



Los Angeles City Ethics Commission

September 4, 2014

The Honorable City Council
c/o Holly Wolcott, City Clerk
200 North Spring Street
City Hall—3rd Floor
Los Angeles CA 90012

**Re: Matching Funds Regulations
Council File No. 12-1269-S2**

FOR COUNCIL CONSIDERATION

Dear Councilmembers:

On August 29, 2014, the Ethics Commission unanimously readopted changes to the regulations that govern the procedural requirements of the matching funds program. This letter transmits those changes, which amend the Los Angeles Administrative Code (LAAC).

The Ethics Commission originally adopted the LAAC changes on June 12, 2014, which triggered a 60-day deadline for City Council action. *See* Los Angeles City Charter (Charter) § 703(b). On August 6, 2014, the City Council disapproved the LAAC changes without prejudice, so that they could be considered more carefully and in conjunction with recommended changes to the Campaign Finance Ordinance.

The City Attorney's office advised that the Ethics Commission was required to readopt the LAAC changes in order to place them before the City Council again and start a new consideration and approval process. The Ethics Commission did that at a special meeting on August 29 and unanimously readopted the LAAC ordinance language.

The Charter requires prompt action on the LAAC changes. A public hearing must be held and action to approve or disapprove must be taken within 60 days of the date the Ethics Commission adopted the changes. Charter § 703(b). The Ethics Commission readopted the LAAC changes on August 29, and 60 days after that date is October 28, 2014. In addition, the Charter states that the Ethics Commission's changes to the LAAC may not be modified, they may only be approved or disapproved. *Id.*

The Ethics Commission strongly recommends that you approve the LAAC changes in Attachment B, which are identical to the changes that were originally adopted and transmitted. The changes also complement the recommendations regarding the Campaign Finance Ordinance provisions that govern the matching funds program and are currently before the Rules, Elections and Intergovernmental Relations Committee.

A redline version of the changes is provided in Attachment C, and a quick guide to key changes is provided in Attachment A. Additional context for the changes is provided in the original transmittal. *See* Council File No. 12-1269-S2.

We will be available during meetings at which the campaign finance laws are discussed, and we would be happy to answer questions at any time. Please feel free to contact me or Deputy Executive Director David Tristan at (213) 978-1960.

Sincerely,



Heather Holt
Executive Director

Attachments:

- A Quick guide to key changes*
- B Adopted LAAC (clean)*
- C Adopted LAAC (redline)*

**Quick Guide to Key Recommendations:
Matching Funds Procedural Requirements**
September 2014

Matching Funds Procedural Requirements			
Topic	Current Law	Proposed Law	Citation
Claim Process	Claims will be processed within five business days of receipt.	Claims will be processed within six business days of the date all necessary information necessary has been received or the candidate qualifies to receive matching funds.	LAAC § 24.34(d)(1)(C) 24.34(f)(1) LAMC § 49.7.30(A)
Claim Amounts	Claims must represent minimum amounts in matchable contributions.	A claim may represent any amount in matchable contributions if the claim will reach the candidate's maximum funds. If a contribution cannot be negotiated, associated matching funds must be returned or an alternate contribution must be submitted.	LAAC § 24.34(c)(2)(B) LAMC § 49.7.28(A)(2) 49.7.28(B)
Claim Certification	Candidates must certify that the information in the claim is true and complete and that all contributions are from City residents. Certification by contributors is not addressed.	Candidates must certify that the information in the claim is true and complete, that all contributions from City residents, and that all contributions have been deposited into the campaign account. Contributors must certify that the information they provide is correct and that they have provided their residence address.	LAAC §§ 24.34(a)(7)(B)
Participation	Candidates may opt into the program during Candidate Filing Week.	Candidates may opt into the program any time after filing a Declaration of Intent to Solicit and Receive Contributions but no later than the close of Candidate Filing Week.	LAAC § 24.32(a)(1)(A) LAMC § 49.7.22(A)
Personal Funds	Candidates may not contribute more than certain amounts in personal funds to their campaigns.	Candidates may not contribute or lend more than certain amounts in personal funds during an election.	LAAC § 24.32(a)(3)(D) LAMC § 49.7.23(C)(5)
Qualification	Qualifying and matchable contributions must be received in the 12 months prior to an election. Candidates must certify certain statements regarding their eligibility.	Qualifying and matchable contributions may be received any time during the fundraising window. Candidates must certify certain statements regarding their eligibility, including not using matching funds in violation of any law, not using matching funds to pay fines or inauguration expenses, attending mandatory training, and becoming disqualified if program terms are not met.	LAAC § 24.32(a)(3) LAMC §§ 49.7.2(S)(6), 49.7.23(C)

Matching Funds Procedural Requirements (cont'd)

<i>Topic</i>	<i>Current Law</i>	<i>Proposed Law</i>	<i>Citation</i>
Return of Matching Funds	Surplus matching funds must be returned within 90 days after the election or 10 days after the candidate withdraws from the election. Funds must be returned by check.	Surplus matching funds must be returned within 90 days after the election or 10 days after the candidate withdraws from the election. Other matching funds must be returned within 15 days of notice from the Ethics Commission. Funds must be returned by cashier's check.	LAAC §§ 24.36(b),(c)

Los Angeles Administrative Code

Sec. 24.31. Procedural Regulations for the Public Matching Funds Program.

