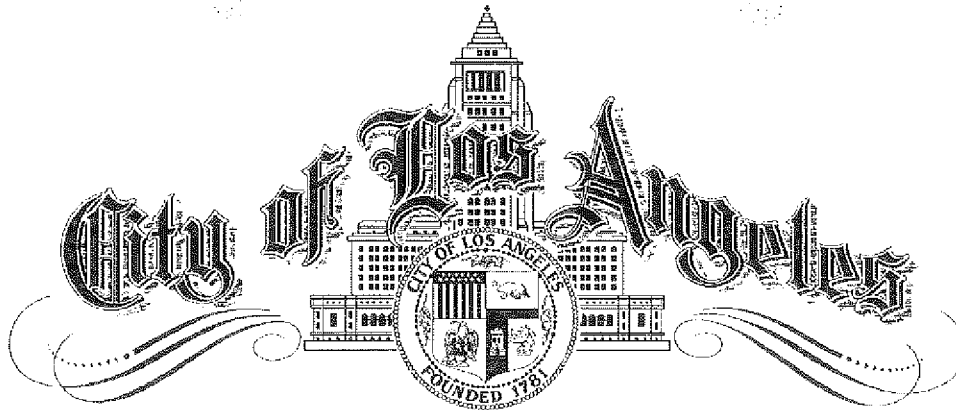


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CARMEN A. TRUTANICH  
City Attorney

REPORT NO. R 1 2 - 0 2 8 6  
SEP 0 5 2012

**REPORT RE:**

**DRAFT ORDINANCES TO AMEND THE LOS ANGELES MUNICIPAL CODE  
TO REVISE THE CITY'S CAMPAIGN FINANCE LAWS AND TO AMEND THE LOS  
ANGELES ADMINISTRATIVE CODE TO REVISE THE ETHICS COMMISSION  
REGULATIONS REGARDING PUBLIC MATCHING FUNDS**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Honorable Members:

Pursuant to your Honorable Body's request of August 22, 2012, this Office has prepared and now transmits for your consideration three ordinances. The first two ordinances, labeled Ordinance A and Ordinance B, both revise the City's campaign finance ordinances, pursuant to the City Council approved amendments to the City Ethics Commission proposal. The only difference between Ordinance A and Ordinance B is the operational date for the signature requirement to obtain accelerated matching funds. Both Ordinance A and B are approved as to form and legality, though we believe there are some legal risks associated with imposing a signature requirement, particularly if it is applied to the 2013 City elections, as more fully explained in this report. Candidate filing week begins on November 5<sup>th</sup> and, due to the amount of time necessary for either Ordinance A or Ordinance B to be adopted and become effective, there is a pressing need for the Council to act expeditiously in adopting either Ordinance A or Ordinance B to avoid potential legal issues relating to timing.

Both Ordinance A and B revise the City's campaign finance ordinances as proposed by the City Ethics Commission and as amended by City Council. Also included is a technical change to an Administrative Code provision to remove an inconsistency between the conflict provisions for proprietary department underwriter revenue bonds in Charter Section 609 and the campaign finance ordinance. Drafts of

Ordinances A and B were transmitted pursuant to Council Rule 38 to the City Ethics Commission and the Ethics Commission's comments have been incorporated. Ordinance A and Ordinance B also were transmitted to the City Clerk, and we have requested that the City Clerk provide comments, particularly regarding the operational impacts to its Office, directly to City Council.

Ordinance C, the third ordinance transmitted with this report, makes changes to the Los Angeles Administrative Code and amends Ethics Commission regulations. Primarily, Ordinance C updates the administrative process for the matching funds program to conform to current conditions and changes to the campaign finance ordinance.

#### Time Limit for Council Action

Enactment of Ordinance C requires a slightly different Council process than Ordinances A and B. Pursuant to Charter Section 703, the City Council must hold a public hearing and either approve or disapprove Ethics Commission regulations within 60 days. If not disapproved within that timeframe, the Mayor has 10 days to approve or disapprove the regulations. If not disapproved by the Mayor, the regulations have the force of law.

In summary, the Council should adopt either Ordinance A or B and also adopt Ordinance C.

#### Summary of the Ordinances

The Ordinances make various changes to matching funds provisions, disclosure provisions, and fundraising restrictions, and other clarifying provisions. The ordinances maintain the current pre-election fundraising window of 18 and 24 months for City Council and Citywide candidates, respectively, while providing for a longer period to retire debt post-election. Other provisions relate to fundraising, including clarifying the ability to accept contributions by text message, lengthening permissible extensions of credit from 30 to 90 days, describing applicability requirements and providing a process for adjustments of limits and thresholds for changes in the consumer price index, and aggregating contributions provisions in the context of prohibitions.

The disclosure and disclaimer provisions in the Ordinances have been updated to standardize reporting requirements and to require additional information be provided to the Ethics Commission and included on independent expenditure communications. The provisions also require additional reporting of significant independent expenditure communications, lower the threshold for mandatory electronic filing to \$10,000, and clarify the applicability of contribution limits in recall elections. Other provisions clarify principal officer liability for committees and cap the amount of late filing penalties.

The Ordinances include several changes to the matching funds requirements. The existing provisions authorizing increased matching funds have been removed to comply with the Supreme Court ruling in *Arizona Free Enterprise Club's Freedom PAC v. Bennett*, 131 S.Ct. 2806 (2011). For the 2015 election, the Ordinance will require a candidate to receive 200 contributions of \$5 or more from individuals living within the Council District the candidate seeks to represent in order to qualify for the matching funds program. Citywide candidates would be required to obtain at least 200 contributions from City residents to qualify for the matching funds program. Additionally, only contributions from City residents will be matched.

### Signature Requirement

We have provided two Ordinances, Ordinance A and Ordinance B, which differ as to the operational date for the signature requirement in which candidates are authorized to receive accelerated matching funds. Ordinance A includes a matching funds rate at two dollars of matching funds for each qualifying contribution in the primary election and four dollars of matching funds for each qualifying contribution in the general election for the 2013 election. For the 2015 election, Ordinance A provides for the same accelerated match, but only for candidates who have submitted signatures from at least 1,000 qualified voters, as verified by the City Clerk. Ordinance A also provides a specific process for submission and review of those signatures in order to avoid creating confusion or potential conflicts with regard to the City's nominating petition procedures for candidate ballot qualification.

Pursuant to Ordinance B the signature requirement for receiving accelerated funds would be operative upon the effective date of the Ordinance and would be applicable to the current election.

We have approved both Ordinance A and Ordinance B as to form and legality though, in our opinion, tying the matching funds program to a candidate's ability to submit 1,000 qualified voter signatures creates some legal risks which, because they are novel, cannot be quantified especially for this election. The signature requirement also creates significant operational hurdles for the City Clerk, particularly during this fall's candidate filing period when 200 candidates are expected to declare candidacy for City, LAUSD, or Community College positions.

Currently, the City Election Code provides two options for individuals wishing to qualify to appear on the ballot as a candidate. A candidate may pay a filing fee of \$300 and submit a nominating petition containing valid signatures of at least 500, but not more than 1,000, qualified registered voters residing in the candidate's district. (See also City Charter Section 422 limiting number of signatures to 1,000). The \$300 fee helps pay the City Clerk's administrative costs of processing the nominating petition. As required by the Constitution and Supreme Court precedent, the City Election Code provides a second alternative for those candidates who cannot afford to pay the filing fee. Those candidates are permitted to forgo the filing fee and to submit a nominating

petition containing at least 1,000 signatures of qualified registered voters out of a maximum total of 2,000 signatures submitted. The latter filing option is referred to as "in lieu signatures." Election Code Section 310, City Charter Section 422.

Ordinance B provides that to receive additional matching funds during candidate filing week, a candidate would be required to submit and have verified by the City Clerk, signatures from at least 1,000 registered voters of the City for Citywide candidates, or of the district for Council candidates. Under the ordinance, for purposes of the matching funds program, candidates either can submit an in lieu petition containing signatures from at least 1,000 qualified registered voters or pay the filing fee of \$300 and a nominating petition of at least 500 signatures and an Additional Matching Funds Signatures Form containing at least 500 additional signatures of qualified registered voters. Because the City Charter requires candidates to pay a filing fee and submit at least 500 and no more than 1,000 signatures and also because the City Election Code currently requires a candidate to choose whether to submit more than 1,000 signatures with no fee or to pay the fee and submit at least 500, but not more than 1,000 signatures, essentially eliminating the optional, separate filing requirement for those candidates choosing to pay the fee to qualify for the ballot would appear to be contrary to the Charter and could create other legal challenges if the candidate failed to qualify for the ballot (due to insufficient qualifying signatures) in an attempt to secure additional matching funds.

