the amount the person failed to properly report or unlawfully contributed, expended, gave, or received.
2. If two or more persons are responsible for a violation, they are jointly and severally liable.
3. Before filing a civil action pursuant to this Subsection, a person other than the City Attorney shall first file with the Ethics Commission a written request for the Ethics Commission to commence an action. The request shall contain a statement of the grounds for believing a cause of action exists. The Ethics Commission shall respond within 40 days after receiving the request and indicate whether it intends to file a civil action. If the Commission indicates in the affirmative and files an action within 40 days after the response, no other action may be brought unless the action brought by the Ethics Commission is dismissed without prejudice.
4. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, a private plaintiff shall receive 50 percent of the amount recovered. The remaining 50 percent shall be deposited into the City's General Fund. In an action brought by the City Attorney or the Ethics Commission, the entire amount shall be paid to the City's General Fund.
5. An action alleging a violation of this Article may not be filed more than four years after the date the violation occurred.

**C. Injunctive Relief.** A person residing within the City, including the City Attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Article.

**D. Costs of Litigation.** In a civil action, the court may award to a prevailing party, other than an agency, the party's costs of litigation, including reasonable attorneys' fees. If the costs or fees

are awarded against the City, the payment of the award is the responsibility of the City, subject to City Council approval.

**E. Administrative Penalties.** The Ethics Commission may impose penalties and issue orders for violations of this Article pursuant to its authority under Charter Section 706(c).

**F. Liability.**

1. In addition to a committee itself, persons who qualify under the Political Reform Act as ~~principle~~-principal officers of the committee are jointly and severally liable for violations by the committee. For City committees controlled by a candidate for elected City office, the candidate and the committee treasurer are deemed to be ~~principle~~-principal officers.
2. In addition to a person whose conduct is required or prohibited under this Article, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:
  - a. A current or former officer of the committee;
  - b. An employee of the committee;
  - c. A person who has received compensation or reimbursement from the committee; and
  - d. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.
3. This Subsection does not limit potential liability for persons who cause another person to violate this Article or who aids and abets another person in a violation as described in Charter Section 706.

**SEC. 49.7.39. Late Filing Penalties.**

In addition to any other penalties, a person who files an original statement or report after a deadline imposed by this Article is liable to the Ethics Commission in the amount of \$25 per day after the deadline until the statement or report is filed, up to a maximum of \$500. Liability need not be enforced by the Ethics Commission if its Executive Officer determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the Article. Liability may not be waived if a statement or report is not filed within 30 days after receiving notice from the Ethics Commission staff that the statement or report is past due.