- (a) **Scope.** This chapter sets forth the procedural requirements of the Matching Funds Program.
- (b) **Definitions.** The following terms used in this Chapter have the meanings identified below. Other terms used in this Chapter have the meanings identified in the Political Reform Act, Charter Sections 470 and 471, and Municipal Code Sections 49.7.1, *et seq.*
- (1) **“Authorized Agent”** means an individual named on a written list of individuals who may receive matching funds payments on behalf of a participating candidate. The participating candidate must sign the list and submit it to the Ethics Commission.
 - (2) **“Charter”** means the Los Angeles City Charter.
 - (3) **“Controlled Committee”** means the campaign committee that is authorized by a participating candidate on that candidate’s Statement of Organization (California Fair Political Practices Commission Form 410) to receive contributions and make expenditures in connection with that candidate’s campaign for the elected City office that is specified on the candidate’s current Declaration of Intent to Solicit and Receive Contributions.
 - (4) **“Debate”** means a discussion between two or more candidates who have qualified to appear on a ballot for elected City office that is moderated by an independent third party and attended by the public.
 - (5) **“Election Code”** means the Los Angeles City Election Code.
 - (6) **“Fund”** means the Los Angeles City Public Matching Campaign Funds Trust Fund.
 - (7) **“Municipal Code”** means the Los Angeles Municipal Code.
 - (8) **“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.
 - (9) **“Program”** means the City’s public matching funds program.
 - (10) **“Surplus Matching Funds”** means the amount of unspent matching funds after the participating candidate has withdrawn from candidacy or after the election has occurred and the campaign expenditures incurred in that election have been paid.
 - (11) **“Treasurer”** means the treasurer identified on a participating candidate’s Statement of Organization (California Fair Political Practices Commission Form 410).
- (c) **Filings.** A person required by this chapter to file a document or other item with the Ethics Commission must do so in a method prescribed by the Ethics Commission staff.

Sec. 24.32. Accepting and Qualifying For Matching Funds.

(a) Statement of Acceptance or Rejection of Matching Funds.

- (1) Each candidate for elected City office must file with the Ethics Commission a Statement of Acceptance or Rejection of Matching Funds, as required by Municipal Code Section 49.7.22.
 - (A) 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 fails to file a Statement of Acceptance or Rejection of Matching Funds within the permitted time period may not be a participating candidate.
 - (C) A candidate who initially agrees to participate in the program may subsequently decline to participate if another candidate in the same race is a non-participating candidate.
 - (i) To subsequently decline to participate, the candidate must notify the Ethics Commission in writing no later than 5:00 p.m. on the fifth business day after the final date to file the Declaration of Intention to Become a Candidate. A candidate may not subsequently decline to participate after that date.
 - (ii) A candidate who subsequently declines to participate in the program is a non-participating candidate who is ineligible to receive matching funds for that election cycle and must return to the City all matching funds received for that election cycle.
- (2) The following must be provided in every Statement of Acceptance or Rejection of Matching Funds:
 - (A) The candidate's name and an address and telephone number at which the candidate can be reached during regular business hours;
 - (B) The elected City office the candidate is seeking;
 - (C) The election for which the statement is filed;
 - (D) Whether or not the candidate elects to accept public matching funds;
 - (E) A statement that the candidate understands that the acceptance or rejection of matching funds is effective for both the primary election and the general election;
 - (F) The candidate's certification under penalty of perjury; and
 - (G) The candidate's signature.
- (3) Participating candidates must also certify the following on the Statement of Acceptance or Rejection of Matching Funds:

- (A) The candidate understands the requirements in the City's Campaign Finance Ordinance (Municipal Code Sections 49.7.1, *et seq.*) and that those requirements must be satisfied before the candidate may receive public funds;
- (B) The candidate agrees to participate in at least one debate with opponents in the primary election and at least two debates with the opponent in the general election;
- (C) The candidate has not made and will not make expenditures in excess of the expenditure ceilings in Municipal Code Section 49.7.24, unless those limits have been lifted under Municipal Code Section 49.7.25;
- (D) The candidate has not used and will not use personal funds for the election in excess of the limits in Municipal Code Section 49.7.23(C)(4);
- (E) The candidate has not used and will not use matching funds in violation of federal, state, or City law or to pay fines, penalties, or inauguration expenses.
- (F) The candidate understands that the candidate and the candidate's treasurer must attend the training required by Municipal Code Section 49.7.12 before receiving any matching funds.
- (G) The candidate understands that the acceptance of matching funds is effective for both the primary and general elections; and
- (H) The candidate understands that if another candidate for the same office is a non-participating candidate, the candidate may withdraw from the program up to five business days after the final filing date for filing a Declaration of Intention to Become a Candidate.
- (I) The candidate understands that not abiding by the terms of the program will result in disqualification from the program and may require the candidate to return all matching funds received for that election.

(b) Determination of Qualification.

- (1) A participating candidate must meet all qualification requirements in this Chapter and Municipal Code Sections 49.7.1 *et seq.* in order to receive matching funds.
- (2) A participating candidate must file a request for qualification with the Ethics Commission.
 - (A) The request must include the following information:
 - (i) The date of the request;
 - (ii) The information in Sections 24.34(a)(1)–(4);
 - (iii) The information in Sections 24.34(a)(7)(B)(i)–(iv) for each qualified contribution used to comply with Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2). Contributions must be listed alphabetically by the last names of the contributors, with contributions required under paragraph (C) alphabetized separately.