Moreover, a dual filing option may create candidate confusion, not only in terms of qualifying for accelerated matching funds, but also in terms of qualifying for the ballot. Ordinances A and B state that, in accordance with current procedures and Election Code provisions, excess signatures included on the nominating petition will not be counted for matching funds purposes, nor will signature submitted on the Additional Matching Funds Form be counted for nominating petition purposes. The potential confusion from the optional dual system may result in litigation.

The City Clerk has provided historical data showing that virtually all candidates choose to pay the filing fee. Since 2007, only four candidates out of 199 candidates for City, School District, or Community College chose to submit in lieu signatures. Of the four candidates who submitted in lieu signatures, only one candidate agreed to participate in the matching funds program, though he did not qualify to receive matching funds because he did not receive sufficient contributions. Two of the candidates, a City Council candidate and a Community College District candidate, were elected to office, while the others did not advance past the primary election. Accordingly, based on the record to date, the in lieu signature requirement may not be considered an accurate indicator of community support. Whether a new signature requirement would become a more relevant predictor of community support is not clear. We also note that this new requirement would impact the City Clerk's workload greatly during an already busy period. Lastly, the benefits candidates wishing to receive a higher matching funds rate by foregoing a filing fee payment in lieu of submitting additional signatures could lead to a loss of revenue for the City Clerk's signature verification function.

The City's matching funds program was approved by the voters in 1990. The stated purposes of the program are to assist serious candidates in raising enough money to communicate their views and positions adequately to the public, to provide an alternate source of funding so as to decrease reliance on privately raised funds (which may create an appearance of corruption), to increase the value of smaller contributions, to reduce the excessive fundraising advantage of incumbents and to encourage competition for elective office, and to help restore public trust in governmental and electoral institutions. The Supreme Court has upheld the provision of matching funds to candidates voluntarily agreeing to participate in the program as serving valid purposes, encouraging grassroots fundraising and diminishing the influence of special interests and discouraging the advantage of incumbents. See *Buckley v. Valeo*, 424 U.S. 1 at 57, 91, 96; *Ognibene v. Parkes*, 671 F.3d 174, 193 (2d Cir. 2012).

The proposed accelerated match for certain candidates based on signatures is novel as election and campaign finance provisions typically apply equally to all candidates in order to avoid the argument that the government favors some candidates over others. Courts have upheld matching funds provisions that treat major or minor party candidates and contributors differently where a valid governmental interest in doing so existed and the provision did not unfairly or unnecessarily burden candidates. In *Buckley v. Valeo*, the Supreme Court upheld federal matching funds qualification requirements for minor party and independent candidates finding that the government has an "interest in not funding hopeless candidacies with large sums of public money," and that interest "necessarily justifies the withholding of public assistance from candidates without significant public support." *Buckley*, 424 U.S. at 96. The Court analyzed and concluded that the provisions were adopted to further a sufficient governmental purpose and did not "burden the political opportunity of any party or candidate" in a way that is "unfair" or "unnecessar[y]." *Id.* The Court did not fully determine whether a lower standard of analysis could be employed as the provisions at issue passed the higher threshold. See also *Green Party of Conn. v. Garfield*, 616 F.3d 213 (2d Cir. 2010) (upholding Connecticut matching funds provisions which set certain criteria for minor party candidates to qualify and receive matching funds, concluding that the provisions served sufficiently important governmental interest and a lack of evidence that the provisions unfairly or unnecessarily burden the political opportunities of minor parties).<sup>1</sup> Similarly, the Second Circuit Court of Appeals recently upheld New York City's non-matching provisions for persons doing business with the City as a closely drawn contribution restriction that served an important government interest. *Ognibene v. Parkes*, 671 F.3d 174 (2d Cir. 2012). The court noted that the provision at issue operated to minimize the contribution of those doing business with the City. In

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<sup>1</sup> San Francisco requires that incumbents obtain additional contributions from additional voters to qualify to receive matching funds. San Francisco Campaign and Governmental Conduct Code Section 1.140. Additionally, New York City provides additional matching funds for all candidates in the same race where sufficient indicia of competition exists. However, this provision is currently the subject to a legal challenge in federal district court. *Ognibene v. Parkes*, No. 08 CV 01335 (LTS) (TDK).

upholding the provision, the Second Circuit noted that unlike the asymmetrical contribution limits struck down by the Supreme Court in *Davis*, the New York City provision applied to all participating candidates equally.

The Supreme Court has expressed skepticism and has struck matching funds provisions that chill the speech of some candidates over other candidates. In *Davis v. FEC*, 554 U.S. 724 (2008), the Supreme Court struck down the federal "millionaire's amendment" which provided higher contribution limits to candidates opposing a self-financing candidate. The High Court concluded that the asymmetrical contribution limits penalized the self-financed candidate because the candidate chose to spend his own money, and that the asymmetrical contribution limits were discriminatory and meant to "level electoral opportunities for candidates of different personal wealth." *Id.* at 741. "Different candidates have different strengths. Some are wealthy; others have wealthy supporters who are willing to make large contributions. Some are celebrities; some have the benefit of a well-known family name... The Constitution, however, confers upon voters, not Congress, the power to choose the Members of the House of Representatives, Art. I, § 2, and it is a dangerous business for Congress to use the election laws to influence the voters' choices." *Davis*, 554 U.S. at 753-4. Subsequently, in *Arizona Free Enterprise Club's Freedom PAC v. Bennett*, 131 S. Ct. 2806 (2011), the Supreme Court held that Arizona's system of extra benefits and matching funds was unconstitutional because it provided additional funds to participating candidates based on the expenditures of wealthy non-participating candidates and independent spenders and thereby chilled the speech of the non-participating candidate and independent spender who were forced to choose between not speaking or speaking and allowing competitors to receive additional funds. The Court noted that the purpose of the First Amendment is "to protect the free discussion of governmental affairs," "includ[ing] discussions of candidates." *Arizona Free Enterprise Club*, 131 S. Ct. at 2828 (quoting *Buckley* at 424 U.S. at 14). The court also distinguished as constitutional other viewpoint neutral subsidy systems where the subsidy was not provided in response to another person's political speech. *Id.* at 2821 and fn. 9.

A court would likely review whether the proposed matching fund enhancement tied to a signature submission provision serves a sufficiently important government purpose and also whether it is overly burdensome on some candidates. Although the signature provision would maximize the contributions of all qualifying contributors to certain candidates, it does not appear to chill any speech of nonparticipating candidates or even other participating candidates as the funds are not provided in response to candidates' speech as was the case in *Arizona Free Enterprise Club*. Moreover, unlike the provisions at issue in *Davis* and *Arizona Free Enterprise Club*, the provision would have no impact on non-participating candidates, only those candidates choosing to participate in the program and choosing whether to submit additional signatures to qualify for the accelerated funds.

The City would appear to have a valid governmental interest in providing more funds to candidates who have demonstrated broader community support. However, it is

not clear that this signature requirement would be the best measure of community support particularly in view of the historical data which reflects little correlation between the number of signatures on the petition and the number of votes or the contributions received in an election, though this new requirement may change the behavior patterns of future candidates. Currently, City Council candidates qualify for matching funds by demonstrating support by obtaining contributions totaling at least \$25,000. On the current factual record, there is a risk a court would find the provision does not achieve the stated purpose. If adopted, an evaluation following this election should be performed to determine whether the provision is furthering its intended purpose. The provision otherwise appears to be viewpoint neutral and nondiscriminatory.


### Conclusion

As a general matter, though courts could rule differently, the signature requirement for accelerated funds appears to be constitutionally permissible. However, the City may not be in the best position to defend the signature enhancing matching fund provision on the current record. The City will not be situated to mount a full defense to the challenge until after an election utilizing the untested provision, such that the efficacy of proposed signature enhancement provision could be evaluated against the stated purpose of the provision. Moreover, the imposition of a separate signature requirement may create a potentially confusing process for candidates that the City may wish to avoid for this upcoming election. The confusion may create an additional litigation risk for the City.

If you have any questions regarding this matter, please contact Deputy City Attorney Renee Stadel at (213) 978-7100. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By   
PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PBE:RS:ac

cc: Gerry Miller, Chief Legislative Analyst  
City Ethics Commission

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Article 9.7 of the Los Angeles Municipal Code to make various changes to the City's campaign finance laws.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 9.7 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**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 609(e). 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 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 discusses or negotiates the communication with the candidate.



e. The spender 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.

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 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 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 made contributions to the candidate.

d. The spender 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 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 political action committee, makes payments on behalf of the spender, 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 employs or is under contract with a political consultant or pollster who previously rendered services to the candidate.

3. Reference to a spender includes the spender'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, a City ballot measure committee, or a committee primarily formed to support or oppose City candidates or City ballot measures.

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, officeholder expense funds, legal defense funds relating to City office, 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. **“Citywide office”** means the offices of City Attorney, Controller, or Mayor.