- (iv) The documentation required by Section 24.34(a)(8); and
 - (v) The certification required by Section 24.34(a)(9).
- (B) The request must be filed with the Ethics Commission prior to the date of the primary election. For candidates who do not qualify to receive matching funds in the primary election and proceed to the general election, the request must be filed prior to the date of the general election.
 - (C) The request must identify at least 200 contributions that comply with the requirements in Municipal Code Section 49.7.23(C)(2). The participating candidate and treasurer must certify under penalty of perjury that, to the best of their knowledge and belief, the identified contributions comply with the requirements.
 - (D) The request and the first matching funds claim may be the same document, as long as all required information is provided.
- (3) Ethics Commission staff must determine whether a participating candidate has met all qualification requirements within four business days after receiving all information necessary to process a request, including certification from the City Clerk that the participating candidate's name will appear on the ballot for the election.
 - (A) When reviewing whether the participating candidate has met the qualification thresholds in Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2), Ethics Commission staff need not review more qualified contributions than are necessary for a determination that the participating candidate has met the thresholds.
 - (B) Ethics Commission staff will notify the participating candidate of the determination in writing, and the notice must be signed by the Executive Officer or the Executive Officer's designee.
 - (4) If Ethics Commission staff determines that a participating candidate is not qualified to receive matching funds, the participating candidate may do either of the following:
 - (A) Resubmit a request for qualification; or
 - (B) Submit a written request for review to the Executive Officer.

The request must be submitted within ten business days after the date of the notice of the determination but may not be submitted after the election. The request must specify the reasons the participating candidate believes that the qualification requirements have been met. The Executive Officer will conduct a review and issue a determination within five business days of receiving the request and may extend that response time for good cause.

(c) Qualification For Ballot.

- (1) A participating candidate who fails to qualify to appear on the ballot may not receive matching funds.

- (2) A participating candidate who initially qualifies for the ballot but is later disqualified from the ballot will be suspended from the program at the time of the disqualification.
 - (A) The candidate will be ineligible to receive additional public funds until the qualification is restored.
 - (B) Any public funds in the candidate's possession may not be spent for any purpose other than to pay for campaign expenditures incurred before the date of the disqualification. All public funds in excess of such expenditures must be repaid to the Ethics Commission within 10 days of the date of the disqualification.

Sec. 24.33. Allocation of Matching Funds.

- (a) The Ethics Commission members must determine whether, based on the number of participating candidates, the amount of money in the Fund is adequate to provide the maximum matching funds to participating candidates.
- (b) For primary elections, the determination must be made within 40 days of the last day to decline to participate in the program. If that determination results in reduced maximum funds, the Ethics Commission members must make a second determination at least two weeks before the primary election.
- (c) For general elections, the determination must be made within 40 days after the City Clerk certifies the candidates whose names will appear on the ballot.
- (d) If the Ethics Commission members determine that the Fund may not be adequate to provide maximum matching funds to participating candidates, it must reduce the maximums on a pro rata basis.
 - (1) The Ethics Commission members may not otherwise change the matching funds formula.
 - (2) If the determination is made for a primary election, a portion of the Fund equal to a one-fifth grant for two candidates in each race in which there are participating candidates must be reserved for disbursement in the general election.
 - (3) If a second determination is required for a primary election, the Ethics Commission members may raise the maximum matching funds, but the maximums may never exceed the amounts in Municipal Code Section 49.7.29.
- (e) The Ethics Commission members must take action under this Section by resolution at public meetings.

Sec. 24.34. Matching Funds Payments.

- (a) **Claim Form.** A participating candidate must file a matching funds claim form with the Ethics Commission to receive matching funds. The form must include all of the following:

- (1) The participating candidate's name and an address and telephone number at which the participant may be reached during regular business hours.
- (2) The elected City office the participating candidate is seeking.
- (3) The election for which the form is filed.
- (4) The name and identification number of the participating candidate's controlled committee.
- (5) The date the claim is submitted.
- (6) The total amount of matching funds claimed through the form.
- (7) A list of all qualified contributions for which the participating candidate claims matching funds.
 - (A) The list must be alphabetical by the last names of the contributors.
 - (B) The following information must be provided for each qualified contribution:
 - (i) The contributor's name, residence address, occupation, and employer (or, if the contributor is self-employed, the name of the contributor's business);
 - (ii) The contributor's certification that the information provided under paragraph (i) is correct and that the address provided is the contributor's residence address;
 - (iii) The date the contribution was received;
 - (iv) The amount of the contribution;
 - (v) The cumulative amount of contributions received from that contributor for the same election; and
 - (vi) The portion of the contribution for which matching funds are claimed;
 - (vii) The cumulative amount of matching funds already received for the same election based on contributions from that contributor.
- (8) A true and correct copy of documentation that supports each listed contribution. Supporting documentation includes copies of checks, credit card transaction receipts, and cash receipts.
- (9) A certification signed under penalty of perjury by both the participating candidate and the treasurer that all contributions have been deposited into the controlled committee's campaign checking account and that, to the best of their knowledge and belief, the form and all supporting documents are true and complete and all contributions are from City residents.

(b) Claim Amendments.

- (1) Matching funds claims and their supporting documentation may be amended.
- (2) In addition to all of the information required for the original claim, amendments must state why the amendment is necessary and must itemize the data that is being amended.
- (3) Ethics Commission staff will review each amendment, to determine whether an adjustment to the participating candidate's matching funds payment is necessary.
 - (A) If an amendment results in a supplementary matching funds payment, it will be processed in the same manner as a payment for an original claim; and
 - (B) If an amendment reveals that the participating candidate received excess matching funds, the participating candidate must return the amount of the excess to the Ethics Commission within 10 business days of receiving notice of the overpayment.

(c) Payment and Claim Windows.

- (1) Matching funds payments will not be made until the City Clerk certifies that the participating candidate's name will appear on the election ballot. Within five business days of the later of certification for the general election or qualification to receive matching funds, each participating candidate who has qualified to receive matching funds will receive one-fifth of the amount specified in Municipal Code Section 49.7.29(B), without being subject to the matching formula specified in Municipal Code Section 49.7.27.
- (2) Matching funds claims must identify at least \$10,000 in matchable portions of qualified contributions, as determined by the formula in Municipal Code Section 49.7.27(A), except in the following circumstances.
 - (A) From 14 days before an election until three months after an election, claims must identify at least \$1,000 in matchable portions of qualified contributions.
 - (B) Claims may identify 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.
- (3) Matching funds claims will not be accepted more than three months after the election for which the qualified contribution was made.

(d) Reviewing Claims.

- (1) Ethics Commission staff must review matching funds claim forms to determine the amount of qualified contributions and the amount of matching funds that may be paid.
 - (A) Matching funds may not be paid for any portion of a qualified contribution that is returned to or not paid by the contributor;
 - (B) Based on the staff review, the Executive Officer or the Executive Officer's designee must determine the amount of matching funds payable to a participating candidate.

The staff need not review more qualified contributions than are necessary to match the amount claimed under Section 24.34(A)(6);

- (C) The determination must be made within four business days after the later of receiving all information necessary to process the claim or determining that the participating candidate has met all qualification requirements; and
- (D) Ethics Commission staff must notify the participating candidate in writing of the determination.

- (2) If Ethics Commission staff determines that any portion of a matching funds claim is not payable, the participating candidate may submit a written request for review to the Executive Officer within ten business days of the date on the notice of the determination. The request must specify the reasons the participating candidate believes that a different amount should be paid. The Executive Officer or the Executive Officer's designee will conduct a review and issue a determination within five business days of receiving the request and may extend that response time for good cause.

(e) Processing Claims. Matching funds payments will be processed as follows.

- (1) Ethics Commission staff will issue a matching funds payment authorization letter with supporting documents to the Controller's office, certifying the amount of matching funds payable to the participating candidate.
- (2) Payments will be drawn from the Fund and made payable to the participating candidate.
- (3) For all authorizations that it receives by 2:00 p.m., the Controller's office will issue payment no later than noon on the second business day after receipt.
- (4) The Controller's office will issue payments only to the Ethics Commission staff for distribution.

(f) Distribution of Payments.

- (1) Matching funds payments will be available for distribution within six business days after the later of the date the Ethics Commission receives all information necessary to process a claim or the date the Ethics Commission determines that the participating candidate has met all qualification requirements.
- (2) Matching funds payments will be distributed at the Ethics Commission office after 2:00 p.m. on the day the payments are issued by the Controller's office.
- (3) Matching funds payments will be released only to a participating candidate, the treasurer, or an authorized agent. The recipient must display proper identification.
- (4) The recipient must sign a matching funds payment receipt to receive the payment. The receipt must contain the following information:
 - (A) The name of the participating candidate;
 - (B) The name of the recipient;

- (C) The elected City office the participating candidate is seeking;
- (D) The date the Ethics Commission received the matching funds payment from the Controller;
- (E) The amount of the certified matching funds payment;
- (F) The date the individual received the payment; and
- (G) A summary of all matching funds payments issued to the participating candidate to date.

(g) **Payment Is Not Final Determination.** A matching funds payment does not constitute the Ethics Commission's final determination of the amount for which a participating candidate may qualify.

Sec. 24.35. Matching Funds Audits.

- (a) Determinations regarding qualification by and amounts of payment to candidates are subject to post-payment reviews and audits pursuant to Charter Section 702(d) and Section 24.41 of this Code.
 - (1) If a review or audit reveals that additional matching funds may be paid to a candidate, Ethics Commission staff will notify the candidate.
 - (2) If a review or audit reveals that a candidate received excess matching funds, the candidate must return the amount of the excess to the Ethics Commission within ten business days of receiving notice of the overpayment. If the funds are not returned within ten business days, subsequent payments will be reduced by the amount of the overpayment.
- (b) Statements and forms required or filed for the program are subject to desk and field audits under Charter Section 702(d).

Sec. 24.36. Return of Matching Funds.

- (a) Candidates may be required to return matching funds if they are disqualified from or violate the terms of the program or for other reasons specified in the Municipal Code or this Chapter.
- (b) Matching funds must be returned within the following time periods.
 - (1) Surplus matching funds must be returned within 90 calendar days after the election or, if the candidate withdraws from the election, within ten calendar days after the withdrawal.
 - (2) If Ethics Commission staff notifies a candidate in writing that matching funds must be returned, the matching funds must be returned within 15 calendar days of the date on the written notice.

- (c) Matching funds must be returned through a cashier's check payable to the Ethics Commission for deposit into the Fund.
- (d) Candidates who do not return matching funds as required are subject to legal action for collection of the funds.

Sec. 24.37. Recordkeeping Requirements.

- (a) Candidates must use best efforts to obtain, maintain, and submit to the Ethics Commission all required information.
 - (1) Candidates must keep complete records of all efforts to obtain, maintain, and submit required information.
 - (2) For receipts, bills, and bank records, best efforts require at least one written effort per transaction to obtain the documentation.
- (b) Candidates must retain all records and documents required to be kept under this chapter, Municipal Code Sections 49.7.1 *et seq.*, and California Government Code Section 91011 for at least four years after the date of the last election to which the records or documents relate.
- (c) Candidates must notify the Ethics Commission in writing of any person other than the treasurer who is a custodian for the candidate's records. The notice must include the location of those records and documents and must be amended whenever a change of address occurs.