E. **“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, web logs, and social media.

F. **“Elected City Office”** means the office of City Council member, City Attorney, Controller, or Mayor.

G. **“Elected City officer”** means a person who holds elected City office, whether appointed or elected.

H. **“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.

I. **“General election”** means a regular or special general municipal election for elected City office.

J. **“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.

**K. “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.

**L. “Non-participating candidate”** means a candidate for elected City office who has declined to participate in the public matching funds program.

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

**N. “Participating candidate”** means a candidate for elected City office who has agreed to participate in the public matching funds program.

**O. “Political communication”** means a campaign communication, an independent expenditure communication, a legal defense communication, or an officeholder communication.

**P. “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.

**Q. “Primary election”** means a regular or special primary nominating election for elected City office.

**R. “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 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 and no earlier than the following dates:

- a. For regular primary elections, 12 months prior to the date of the election.
- 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.

i. 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.

j. 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 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 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 either person:

- A. Two persons, one of whom controls the other's contribution activity.
- B. A sponsored committee, as defined in Government Code Section 82048.7, and its sponsoring organization.
- C. Two entities when the same individuals constitute a majority of each entity's board of directors.
- D. 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.
- E. 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.
- F. Two corporations in a parent-subsidary relationship, provided that at least one of the corporations is not publicly traded.
- G. 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.
- H. An individual and a sole proprietorship owned by the individual.
- I. 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. 49.7.5. FAMILY CONTRIBUTIONS.**

- A. Contributions by two spouses are separate contributions.
- B. There is a rebuttable presumption that contributions by children under 18 years of age are contributions by their parents. Unless sufficiently rebutted, the contributions will be attributed proportionately to each custodial parent or entirely to a single custodial parent.

**SEC. 49.7.6. TEXT MESSAGE CONTRIBUTIONS.**

A. A contribution may be made via short message service (SMS), multimedia messaging service (MMS), or other similar text messaging technology.

B. The following apply to a contribution made via SMS, MMS, or text messaging:

1. The contribution shall be subject to the same disclosure and recordkeeping requirements and, for participating candidates, the same matching funds requirements, that apply to contributions made by other means.

2. The contribution may not exceed the applicable limitation on cash contributions.

3. The contribution is treated as a pledge and is deemed received when a candidate for elected City office or the candidate's controlled committee obtains control of the contribution.

C. City equipment may not be used to make a contribution via SMS, MMS, or text messaging.

**SEC. 49.7.7. RECEIPT OF CONTRIBUTIONS.**

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and is returned to the donor within 14 days of the date the candidate or committee takes possession or control or receives the benefit of the contribution.

**SEC. 49.7.8. TREATMENT OF PAYMENTS.**

Any payment received by an elective City officer, candidate for elective City office or any committee controlled by the officer or candidate shall be considered either a campaign contribution, income, a gift, or a payment for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii). All campaign contributions received by those persons shall be subject to the provisions of Charter Sections 470 and 471 and this Article unless the contributions are used exclusively for an election in some other jurisdiction. All income and gifts shall be subject to the relevant provisions of the Charter, this Article, the Political Reform Act, and other relevant statutes and ordinances. All payments for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii), other than payments exempted by Section 49.7.19(D), shall be subject to the Officeholder Expense Fund provisions of Section 49.7.19.



#### **SEC. 49.7.9. LOANS AND CREDIT.**

A. A loan is a contribution from the maker and the guarantor of the loan and is subject to any applicable contribution limitations of Charter Section 470 and this Article.

B. A loan to a candidate or a City controlled committee shall be by written agreement and shall be filed with the campaign statement on which the loan is first reported.

C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed is not a contribution within the meaning of the contribution limitations of Charter Section 470 and this Article.

D. Credit (other than a loan referred to in Subsection C) that is extended for a period of more than 90 days is subject to the contribution limitations of Charter Section 470 and this Article. A creditor who demonstrates a commercially reasonable attempt to collect the debt is not subject to the contribution limits for that debt.

E. Elected City officers may not repay personal loans to themselves from their controlled committees for elected City office in excess of the limitations on personal funds in Section 49.7.23(C)(4).

F. Elected City officers who were participating candidates may not repay personal loans to themselves from their controlled committees for elected City office if they exceeded an applicable spending limit before the limit was lifted.

#### **SEC. 49.7.10. FUNDRAISING WINDOWS.**

A. Candidates for City Council and their controlled committees for election to City office may not solicit or accept contributions or cause contributions to be solicited or accepted more than 18 months before the date of the election at which they seek office. Citywide candidates and their controlled committees for election to City office may not solicit or accept contributions or cause contributions to be solicited or accepted more than 24 months before the date of the election at which they seek office.

B. Candidates for elected City office and their controlled committees for election to City office may not solicit or receive contributions or cause contributions to be solicited or received more than 12 months after the date of the election at which they seek office.

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 to retire debt, except to the extent prohibited by Section 49.7.9.

**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 or legal defense fund. This prohibition does not apply when a person makes a solicitation to multiple persons if the person unknowingly includes City officers or employees and City officers or employees do not make up more than five percent of the total number of persons included in that solicitation.

2. Receive, personally deliver, or attempt to personally deliver a contribution in City Hall, another City office building, or an office for which the City pays the majority of the rent. This prohibition does not apply to the following:

a. City property that is rented by a member of the public, unless the lease or rental agreement expressly incorporates this prohibition.

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 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.

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 who are engaging in fundraising on behalf of their own candidacies for elected office.

#### **SEC. 49.7.12. TRAINING FOR CANDIDATES AND TREASURERS.**

Every candidate for elected City office and every treasurer of a candidate's City controlled committee shall attend a training program conducted or sponsored by the Ethics Commission prior to the election at which the candidate's name will appear on the ballot.

#### **SEC. 49.7.13. COMMITTEES TO OPPOSE RECALL PETITIONS.**

An elected City officer who is the subject of a recall petition may create a City ballot measure committee to oppose the recall petition. That committee is subject to the same contribution limitations and other requirements as the committee to support the recall petition.

**SEC. 49.7.14. CAMPAIGN STATEMENT FILING DEADLINES.**

In addition to the campaign statements that must be filed pursuant to the Political Reform Act, candidates for elected City office, their City controlled committees, City recall committees, City ballot measure committees, or committees primarily formed to support or oppose City candidates or City ballot measures shall 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.
- 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 INFORMATION.**

A. In addition to the information required by State law, candidates for elected City office and their City controlled committees shall file the following information with the Ethics Commission:

- 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 that has been filed regarding a campaign changes, the candidate or committee shall file amended information within ten days after the change occurs.

**SEC. 49.7.16. CONTRIBUTOR INFORMATION.**

A contribution may not be deposited into the campaign checking account of a candidate for elected City office unless the following is on file in the candidate's records:

- A. For individuals, the contributor's name, address, occupation, and employer.
- B. For non-individuals, the contributor's name, address, and primary purpose or primary business interest.
- C. All fundraising and contribution forms with a signature line or electronic equivalent shall contain the following information:

1. The contribution 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;
4. The contribution does not exceed the contributor's aggregate contribution limit in Charter Section 470(c)(6);
5. The contribution is not from a lobbyist or lobbying firm that is prohibited from contributing under Charter Section 470(c)(11); and
6. 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).

#### **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.
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 any material that is drafted, printed, prepared, or previously broadcast by a candidate or a City controlled committee shall report the expenditure as a non-monetary contribution to the candidate or committee.

**SEC. 49.7.19. OFFICEHOLDER EXPENSE FUND.**

A. To effectively serve and fulfill their responsibilities to residents of the City, elected City officers communicate with constituents, undertake efforts to assure efficient City services, and engage in professional development activities. To accomplish these duties and responsibilities, an elected City officer may establish and maintain one officeholder expense fund to pay for expenses enumerated in this Section that relate to carrying out the duties associated with holding elected City office.

1. A single controlled committee shall be established for the officeholder expense fund, and all expenditures made for the purposes of assisting, serving, or communicating with constituents shall be made by that committee.

2. The committee shall establish one checking account at an office of a financial institution located in the City for the officeholder expense fund. All contributions received in connection with the officeholder expense fund shall be deposited into that account.

B. An expenditure from the officeholder expense fund shall be related to assisting, or serving, or communicating with constituents, or otherwise made in connection with the official duties of the elected City officer. No expenditure may be made from an officeholder expense fund regulated by this Section unless the expenditure falls into one or more of the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.

2. Expenditures for office equipment, office furnishings, and office supplies.

3. Expenditures for office rent.

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder expense fund committee.

5. Expenditures for consulting, research, polling, photograph, videotaping and similar services.

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of governmental duties by the officeholder or a

member of the officeholder's staff. These expenditures may include fees for materials, registration, or admission.

7. Expenditures for travel, including lodging, meals, and other related disbursements, incurred in the performance of governmental duties by the officeholder, a member of the officeholder's staff, or a member of such person's household accompanying the person on such travel.

8. Expenditures for meals during which the attendees conduct official City business.

9. Expenditures for donations to organizations that have received a federal tax exemption under Internal Revenue Code Section 501(c)(3). For purposes of this paragraph, a donation is a payment of which a majority of the expenditure could be deducted as a charitable deduction for federal income tax purposes. A donation may be the purchase of tickets to a charitable event, provided that the majority of the ticket price would be tax deductible and that no substantial part of the proceeds from the event will personally benefit the officeholder, any member of the officeholder's immediate family, the officeholder expense committee, or the committee's treasurer.

10. Expenditures for memberships to civic or professional organizations, if such membership serves a governmental or legislative purpose.

11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities.

12. Expenditures for advertisements in program books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nomination or election of a candidate for City office.

13. Expenditures for mailings to persons within the City which provide information related to City-sponsored events, government services, the requirements of the law or an official's position on a particular matter on which the Council, Mayor, or a City agency is acting or has recently acted.

14. Expenditures for the purchase of tickets to political events, where no substantial part of the proceeds will personally benefit the officeholder, any member of the officeholder's immediate family, or the officeholder's committee treasurer.

15. Expenditures for expressions of congratulations, appreciation, or condolence sent to constituents, employees, governmental officials, or other individuals with whom the officeholder communicates in an official capacity. No more than \$100 per fiscal year may be expended per individual recipient.

16. Expenditures for conferences, meetings, receptions, and events concerning City business or issues which are officially sponsored and hosted by the officeholder. These expenditures may include site fees, advertising brochures, invitations, materials distributed to attendees, refreshments, equipment, services, and other incidental expenses.

17. Expenditures for events such as meetings, luncheons, and retreats attended primarily by the officeholder's staff in the conduct of official City business.

18. Expenditures for social events held by the officeholder to honor or thank members of the officeholder's staff or in connection with a holiday celebration attended primarily by the officeholder's staff.

19. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.

20. Expenditures for accounting, professional, and administrative services provided to the officeholder expense fund.

21. Expenditures to pay for expenses that are associated with the officeholder's campaign committee and were either unforeseen or could not reasonably have been paid by the campaign committee.

22. An expenditure similar to the specified expenditures if, prior to making the expenditure, the officeholder or the officeholder expense fund has received written advice from the Ethics Commission that the expenditure is permissible pursuant to this Subsection. The Ethics Commission shall respond to requests for such approval no more than five working days from the date a request for formal advice has been received.

C. Officeholder expense funds may not be used for the following:

1. Expenditures in connection with a future election for elective City office.

2. Membership in any athletic, social, fraternal, veteran, or religious organization.

3. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course of duties as a City official or employee.

4. Expenditures that would violate the provisions of Government Code Section 89506 or 89512 through 89519.

D. A person may not make, and an officeholder or officeholder expense fund may not solicit or accept or cause to be solicited or accepted from a single person,



contributions or payments for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii), all of which cumulatively exceed the following during any fiscal year:

1. \$1,000 to the officeholder expense fund of a Citywide officeholder; or
2. \$500 to the officeholder expense fund of a City Council officeholder.

For purposes of this Article, a payment made for legislative or governmental purposes does not include any payments by Internal Revenue Code Section 501(c)(3) non-profit organizations and bona fide educational institutions for a salary or other remuneration to a student or other worker who serves as an intern in the office of an elected City officer.

E. An elected City officer or officeholder expense fund may not solicit or accept or cause to be solicited or accepted any contribution that would cause the total of either the amount of contributions from all persons to an officeholder expense fund or the total outstanding balance of the fund during any fiscal year to exceed \$75,000.

F. Campaign funds remaining in the campaign checking account of a candidate elected to City office shall be transferred into the officeholder expense fund within six months after election to office. The amount of funds transferred from an officeholder's campaign committee and from any other officeholder expense fund account controlled by the same elective City officer shall reduce by an equal amount the contributions that may be solicited or accepted for the officeholder expense fund during that fiscal year. A maximum of \$75,000 may be transferred into the account. If the transfer equals \$75,000, no contributions may be solicited or accepted for the officeholder expense fund for the fiscal year during which the transfer is made.

G. Expenditures from the officeholder expense fund may not exceed \$75,000 in a fiscal year.

H. From the date the elected City officer files a Declaration of Intention to Become a Candidate through the date of the election for which the declaration was filed, officeholder expense funds may not be expended for the following:

1. Consulting, research, polling, photography, videotaping, and similar services.
2. Conferences, meetings, receptions, and events attended by the officeholder.
3. Travel, including lodging, meals, and other related disbursements, incurred in the performance of governmental duties by the officeholder, a member of the officeholder's staff, or a member of such person's household accompanying the person on such travel, except to the extent that the travel is in conjunction with

an organization that has received tax-exempt status under Internal Revenue Code Section 501(c)(3).

4. Advertisements in program books, testimonials, souvenir books, or other publications.

5. Mailings that provide information about City business when either of the following applies:

a. The mailing consists of more than 200 substantially similar pieces; or

b. The mailing contains the officeholder's name (other than as part of an electronic mail or Internet address or once on a letterhead or envelope) or photograph.

i. An officeholder expense fund committee may not incur an expenditure for personal services unless the committee first enters into a written contract for such services. The contract shall set forth the services to be performed and the amount that will be paid for such services (or a basis for calculating the amount).

#### **SEC. 49.7.20. LEGAL DEFENSE FUND.**

A. Every elected City officer or candidate for elected City office may establish and maintain a legal defense fund for a civil or criminal court case or administrative proceeding arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties.

1. In addition to contributions received in connection with an election to an elected City office or to defray officeholder expenses, an elected City officer or candidate for elected City office who receives contributions for a legal defense fund may use those funds solely to defray attorney's fees and other legal costs incurred in the officeholder's or candidate's legal defense to the civil or criminal court case or administrative proceeding.

2. The officeholder or candidate shall file with the Ethics Commission a Statement of Purpose identifying the specific civil or criminal court case or administrative proceedings for which the legal defense fund is established. The Statement of Purpose shall be filed before any contributions are solicited or accepted.

3. The legal defense fund shall be named "The [name of candidate or officeholder] Legal Defense Fund for [case or proceeding number or, if a number does not exist, a brief description of the case or proceeding]".

4. A single controlled committee shall be established for the legal defense fund and all expenditures shall be made by that committee.

5. The committee shall establish one checking account at an office of a financial institution located in the City for the legal defense fund. All contributions received in connection with the legal defense fund shall be deposited into that account.

B. A person may not make, and an elected City officer or candidate for elected City office may not solicit or accept from a single person, contributions totaling more than \$1,000 during a fiscal year to a legal defense fund in connection with a single court case or administrative proceeding identified in the Statement of Purpose.

C. Within six months after the final conclusion of the case or proceeding and the payment of all debts incurred in connection with that case or proceeding, any surplus legal defense funds may be used in connection with another legal defense fund, returned to donors on a pro rata basis, or given to the City's General Fund.

D. This Section is the sole authority for soliciting or accepting contributions for the defense of an action relating to an election campaign, electoral process, or an officeholder's conduct in office.

#### **SEC. 49.7.21. DISCLOSURE BY OFFICEHOLDER EXPENSE FUNDS AND LEGAL DEFENSE FUNDS.**

In addition to the campaign statements required by the Political Reform Act and Section 49.7.14, elected City officers and candidates shall file campaign statements for their officeholder expense funds and legal defense funds as follows:

A. Except as specified in Subsection B, quarterly statements shall be filed no later than the following dates:

1. April 30 for the quarter ending March 31;
2. July 31 for the quarter ending June 30;
3. October 31 for the quarter ending September 30; and
4. January 31 for the quarter ending December 31.

B. When the officeholder or candidate has filed a Declaration of Intent to Solicit and Receive Contributions, quarterly statements shall be filed no later than the following dates:

1. During the year prior to the election:
  - a. April 30 for the quarter ending March 31;
  - b. July 31 for the quarter ending June 30;

- c. October 10 for the quarter ending September 30; and
  - d. January 10 for the quarter ending December 31.
2. During the year of the election:
- a. July 31 for the quarter ending June 30, including any activity not covered by the previous campaign statement;
  - b. October 31 for the quarter ending September 30; and
  - c. January 31 for the quarter ending December 31.

**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, each candidate shall file a statement of acceptance or rejection of matching funds. A candidate who agrees to accept matching funds shall comply with the requirements of the program, including but not limited to the expenditure ceilings.

B. 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 candidate shall return to the City any matching funds payments received 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.

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

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

3. 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.

4. The candidate contributes no more than the following amounts in personal funds to the campaign:

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

These amounts are subject to adjustment under Section 49.7.3.