Sec. 24.38. Violations.

- (a) Matching funds may be spent only for purposes reasonably related to influencing or attempting to influence the actions of the voters for or against the election of a City candidate in the race for which the matching funds were distributed. Using matching funds in other ways is a misappropriation of the funds and violates this Chapter.
- (b) The failure of a candidate, controlled committee, or treasurer to comply with any provision of this chapter is a violation of this chapter and is subject to the penalties and remedies in Charter Section 706 and Municipal Code Section 49.7.38.
- (c) In addition to any penalty, a candidate who violates a term or requirement of the program may be required to return all matching funds that the candidate received for the election during which the violation occurred.

Los Angeles Administrative Code

Sec. 24.31. Procedural Regulations for the Public Matching Funds Program.

(a) **Scope.** This chapter sets forth the procedural requirements of the Matching Funds Program.

(b) **Definitions.** The following terms used in this ~~Section and in Los Angeles Municipal Code Sections 49.7.1, et seq., are defined below~~ Chapter have the meanings identified below. ~~Except as provided below, the interpretation of these regulations is governed by the definitions and provisions of Other terms used in this Chapter have the meanings identified in the Political Reform Act of 1974; the regulations of the Fair Political Practices Commission; Charter Sections 470, and 471, and 609(e); and Municipal Code Sections 49.7.1, et seq.~~

- (1) **“Authorized Agent”** means an individual named on a written list of individuals who may receive matching funds payments on behalf of a participating candidate. The participating candidate must sign the list and submit it to the Ethics Commission.
- (2) **“Charter”** means the Los Angeles City Charter.
- (3) **“Controlled Committee”** means the campaign committee that is authorized by a participating candidate on that candidate’s Statement of Organization (California Fair Political Practices Commission Form 410) to receive contributions and make expenditures in connection with that candidate’s campaign for the elected City office that is specified on the candidate’s current Declaration of Intent to Solicit and Receive Contributions.
- (4) **“Debate”** means a discussion between two or more candidates who have qualified to appear on a ballot for elected City office that is moderated by an independent third party and attended by the public.
- (5) ~~“Elected City office” means the office of City Council member, City Attorney, Controller, or Mayor~~ **“Election Code”** means the Los Angeles City Election Code.
- (6) **“Fund”** means the Los Angeles City Public Matching Campaign Funds Trust Fund.
- (7) ~~“General Election” means a regular or special general municipal election for elected City office.~~
- (8) **“Municipal Code”** means the Los Angeles Municipal Code.
- (9) ~~“Non-participating candidate” means a candidate for elected City office who has declined to participate in the program.~~
- (10) ~~“Participating candidate” means a candidate for elected City office who has agreed to participate in the program and is not a write-in candidate.~~
- (11) ~~“Primary Election” means a regular or special primary nominating election for elected City office~~ **“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.

(129) **"Program"** means the City's public matching funds program.

~~(13) **"Qualified Contribution"** means a contribution that may be matched with public funds because it meets all of the following criteria:~~

~~(A) The contribution is lawful under state and City law.~~

~~(B) The contribution was received by a participating candidate.~~

~~(C) The contribution was not received from the participating candidate or the participating candidate's immediate family.~~

~~(D) The contribution was received from an individual. Beginning with the 2015 regular elections, the contribution was received from an individual residing within the City.~~

~~(E) The contribution is monetary and is not a loan or pledge.~~

~~(F) The contribution was received no later than three months after the date of the election and no earlier than the following dates:~~

~~(i) For regular primary elections, 12 months prior to the date of the election.~~

~~(ii) 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.~~

~~(iii) For general elections, the date on which the candidate was permitted to begin soliciting and accepting contributions.~~

(140) **"Surplus Matching Funds"** means the amount of unspent matching funds after the participating candidate has withdrawn from candidacy or after the election has occurred and the ~~qualified~~ campaign expenditures incurred in that election have been paid.

(151) **"Treasurer"** means the treasurer identified on a participating candidate's Statement of Organization (California Fair Political Practices Commission Form 410).

(c) **Filings.** A person required by this chapter to file a document or other item with the Ethics Commission must do so in a method prescribed ~~and published~~ by the Ethics Commission staff.

Sec. 24.32. Accepting and Qualifying For Matching Funds.

(a) Statement of Acceptance or Rejection of Matching Funds.

- (1) Each candidate for elected City office must ~~submit file with the Ethics Commission~~ a Statement of Acceptance or Rejection of Matching Funds ~~(, as required by Municipal Code Section 49.7.22) at the same time that the candidate files a Declaration of Intent to Become a Candidate (required by City Elections Code Section 301).~~