5. 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.

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

7. 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.

D. A participating candidate who violates the terms of the Matching Funds Program is disqualified from receiving matching funds for the remainder of the election cycle.

#### **SEC. 49.7.24. EXPENDITURE CEILINGS.**

A. Participating candidates and their controlled committees for election to City office may not make 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.

#### **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 spends 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;

2. \$155,000 in a City Attorney or Controller race;
3. \$309,000 in a Mayoral race.

These amounts are subject to adjustment under Section 49.7.3.

**SEC. 49.7.26. NOTICE REGARDING EXPENDITURE CEILINGS.**

A non-participating candidate shall notify the Ethics Commission on the day the candidate raises more than 100 percent of the applicable expenditure ceiling and again on the day the candidate spends 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 non-participating 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. 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 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.

3. 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.

C. 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.

D. 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 matching funds payment for less than \$10,000 in qualified contributions at any one time up to 14 days preceding an election. 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 matching funds payment for \$1,000 or more in qualified contributions at any one time.

B. Requests for matching funds payments shall contain the information required by the Ethics Commission.

C. 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. \$100,000 for City Council candidates;
2. \$267,000 for Controller candidates;
3. \$300,000 for City Attorney candidates; and
4. \$667,000 for Mayoral candidates.

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

1. \$125,000 for City Council candidates;
2. \$300,000 for Controller candidates;
3. \$350,000 for City Attorney candidates; and

4. \$800,000 for Mayoral candidates.

**SEC. 49.7.30. MATCHING FUNDS PAYMENTS TO CANDIDATES.**

A. The Ethics Commission shall certify each request for matching funds payment within three business days after receiving the request.

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 of \$1,000 or more for the communication; or

2. The person makes or incurs expenditures of \$100 or more for the communication and distributes the communication 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 expenditure made or incurred regarding that measure or candidate shall also be disclosed.

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 through the date of the associated general election, 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 amount of the expenditure and the amount spent to support or oppose each candidate or measure;

c. Whether each candidate or measure was supported or opposed;

d. That the communication was not behested by any of the candidates who benefited from it;

e. The dates the communication was made or distributed and any expenditure was incurred;

f. A description of the type of communication;

g. The name and address of the person making, distributing, or incurring the expenditures or distributing the communication;

h. The name and address of the payee, if applicable, and any vendor that provided service for the communication;

i. For committees, contributions of \$100 or more received by the committee since the latter of the day after the closing date of the campaign 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

j. 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.

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.

#### **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 within the following time frames:

1. From the first date the candidate files a Declaration of Intention to Become a Candidate with the City Clerk through the date of the last election associated with that declaration that the candidate appears on the ballot, within 24 hours after first distributing the communication.

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

B. 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.

C. 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.

D. 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.

E. This Section shall not apply to 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 campaign, officeholder, or legal defense communication:

1. "Paid for by" immediately followed by the name, address, and city of that candidate or committee.
  - 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)."

B. A committee making an independent expenditure communication under Section 49.7.31(A) shall incorporate the following statements:

1. "Paid for by" immediately followed by the person'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.
2. "Not authorized by or coordinated with a City candidate."
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], in the amount of [the total amount of contributions made by those contributors in the same six-month period]."
4. "Additional information is available at [ethics.lacity.org](http://ethics.lacity.org)."

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

1. "Not authorized by or coordinated with a City candidate."
2. "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, with the following exceptions:

1. Small promotional items, such as pens, pencils, mugs, and potholders, and other items on which a disclaimer cannot be reasonably displayed in an easily legible typeface.

2. Advertisements paid for by a newspaper, radio station, television station, or other recognized news medium, unless the disclaimer is required for a paid communication under Section 49.7.34.

3. 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.

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. A candidate or City controlled committee that elects to use social media accounts to communicate regarding the candidate's campaign shall include the following statement on each account's home page: "This account is being used for campaign purposes for [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 for campaign purposes if the account is used or has been used for City purposes.

#### **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.

2. **"Approval by an elected City office"** 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.

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.

5. **“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.

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). The awarding authority shall determine whether the form is complete for responsiveness purposes and 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 the bid due date. 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.

3. **“Disclosure Form.”** As provided in Subsection B(2), every bidder shall file with the awarding authority, at the time the bid or other response is submitted, the following information 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).

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. 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. 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.

5. **“Contract Amendments.”** If a contract amendment requires approval by an elected City officer and makes the total 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.

- a. The awarding authority shall notify bidders who were not previously required to submit the form identified in Subsection B(3) 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.

- b. Bidders who were not previously required to submit the form identified in Subsection B(3) shall submit the form within ten business days of the date the awarding authority first discusses the amendment with the bidder. 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.

c. This provision does not apply to the exercise of an option that has been previously approved in a written contract.

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 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 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.

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. The awarding authority shall determine whether the form is complete for responsiveness purposes and 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 the due date of the proposals. 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 with the awarding authority, at the time the response is submitted, the following information 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; and  
[sic]
- 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).
- 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. 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. 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 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 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 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 officer.

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 due.

#### **SEC. 49.7.40. SEVERABILITY.**

The provisions of this Article are severable. If any provision of this Article or its application to any person or circumstance is held invalid by a court, the remainder of this Article and the application of the provision to other persons or circumstances is not affected by that determination, to the extent that the provision or its application can be given effect.

Sec. 2. Subsection (b) of Section 11.28.4 of Los Angeles Administrative Code is amended to read as follows:

(b) The Board of a Department shall select the underwriting firm(s) for the private sale of Revenue Bonds by resolution or other Board action, and the Council shall be provided an opportunity to disapprove such selection in the manner set forth in this Section 11.28.4(b). The Board may include the selection of underwriting firm(s) in the resolution described in Section 11.28.1 of this Administrative Code, in a separate resolution or action to sell the Bonds pursuant to private sale described in Section 11.28.4(a) of this Administrative Code or in the action described in Section 11.28.5 of this Administrative Code or the Department may, by resolution or other Board action, separately select an underwriting firm or team of underwriting firms for any particular Revenue Bonds or for a fixed period of time, said separate resolution or other Board action being hereby subject to Council oversight pursuant to Section 245 of the Charter. In selecting underwriting firms, each Department shall, at a minimum, comply with the conflict of interest provisions set forth in Section 609(e) of the Charter and related ordinance provisions, including the provision which requires that an underwriting firm seeking selection as an underwriter of Revenue Bonds shall cause one of its officers to file a certification under oath that no disqualifying gifts or contributions described by Section 609 of the Charter were made.

Sec. 3. It is the intent of the City that the amendment of Article 9.7 shall not prevent the administration and enforcement of prior provisions of the law relating to those activities occurring when those provisions remained in effect.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_  
Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By   
RENEE A. STADEL  
Deputy City Attorney

Date 9-5-12

File No. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Article 9.7 of the Los Angeles Municipal Code to make various changes to the City's campaign finance laws.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Article 9.7 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**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 609(e). 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 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 discusses or negotiates the communication with the candidate.

e. The spender 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.

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 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 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 made contributions to the candidate.

d. The spender 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 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 political action committee, makes payments on behalf of the spender, 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 employs or is under contract with a political consultant or pollster who previously rendered services to the candidate.

3. Reference to a spender includes the spender'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, a City ballot measure committee, or a committee primarily formed to support or oppose City candidates or City ballot measures.

**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, officeholder expense funds, legal defense funds relating to City office, 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. "Citywide office"** means the offices of City Attorney, Controller, or Mayor.

**E. "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, web logs, and social media.

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

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

**H. "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.

**I. "General election"** means a regular or special general municipal election for elected City office.

**J. "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.

**K. “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.

**L. “Non-participating candidate”** means a candidate for elected City office who has declined to participate in the public matching funds program.

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

**N. “Participating candidate”** means a candidate for elected City office who has agreed to participate in the public matching funds program.

**O. “Political communication”** means a campaign communication, an independent expenditure communication, a legal defense communication, or an officeholder communication.

**P. “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.

**Q. “Primary election”** means a regular or special primary nominating election for elected City office.

**R. “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 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 and no earlier than the following dates:



- a. For regular primary elections, 12 months prior to the date of the election.
- 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.

i. 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.

j. 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 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 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 either person:

- A. Two persons, one of whom controls the other's contribution activity.
- B. A sponsored committee, as defined in Government Code Section 82048.7, and its sponsoring organization.
- C. Two entities when the same individuals constitute a majority of each entity's board of directors.
- D. 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.
- E. 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.
- F. Two corporations in a parent-subsidary relationship, provided that at least one of the corporations is not publicly traded.
- G. 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.
- H. An individual and a sole proprietorship owned by the individual.
- I. 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. 49.7.5. FAMILY CONTRIBUTIONS.**

- A. Contributions by two spouses are separate contributions.
- B. There is a rebuttable presumption that contributions by children under 18 years of age are contributions by their parents. Unless sufficiently rebutted, the contributions will be attributed proportionately to each custodial parent or entirely to a single custodial parent.

**SEC. 49.7.6. TEXT MESSAGE CONTRIBUTIONS.**

A. A contribution may be made via short message service (SMS), multimedia messaging service (MMS), or other similar text messaging technology.

B. The following apply to a contribution made via SMS, MMS, or text messaging:

1. The contribution shall be subject to the same disclosure and recordkeeping requirements and, for participating candidates, the same matching funds requirements, that apply to contributions made by other means.

2. The contribution may not exceed the applicable limitation on cash contributions.

3. The contribution is treated as a pledge and is deemed received when a candidate for elected City office or the candidate's controlled committee obtains control of the contribution.

C. City equipment may not be used to make a contribution via SMS, MMS, or text messaging.

**SEC. 49.7.7. RECEIPT OF CONTRIBUTIONS.**

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and is returned to the donor within 14 days of the date the candidate or committee takes possession or control or receives the benefit of the contribution.

**SEC. 49.7.8. TREATMENT OF PAYMENTS.**

Any payment received by an elective City officer, candidate for elective City office or any committee controlled by the officer or candidate shall be considered either a campaign contribution, income, a gift, or a payment for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii). All campaign contributions received by those persons shall be subject to the provisions of Charter Sections 470 and 471 and this Article unless the contributions are used exclusively for an election in some other jurisdiction. All income and gifts shall be subject to the relevant provisions of the Charter, this Article, the Political Reform Act, and other relevant statutes and ordinances. All payments for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii), other than payments exempted by Section 49.7.19(D), shall be subject to the Officeholder Expense Fund provisions of Section 49.7.19.

#### **SEC. 49.7.9. LOANS AND CREDIT.**

A. A loan is a contribution from the maker and the guarantor of the loan and is subject to any applicable contribution limitations of Charter Section 470 and this Article.

B. A loan to a candidate or a City controlled committee shall be by written agreement and shall be filed with the campaign statement on which the loan is first reported.

C. The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed is not a contribution within the meaning of the contribution limitations of Charter Section 470 and this Article.

D. Credit (other than a loan referred to in Subsection C) that is extended for a period of more than 90 days is subject to the contribution limitations of Charter Section 470 and this Article. A creditor who demonstrates a commercially reasonable attempt to collect the debt is not subject to the contribution limits for that debt.

E. Elected City officers may not repay personal loans to themselves from their controlled committees for elected City office in excess of the limitations on personal funds in Section 49.7.23(C)(4).

F. Elected City officers who were participating candidates may not repay personal loans to themselves from their controlled committees for elected City office if they exceeded an applicable spending limit before the limit was lifted.

#### **SEC. 49.7.10. FUNDRAISING WINDOWS.**

A. Candidates for City Council and their controlled committees for election to City office may not solicit or accept contributions or cause contributions to be solicited or accepted more than 18 months before the date of the election at which they seek office. Citywide candidates and their controlled committees for election to City office may not solicit or accept contributions or cause contributions to be solicited or accepted more than 24 months before the date of the election at which they seek office.

B. Candidates for elected City office and their controlled committees for election to City office may not solicit or receive contributions or cause contributions to be solicited or received more than 12 months after the date of the election at which they seek office.

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 to retire debt, except to the extent prohibited by Section 49.7.9.

**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 or legal defense fund. This prohibition does not apply when a person makes a solicitation to multiple persons if the person unknowingly includes City officers or employees and City officers or employees do not make up more than five percent of the total number of persons included in that solicitation.

2. Receive, personally deliver, or attempt to personally deliver a contribution in City Hall, another City office building, or an office for which the City pays the majority of the rent. This prohibition does not apply to the following:

a. City property that is rented by a member of the public, unless the lease or rental agreement expressly incorporates this prohibition.

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 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.

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 who are engaging in fundraising on behalf of their own candidacies for elected office.

#### **SEC. 49.7.12. TRAINING FOR CANDIDATES AND TREASURERS.**

Every candidate for elected City office and every treasurer of a candidate's City controlled committee shall attend a training program conducted or sponsored by the Ethics Commission prior to the election at which the candidate's name will appear on the ballot.

#### **SEC. 49.7.13. COMMITTEES TO OPPOSE RECALL PETITIONS.**

An elected City officer who is the subject of a recall petition may create a City ballot measure committee to oppose the recall petition. That committee is subject to the same contribution limitations and other requirements as the committee to support the recall petition.



**SEC. 49.7.14. CAMPAIGN STATEMENT FILING DEADLINES.**

In addition to the campaign statements that must be filed pursuant to the Political Reform Act, candidates for elected City office, their City controlled committees, City recall committees, City ballot measure committees, or committees primarily formed to support or oppose City candidates or City ballot measures shall 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.

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 INFORMATION.**

A. In addition to the information required by State law, candidates for elected City office and their City controlled committees shall file the following information with the Ethics Commission:

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 that has been filed regarding a campaign changes, the candidate or committee shall file amended information within ten days after the change occurs.

**SEC. 49.7.16. CONTRIBUTOR INFORMATION.**

A contribution may not be deposited into the campaign checking account of a candidate for elected City office unless the following is on file in the candidate's records:

- A. For individuals, the contributor's name, address, occupation, and employer.
- B. For non-individuals, the contributor's name, address, and primary purpose or primary business interest.

C. All fundraising and contribution forms with a signature line or electronic equivalent shall contain the following information:

1. The contribution 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;
4. The contribution does not exceed the contributor's aggregate contribution limit in Charter Section 470(c)(6);
5. The contribution is not from a lobbyist or lobbying firm that is prohibited from contributing under Charter Section 470(c)(11); and
6. 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).

#### **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.
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 any material that is drafted, printed, prepared, or previously broadcast by a candidate or a City controlled committee shall report the expenditure as a non-monetary contribution to the candidate or committee.

**SEC. 49.7.19. OFFICEHOLDER EXPENSE FUND.**

A. To effectively serve and fulfill their responsibilities to residents of the City, elected City officers communicate with constituents, undertake efforts to assure efficient City services, and engage in professional development activities. To accomplish these duties and responsibilities, an elected City officer may establish and maintain one officeholder expense fund to pay for expenses enumerated in this Section that relate to carrying out the duties associated with holding elected City office.

1. A single controlled committee shall be established for the officeholder expense fund, and all expenditures made for the purposes of assisting, serving, or communicating with constituents shall be made by that committee.

2. The committee shall establish one checking account at an office of a financial institution located in the City for the officeholder expense fund. All contributions received in connection with the officeholder expense fund shall be deposited into that account.

B. An expenditure from the officeholder expense fund shall be related to assisting, or serving, or communicating with constituents, or otherwise made in connection with the official duties of the elected City officer. No expenditure may be made from an officeholder expense fund regulated by this Section unless the expenditure falls into one or more of the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund.

2. Expenditures for office equipment, office furnishings, and office supplies.

3. Expenditures for office rent.

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder expense fund committee.

5. Expenditures for consulting, research, polling, photograph, videotaping and similar services.

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of governmental duties by the officeholder or a

member of the officeholder's staff. These expenditures may include fees for materials, registration, or admission.

7. Expenditures for travel, including lodging, meals, and other related disbursements, incurred in the performance of governmental duties by the officeholder, a member of the officeholder's staff, or a member of such person's household accompanying the person on such travel.

8. Expenditures for meals during which the attendees conduct official City business.

9. Expenditures for donations to organizations that have received a federal tax exemption under Internal Revenue Code Section 501(c)(3). For purposes of this paragraph, a donation is a payment of which a majority of the expenditure could be deducted as a charitable deduction for federal income tax purposes. A donation may be the purchase of tickets to a charitable event, provided that the majority of the ticket price would be tax deductible and that no substantial part of the proceeds from the event will personally benefit the officeholder, any member of the officeholder's immediate family, the officeholder expense committee, or the committee's treasurer.

10. Expenditures for memberships to civic or professional organizations, if such membership serves a governmental or legislative purpose.

11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities.

12. Expenditures for advertisements in program books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nomination or election of a candidate for City office.

13. Expenditures for mailings to persons within the City which provide information related to City-sponsored events, government services, the requirements of the law or an official's position on a particular matter on which the Council, Mayor, or a City agency is acting or has recently acted.

14. Expenditures for the purchase of tickets to political events, where no substantial part of the proceeds will personally benefit the officeholder, any member of the officeholder's immediate family, or the officeholder's committee treasurer.

15. Expenditures for expressions of congratulations, appreciation, or condolence sent to constituents, employees, governmental officials, or other individuals with whom the officeholder communicates in an official capacity. No more than \$100 per fiscal year may be expended per individual recipient.