- (A) 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 fails to file a Statement of Acceptance or Rejection of Matching Funds at within the ~~required-permitted~~ time period may not be a participating candidate.
 - (BC) A candidate who initially agrees to participate in the program may ~~thereafter~~ subsequently decline to participate ~~by providing written notice to that effect if another candidate in the same race is a non-participating candidate.~~
 - (i) To subsequently decline to participate, the candidate must notify the Ethics Commission in writing no later than 5:00 p.m. on the fifth business day after the final date to file the Declaration of Intention to Become a Candidate. A candidate may not subsequently decline to participate after that date.
 - (ii) A candidate who subsequently declines to participate in the program is a non-participating candidate who is ineligible to receive matching funds for that election cycle and must return to the City all matching funds received for that election cycle.
- (2) The following must be provided in every Statement of Acceptance or Rejection of Matching Funds:
- (A) The candidate's name and an address and telephone number at which the candidate can be reached during regular business hours;
 - (B) The elected City office the candidate is seeking;
 - (C) The election for which the statement is filed;
 - (D) Whether or not the candidate elects to accept public matching funds;
 - (E) A statement that the candidate understands that the acceptance or rejection of matching funds is effective for both the primary election and the general election;
 - (F) The candidate's ~~verification-certification~~ under penalty of perjury; and
 - (G) The candidate's signature.
- (3) Participating candidates must also certify the following on the Statement of Acceptance or Rejection of Matching Funds:
- (A) The candidate understands the requirements in the City's Campaign Finance Ordinance (Municipal Code Sections 49.7.1, *et seq.*) and that those requirements must be satisfied before the candidate may receive public funds;
 - (B) The candidate agrees to participate in at least one debate with opponents in the primary election and at least two debates with the opponent in the general election;

- (C) The candidate has not made and will not make expenditures in excess of the expenditure ceilings in Municipal Code Section 49.7.24, unless those limits have been lifted under Municipal Code Section 49.7.25;
- (D) The candidate has not used and will not use personal funds for the election in excess of the limits in Municipal Code Section 49.7.23(C)(4);
- (E) The candidate has not used and will not use matching funds in violation of federal, state, or City law or to pay fines, penalties, or inauguration expenses.
- (F) The candidate understands that the candidate and the candidate's treasurer must attend the training required by Municipal Code Section 49.7.12 before receiving any matching funds.
- (G) The candidate understands that the acceptance of matching funds is effective for both the primary and general elections; and
- (FH) The candidate understands that if another candidate for the same office ~~declines to participate in the program~~ is a non-participating candidate, the candidate may withdraw from the program up to five business days after the final filing date for filing a Declaration of Intention to Become a Candidate.
- (I) The candidate understands that not abiding by the terms of the program will result in disqualification from the program and may require the candidate to return all matching funds received for that election.

(b) Determination of Qualification.

- (1) A participating candidate must meet all qualification requirements in this Chapter and Municipal Code Sections 49.7.1 *et seq.* in order to receive matching funds.
- (2) A participating candidate must file a request for qualification with the Ethics Commission and comply with the following requirements:
 - (A) The request must include the ~~same following~~ information as a matching funds claim under Section 24.34(a), with the date of the request substituted for the date of the claim and the total amount of qualifying contributions substituted for the total amount of matching funds claimed;
 - (i) The date of the request;
 - (ii) The information in Sections 24.34(a)(1)–(4);
 - (iii) The information in Sections 24.34(a)(7)(B)(i)–(iv) for each qualified contribution used to comply with Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2). Contributions must be listed alphabetically by the last names of the contributors, with contributions required under paragraph (C) alphabetized separately.
 - (iv) The documentation required by Section 24.34(a)(8); and

- (v) The certification required by Section 24.34(a)(9).
- (B) The request must be filed with the Ethics Commission prior to the date of the primary election. For candidates who do not qualify ~~for~~ to receive matching funds in the primary election and proceed to the general election, the request must be filed prior to the date of the general election; ;
- (C) ~~Beginning with the 2015 regular City elections, t~~The request must identify at least 200 contributions that comply with the requirements in Municipal Code Section 49.7.23(C)(1)(e2), ~~and t.~~ The participating candidate and treasurer must certify under penalty of perjury that, to the best of their knowledge and belief, the identified contributions comply with the requirements; and.
- (D) ~~Beginning with the 2015 regular City elections, this~~The request and the first matching funds claim may be the same document, as long as all required information is provided.
- (3) Ethics Commission staff must determine whether a participating candidate has met all qualification requirements within ~~three-four~~ business days after receiving all information necessary to process a request, including certification from the City Clerk that the participating candidate's name will appear on the ballot for the election.
- (A) When reviewing whether the participating candidate has met the qualification thresholds in Municipal Code Sections 49.7.23(C)(1)(a) and 49.7.23(C)(2), Ethics Commission staff need not review more qualified contributions than are necessary for a determination that the participating candidate has met the thresholds.
- (B) Ethics Commission staff will notify the participating candidate of the determination in writing, and the notice must be signed by the Executive Officer or the Executive Officer's designee.
- (4) If Ethics Commission staff determines that a participating candidate is not qualified to receive matching funds, the participating candidate may do either of the following:
- (A) Resubmit a request for qualification; or
- (B) Submit a written request for review to the Executive Officer.
- The request must be submitted within ~~five-ten~~ business days ~~of receiving after the date of the~~ notice of the determination but may not be submitted after the election. The request must specify the reasons the participating candidate believes that the qualification requirements have been met. The Executive Officer will conduct a review and issue a determination within five business days of receiving the request and may extend that response time for good cause.

(c) Qualification For Ballot.

- (1) A participating candidate who fails to qualify to appear on the ballot may not receive matching funds.

- (2) A participating candidate who initially qualifies for the ballot but is later disqualified from the ballot will be suspended from the program at the time of the disqualification.
 - (A) The candidate will be ineligible to receive additional public funds until the qualification is restored.
 - (B) Any public funds in the candidate's possession may not be spent for any purpose other than to pay for ~~qualified~~ campaign expenditures incurred before the date of the disqualification. All public funds in excess of such expenditures must be repaid to the Ethics Commission within 10 days of the date of the disqualification.

Sec. 24.33. Allocation of Matching Funds.