16. Expenditures for conferences, meetings, receptions, and events concerning City business or issues which are officially sponsored and hosted by the officeholder. These expenditures may include site fees, advertising brochures, invitations, materials distributed to attendees, refreshments, equipment, services, and other incidental expenses.

17. Expenditures for events such as meetings, luncheons, and retreats attended primarily by the officeholder's staff in the conduct of official City business.

18. Expenditures for social events held by the officeholder to honor or thank members of the officeholder's staff or in connection with a holiday celebration attended primarily by the officeholder's staff.

19. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions.

20. Expenditures for accounting, professional, and administrative services provided to the officeholder expense fund.

21. Expenditures to pay for expenses that are associated with the officeholder's campaign committee and were either unforeseen or could not reasonably have been paid by the campaign committee.

22. An expenditure similar to the specified expenditures if, prior to making the expenditure, the officeholder or the officeholder expense fund has received written advice from the Ethics Commission that the expenditure is permissible pursuant to this Subsection. The Ethics Commission shall respond to requests for such approval no more than five working days from the date a request for formal advice has been received.

C. Officeholder expense funds may not be used for the following:

1. Expenditures in connection with a future election for elective City office.

2. Membership in any athletic, social, fraternal, veteran, or religious organization.

3. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course of duties as a City official or employee.

4. Expenditures that would violate the provisions of Government Code Section 89506 or 89512 through 89519.

D. A person may not make, and an officeholder or officeholder expense fund may not solicit or accept or cause to be solicited or accepted from a single person,

contributions or payments for legislative or governmental purposes within the meaning of Government Code Section 82015(b)(2)(B)(iii), all of which cumulatively exceed the following during any fiscal year:

1. \$1,000 to the officeholder expense fund of a Citywide officeholder; or
2. \$500 to the officeholder expense fund of a City Council officeholder.

For purposes of this Article, a payment made for legislative or governmental purposes does not include any payments by Internal Revenue Code Section 501(c)(3) non-profit organizations and bona fide educational institutions for a salary or other remuneration to a student or other worker who serves as an intern in the office of an elected City officer.

E. An elected City officer or officeholder expense fund may not solicit or accept or cause to be solicited or accepted any contribution that would cause the total of either the amount of contributions from all persons to an officeholder expense fund or the total outstanding balance of the fund during any fiscal year to exceed \$75,000.

F. Campaign funds remaining in the campaign checking account of a candidate elected to City office shall be transferred into the officeholder expense fund within six months after election to office. The amount of funds transferred from an officeholder's campaign committee and from any other officeholder expense fund account controlled by the same elective City officer shall reduce by an equal amount the contributions that may be solicited or accepted for the officeholder expense fund during that fiscal year. A maximum of \$75,000 may be transferred into the account. If the transfer equals \$75,000, no contributions may be solicited or accepted for the officeholder expense fund for the fiscal year during which the transfer is made.

G. Expenditures from the officeholder expense fund may not exceed \$75,000 in a fiscal year.

H. From the date the elected City officer files a Declaration of Intention to Become a Candidate through the date of the election for which the declaration was filed, officeholder expense funds may not be expended for the following:

1. Consulting, research, polling, photography, videotaping, and similar services.
2. Conferences, meetings, receptions, and events attended by the officeholder.
3. Travel, including lodging, meals, and other related disbursements, incurred in the performance of governmental duties by the officeholder, a member of the officeholder's staff, or a member of such person's household accompanying the person on such travel, except to the extent that the travel is in conjunction with

an organization that has received tax-exempt status under Internal Revenue Code Section 501(c)(3).

4. Advertisements in program books, testimonials, souvenir books, or other publications.

5. Mailings that provide information about City business when either of the following applies:

a. The mailing consists of more than 200 substantially similar pieces; or

b. The mailing contains the officeholder's name (other than as part of an electronic mail or Internet address or once on a letterhead or envelope) or photograph.

I. An officeholder expense fund committee may not incur an expenditure for personal services unless the committee first enters into a written contract for such services. The contract shall set forth the services to be performed and the amount that will be paid for such services (or a basis for calculating the amount).

#### **SEC. 49.7.20. LEGAL DEFENSE FUND.**

A. Every elected City officer or candidate for elected City office may establish and maintain a legal defense fund for a civil or criminal court case or administrative proceeding arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officeholder's governmental activities and duties.

1. In addition to contributions received in connection with an election to an elected City office or to defray officeholder expenses, an elected City officer or candidate for elected City office who receives contributions for a legal defense fund may use those funds solely to defray attorney's fees and other legal costs incurred in the officeholder's or candidate's legal defense to the civil or criminal court case or administrative proceeding.

2. The officeholder or candidate shall file with the Ethics Commission a Statement of Purpose identifying the specific civil or criminal court case or administrative proceedings for which the legal defense fund is established. The Statement of Purpose shall be filed before any contributions are solicited or accepted.

3. The legal defense fund shall be named "The [name of candidate or officeholder] Legal Defense Fund for [case or proceeding number or, if a number does not exist, a brief description of the case or proceeding]".

4. A single controlled committee shall be established for the legal defense fund and all expenditures shall be made by that committee.

5. The committee shall establish one checking account at an office of a financial institution located in the City for the legal defense fund. All contributions received in connection with the legal defense fund shall be deposited into that account.

B. A person may not make, and an elected City officer or candidate for elected City office may not solicit or accept from a single person, contributions totaling more than \$1,000 during a fiscal year to a legal defense fund in connection with a single court case or administrative proceeding identified in the Statement of Purpose.

C. Within six months after the final conclusion of the case or proceeding and the payment of all debts incurred in connection with that case or proceeding, any surplus legal defense funds may be used in connection with another legal defense fund, returned to donors on a pro rata basis, or given to the City's General Fund.

D. This Section is the sole authority for soliciting or accepting contributions for the defense of an action relating to an election campaign, electoral process, or an officeholder's conduct in office.

#### **SEC. 49.7.21. DISCLOSURE BY OFFICEHOLDER EXPENSE FUNDS AND LEGAL DEFENSE FUNDS.**

In addition to the campaign statements required by the Political Reform Act and Section 49.7.14, elected City officers and candidates shall file campaign statements for their officeholder expense funds and legal defense funds as follows:

A. Except as specified in Subsection B, quarterly statements shall be filed no later than the following dates:

1. April 30 for the quarter ending March 31;
2. July 31 for the quarter ending June 30;
3. October 31 for the quarter ending September 30; and
4. January 31 for the quarter ending December 31.

B. When the officeholder or candidate has filed a Declaration of Intent to Solicit and Receive Contributions, quarterly statements shall be filed no later than the following dates:

1. During the year prior to the election:
  - a. April 30 for the quarter ending March 31;
  - b. July 31 for the quarter ending June 30;



- c. October 10 for the quarter ending September 30; and
  - d. January 10 for the quarter ending December 31.
2. During the year of the election:
- a. July 31 for the quarter ending June 30, including any activity not covered by the previous campaign statement;
  - b. October 31 for the quarter ending September 30; and
  - c. January 31 for the quarter ending December 31.

**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, each candidate shall file a statement of acceptance or rejection of matching funds. A candidate who agrees to accept matching funds shall comply with the requirements of the program, including but not limited to the expenditure ceilings.

B. 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 candidate shall return to the City any matching funds payments received 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.

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

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

3. 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.

4. The candidate contributes no more than the following amounts in personal funds to the campaign:

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

These amounts are subject to adjustment under Section 49.7.3.

5. 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.

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

7. 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.

D. A participating candidate who violates the terms of the Matching Funds Program is disqualified from receiving matching funds for the remainder of the election cycle.

#### **SEC. 49.7.24. EXPENDITURE CEILINGS.**

A. Participating candidates and their controlled committees for election to City office may not make 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.

#### **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 spends 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;

2. \$155,000 in a City Attorney or Controller race;
3. \$309,000 in a Mayoral race.

These amounts are subject to adjustment under Section 49.7.3.

#### **SEC. 49.7.26. NOTICE REGARDING EXPENDITURE CEILINGS.**

A non-participating candidate shall notify the Ethics Commission on the day the candidate raises more than 100 percent of the applicable expenditure ceiling and again on the day the candidate spends 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 non-participating 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. 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 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.

3. 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.

C. 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.

#### **SEC. 49.7.28. REQUESTS FOR MATCHING FUNDS PAYMENTS.**

A. A participating candidate may not request a matching funds payment for less than \$10,000 in qualified contributions at any one time up to 14 days preceding an election. 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 matching funds payment for \$1,000 or more in qualified contributions at any one time.

B. Requests for matching funds payments shall contain the information required by the Ethics Commission.

C. 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. \$100,000 for City Council candidates;
2. \$267,000 for Controller candidates;
3. \$300,000 for City Attorney candidates; and
4. \$667,000 for Mayoral candidates.