- (a) The Ethics Commission members must determine whether, based on the number of participating candidates, the amount of money in the Fund is adequate to provide the maximum matching funds to participating candidates.
- (b) For primary elections, the determination must be made within 40 days of the last day to decline to participate in the program. If that determination results in reduced maximum funds, the Ethics Commission members must make a second determination at least two weeks before the primary election.
- (c) For general elections, the determination must be made within 40 days after the City Clerk certifies the candidates whose names will appear on the ballot.
- (d) If the Ethics Commission members determine that the Fund may not be adequate to provide maximum matching funds to participating candidates, it must reduce the maximums on a pro rata basis.
 - (1) The Ethics Commission members may not otherwise change the matching funds formula.
 - (2) If the determination is made for a primary election, a portion of the Fund equal to a one-fifth grant for two candidates in each race in which there are participating candidates must be reserved for disbursement in the general election.
 - (3) If a second determination is required for a primary election, the Ethics Commission members may raise the maximum matching funds, but the maximums may never exceed the amounts in Municipal Code Section 49.7.29.
- (e) The Ethics Commission members must take action under this Section by resolution at public meetings.

Sec. 24.34. Matching Funds Payments.

- (a) **Claim Form.** A participating candidate must file a matching funds claim form with the Ethics Commission to receive matching funds. The form must include all of the following:

- (1) The participating candidate's name and an address and telephone number at which the participant may be reached during regular business hours; ~~;~~
- (2) The elected City office the participating candidate is seeking; ~~;~~
- (3) The election for which the form is filed; ~~;~~
- (4) The name and identification number of the participating candidate's controlled committee; ~~;~~
- (5) The date ~~of the claim~~ is submitted; ~~;~~
- (6) The total amount of matching funds claimed; through the form.
- (7) A list of all qualified contributions for which the participating candidate ~~requests claims~~ matching funds; ~~;~~
 - (A) The list must be alphabetical by the last names of the contributors; ~~and.~~
 - (B) The following information must be provided for each qualified contribution:
 - (i) The contributor's name, residence address, occupation, and employer (or, if the contributor is self-employed, the name of the contributor's business);
 - (ii) The contributor's certification that the information provided under paragraph (i) is correct and that the address provided is the contributor's residence address;
 - (iii) The date the contribution was received;
 - ~~(iii)~~v The amount of the contribution;
 - (iv) The cumulative amount of contributions received from that contributor for the same election; and
 - (vi) The portion of the contribution for which matching funds are claimed;
 - (vii) The cumulative amount of matching funds already received for the same election based on contributions from that contributor.
- (8) A true and correct copy of documentation that supports each listed contribution. Supporting documentation includes copies of checks, credit card transaction receipts, and cash receipts; ~~and.~~
- (9) A certification signed under penalty of perjury by both the participating candidate and the treasurer that all contributions have been deposited into the controlled committee's campaign checking account and that, to the best of their knowledge and belief, the form and all supporting documents are true and complete and ~~beginning with the 2015 regular City elections,~~ all contributions are from City residents.

(b) Claim Amendments.

- (1) Matching funds claims and their supporting documentation may be amended.
- (2) In addition to all of the information required for the original claim, amendments must state why the amendment is necessary and must itemize the data that is being amended.
- (3) Ethics Commission staff will review each amendment, to determine whether an adjustment to the participating candidate's matching funds payment is necessary.
 - (A) If an amendment results in a supplementary matching funds payment, it will be processed in the same manner as a payment for an original claim; and
 - (B) If an amendment reveals that the participating candidate received excess matching funds, the participating candidate must return the amount of the excess to the Ethics Commission within 10 business days of receiving notice of the overpayment.

(c) Payment and Claim Windows.

- (1) Matching funds payments will not be made until the City Clerk certifies that the participating candidate's name will appear on the election ballot. Within five business days of the ~~latter~~ later of certification for the general election or qualification to receive matching funds, each participating candidate who has qualified to receive matching funds will receive one-fifth of the amount specified in Municipal Code Section 49.7.29(B), without being subject to the matching formula specified in Municipal Code Section 49.7.27.
- (2) Matching funds claims must ~~be submitted in the following amounts: identify at least \$10,000 in matchable portions of qualified contributions, as determined by the formula in Municipal Code Section 49.7.27(A), except in the following circumstances.~~
 - (A) ~~Until 14 days before an election, claims must identify at least \$10,000 in qualified contributions; and~~
 - (B) ~~From 14 days before an election until three months after an election, claims must identify at least \$1,000 in matchable portions of qualified contributions.~~
 - (B) Claims may identify 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.
- (3) Matching funds claims will not be accepted more than three months after ~~an~~ the election for which the qualified contribution was made.

(d) Reviewing Claims.

- (1) Ethics Commission staff must review matching funds claim forms to determine the amount of qualified contributions and the amount of matching funds that may be paid.
 - (A) Matching funds may not be paid for any portion of a qualified contribution that is returned to or not paid by the contributor;

(B) Based on the staff review, the Executive Officer or the Executive Officer's designee must ~~certify-determine~~ the amount of matching funds payable to a participating candidate. The staff need not review more qualified contributions than are necessary to match the amount claimed under Section 24.34(A)(6);

(C) ~~Certification-The determination~~ must be made within ~~three-four~~ business days after the later of receiving all information necessary to process the claim or determining that the participating candidate has met all qualification requirements. ~~If a claim and the request for qualification are permissibly submitted as separate documents, the claim will not be deemed received prior to the date the Ethics Commission staff notifies the participating candidate that the candidate has qualified to receive matching funds; and~~

(D) ~~A copy of each certification must be provided to Ethics Commission staff must~~ notify the participating candidate ~~and to the Controller in writing of the determination.~~

(2) If Ethics Commission staff determines that any portion of a matching funds claim is not payable, the participating candidate may submit a written request for review to the Executive Officer within ~~five-ten~~ business days of receiving the date on the notice of the determination. The request must specify the reasons the participating candidate believes that a different amount should be paid. The Executive Officer or the Executive Officer's designee will conduct a review and issue a determination within five business days of receiving the request and may extend that response time for good cause.

(e) **Processing Claims.** ~~After certification, m~~ Matching funds payments will be processed as follows.

(1) Ethics Commission staff will issue a matching funds payment authorization letter with supporting documents to the Controller's office, certifying the amount of matching funds payable to the participating candidate.

(2) Payments will be drawn from the Fund and made payable to the participating candidate.

(3) ~~The Controller's office will issue payments f~~ For all authorizations that it receives by 2:00 p.m., the Controller's office will issue payment no later than noon on the second business day after receipt.

(4) The Controller's office will issue payments only to the Ethics Commission staff for distribution.

(f) **Distribution of Payments.**

(1) Matching funds payments will be available for distribution within ~~five-six~~ business days after the later of the date the Ethics Commission receives all information necessary to process a claim-form or the date the Ethics Commission determines that the participating candidate has met all qualification requirements.

(2) Matching funds payments will be distributed at the Ethics Commission office after 2:00 p.m. on the day the payments are issued by the Controller's office.

(3) Matching funds payments will be released only to a participating candidate, the treasurer, or an authorized agent. The recipient must display proper identification.

(4) The recipient must sign a matching funds payment report receipt to receive the payment. The report receipt must contain the following information:

(A) The name of the participating candidate;

(B) The name of the recipient;

(C) The elected City office the participating candidate is seeking;

(D) The date the Ethics Commission received the matching funds payment from the Controller;

(E) The amount of the certified matching funds payment;

(F) The date the individual received the payment; and

(G) A summary of all matching funds payments issued to the participating candidate to date.

(g) **Payment Is Not Final Determination.** A matching funds payment does not constitute the Ethics Commission's final determination of the amount for which a participating candidate may qualify.

Sec. 24.35. Matching Funds Audits.

(a) Determinations regarding qualification by and amounts of payment to ~~participating~~ candidates are subject to post-payment reviews and audits pursuant to Charter Section 702(d) and Section 24.41 of this Code.

(1) If an review or audit reveals that additional matching funds may be paid to ~~the participating-a~~ candidate, Ethics Commission staff will notify the participant candidate.

(2) If an review or audit reveals that ~~the participating-a~~ candidate received excess matching funds, the ~~participating~~ candidate must return the amount of the excess to the Ethics Commission within ten business days of receiving notice of the overpayment. If the funds are not returned within ten business days, subsequent payments will be reduced by the amount of the overpayment.

(b) Statements and forms required or filed for the program are subject to desk and field audits under Charter Section 702(d).

Sec. 24.36. Return of Matching Funds.

- (a) Candidates may be required to return matching funds if they are disqualified from or violate the terms of the program or for other reasons specified in the Municipal Code or this Chapter.
- (b) Matching funds must be returned within the following time periods.
 - (1) Surplus matching funds must be returned within 90 calendar days after the election or, if the candidate withdraws from the election, within ten calendar days after the withdrawal.
 - (2) If Ethics Commission staff will notifyies a participating-candidate in writing if any that matching funds must be returned, the matching funds must be returned within 15 calendar days of the date on the written notice.
- (ac) Matching funds must be returned through a cashier's check payable to the Ethics Commission for deposit into the Fund.
- ~~(b) Surplus matching funds must be returned within 90 days after the election or, if the participating candidate withdraws from the election, within ten days after the withdrawal. Other matching funds must be returned within ten days of receiving notice from the Ethics Commission.~~
- (ed) Candidates who do not return matching funds as required, are subject to legal action for collection of the funds.

Sec. 24.37. Recordkeeping Requirements.

- (a) ~~Participating-e~~Candidates must use best efforts to obtain, maintain, and submit to the Ethics Commission all required information.
 - (1) ~~Participating-e~~Candidates must keep complete records of all efforts to obtain, maintain, and submit required information.
 - (2) For receipts, bills, and bank records, best efforts require at least one written effort per transaction to obtain the documentation.
- (b) ~~Participating-e~~Candidates must retain all records and documents required to be kept under this chapter, Municipal Code Sections 49.7.1 *et seq.*, and California Government Code Section 91011 for at least four years after the date of the last election to which the records or documents relate.
- (c) ~~Participating-e~~Candidates must notify the Ethics Commission in writing of any person other than the treasurer who is a custodian for the ~~participating~~-candidate's records. The notice must include the location of those records and documents and must be amended whenever a change of address occurs.

Sec. 24.38. Violations.

- | (a) Matching funds may be spent only for ~~the purpose of~~ reasonably related to influencing or attempting to influence the actions of the voters for or against the election of a City candidate in the race for which the matching funds were distributed. Using matching funds in other ways is a misappropriation of the funds and violates this Chapter.
- | (b) The failure of a ~~participating~~ candidate, controlled committee, or treasurer to comply with any provision of this chapter is a violation of this chapter and is subject to the penalties and remedies in Charter Section 706 and Municipal Code Section 49.7.38.
- | (c) In addition to any penalty, a ~~participating~~ candidate who violates a term or requirement of the program may be required to return all matching funds that the candidate received for the election during which the violation occurred.