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

1. \$125,000 for City Council candidates;
2. \$300,000 for Controller candidates;
3. \$350,000 for City Attorney candidates; and
4. \$800,000 for Mayoral candidates.

**SEC. 49.7.30. MATCHING FUNDS PAYMENTS TO CANDIDATES.**

A. The Ethics Commission shall certify each request for matching funds payment within three business days after receiving the request.

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 of \$1,000 or more for the communication; or

2. The person makes or incurs expenditures of \$100 or more for the communication and distributes the communication 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 expenditure made or incurred regarding that measure or candidate shall also be disclosed.

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 through the date of the associated general election, 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 amount of the expenditure and the amount spent to support or oppose each candidate or measure;
- c. Whether each candidate or measure was supported or opposed;
- d. That the communication was not behested by any of the candidates who benefited from it;
- e. The dates the communication was made or distributed and any expenditure was incurred;
- f. A description of the type of communication;
- g. The name and address of the person making, distributing, or incurring the expenditures or distributing the communication;
- h. The name and address of the payee, if applicable, and any vendor that provided service for the communication;
- i. For committees, contributions of \$100 or more received by the committee since the latter of the day after the closing date of the campaign 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
- j. 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.

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.

**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 within 24 hours of doing any of the following time frames:

1. From the first date the candidate files a Declaration of Intention to Become a Candidate with the City Clerk through the date of the last election associated with that declaration that the candidate appears on the ballot, within 24 hours after first distributing the communication.

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

B. 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.

C. 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.

D. 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.

E. This Section shall not apply to 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 campaign, officeholder, or legal defense communication:

1. "Paid for by" immediately followed by the name, address, and city of that candidate or committee.

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."

B. A committee making an independent expenditure communication under Section 49.7.31(A) shall incorporate the following statements:

1. "Paid for by" immediately followed by the person'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.

2. "Not authorized by or coordinated with a City candidate."

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], in the amount of [the total amount of contributions made by those contributors in the same six-month period]."

4. "Additional information is available at ethics.lacity.org."

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

1. "Not authorized by or coordinated with a City candidate."

2. "Additional information is available at 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, with the following exceptions:

1. Small promotional items, such as pens, pencils, mugs, and potholders, and other items on which a disclaimer cannot be reasonably displayed in an easily legible typeface.

2. Advertisements paid for by a newspaper, radio station, television station, or other recognized news medium, unless the disclaimer is required for a paid communication under Section 49.7.34.

3. 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.

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. A candidate or City controlled committee that elects to use social media accounts to communicate regarding the candidate's campaign shall include the following statement on each account's home page: "This account is being used for campaign purposes for [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 for campaign purposes if the account is used or has been used for City purposes.

**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.

2. **“Approval by an elected City office”** 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.

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.

5. **“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.

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). The awarding authority shall determine whether the form is complete for responsiveness purposes and 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 the bid due date. 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.

3. **“Disclosure Form.”** As provided in Subsection B(2), every bidder shall file with the awarding authority, at the time the bid or other response is submitted, the following information 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).

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. 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. 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.

5. **"Contract Amendments."** If a contract amendment requires approval by an elected City officer and makes the total 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.

a. The awarding authority shall notify bidders who were not previously required to submit the form identified in Subsection B(3) 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.

b. Bidders who were not previously required to submit the form identified in Subsection B(3) shall submit the form within ten business days of the date the awarding authority first discusses the amendment with the bidder. 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.

c. This provision does not apply to the exercise of an option that has been previously approved in a written contract.



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 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 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.

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. The awarding authority shall determine whether the form is complete for responsiveness purposes and 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 the due date of the proposals. 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 with the awarding authority, at the time the response is submitted, the following information 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; and  
[sic]
- 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).
- 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. 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. 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 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 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 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 officer.

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 due.

**SEC. 49.7.40. SEVERABILITY.**

The provisions of this Article are severable. If any provision of this Article or its application to any person or circumstance is held invalid by a court, the remainder of this Article and the application of the provision to other persons or circumstances is not affected by that determination, to the extent that the provision or its application can be given effect.

Sec. 2. Subsection (b) of Section 11.28.4 of Los Angeles Administrative Code is amended to read as follows:

(b) The Board of a Department shall select the underwriting firm(s) for the private sale of Revenue Bonds by resolution or other Board action, and the Council shall be provided an opportunity to disapprove such selection in the manner set forth in this Section 11.28.4(b). The Board may include the selection of underwriting firm(s) in the resolution described in Section 11.28.1 of this Administrative Code, in a separate resolution or action to sell the Bonds pursuant to private sale described in Section 11.28.4(a) of this Administrative Code or in the action described in Section 11.28.5 of this Administrative Code or the Department may, by resolution or other Board action, separately select an underwriting firm or team of underwriting firms for any particular Revenue Bonds or for a fixed period of time, said separate resolution or other Board action being hereby subject to Council oversight pursuant to Section 245 of the Charter. In selecting underwriting firms, each Department shall, at a minimum, comply with the conflict of interest provisions set forth in Section 609(e) of the Charter and related ordinance provisions, including the provision which requires that an underwriting firm seeking selection as an underwriter of Revenue Bonds shall cause one of its officers to file a certification under oath that no disqualifying gifts or contributions described by Section 609 of the Charter were made.

Sec. 3. It is the intent of the City that the amendment of Article 9.7 shall not prevent the administration and enforcement of prior provisions of the law relating to those activities occurring when those provisions remained in effect.



Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

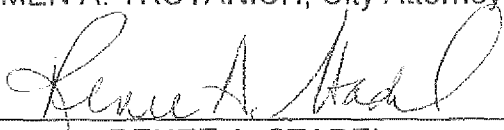
By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By   
RENEE A. STADEL  
Deputy City Attorney

Date 9-5-12

File No. \_\_\_\_\_



ORDINANCE NO. \_\_\_\_\_

An ordinance amending the Los Angeles Administrative Code to make various changes to the City Ethics Commission matching funds regulations.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. The title of Chapter 2 of Division 24 of the Los Angeles Administrative Code shall be amended to read as follows:

**CHAPTER 2**

**INVESTIGATIONS AND ENFORCEMENT**

Sec. 2. Section 24.1.2 of Chapter 1 of Division 24 of the Los Angeles Administrative Code shall be renumbered as 24.21 within Chapter 2 of Division 24.

Sec. 3. Sections 24.1, 24.1.1, and 24.1.3 of Chapter 1 of Division 24 of the Los Angeles Administrative Code shall be renumbered to 24.11, 24.12, and 24.13, respectively.

Sec. 4. Chapter 3 of Division 24 of the Los Angeles Administrative Code shall be amended in its entirety to read as follows:

**CHAPTER 3**

**PUBLIC MATCHING FUNDS**

**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. Except as provided below, the interpretation of these regulations is governed by the definitions and provisions of the Political Reform Act of 1974; the regulations of the Fair Political Practices Commission; Charter Sections 470, 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.

(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.

(12) **“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.

(14) **“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.

(15) **“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 a Statement of Acceptance or Rejection of Matching Funds (required by Municipal Code Section 49.7.22) at the same time that the candidate files a Declaration of Intention to Become a Candidate (required by City Elections Code Section 301).

(A) A candidate who fails to file a Statement of Acceptance or Rejection of Matching Funds at the required time may not be a participating candidate.

(B) A candidate who initially agrees to participate in the program may, thereafter, decline to participate by providing written notice to that effect 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.

(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 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 understands that the acceptance of matching funds is effective for both the primary and general elections; and
- (F) The candidate understands that if another candidate for the same office declines to participate in the program, 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.

(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 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;

(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, the request must identify at least 200 contributions that comply with the requirements in Municipal Code Section 49.7.23(C)(1)(e), and the participating candidate and treasurer must certify 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 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 business days after receiving a request. 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 business days of receiving 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 must make a second determination must be made 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 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;

(6) The total amount of matching funds claimed;

(7) A list of all contributions for which the participating candidate requests matching funds;

(A) The list must be alphabetical by the names of the contributors;  
and

(B) The following information must be provided for each 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 date the contribution was received;

(iii) The amount of the contribution;

(iv) The cumulative amount of contributions received from that contributor for the same election; and

(v) 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, 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 letter 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:

(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 qualified contributions.

(3) Matching funds claims will not be accepted more than three months after an election.

(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 the amount of matching funds payable to a participating candidate;

(C) Certification must be made within three business days of receiving the claim. 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 the participating candidate and to the Controller.

(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 business days of receiving notice of the determination. The request must specify the reasons the participating candidate believes that a different amount should be paid. 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.

(e) **Processing Claims.** After certification, 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 for all authorizations that it receives by 2:00 p.m. 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 business days after the Ethics Commission receives a claim form.

(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 to receive the payment. The report 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 audits pursuant to Charter Section 702(d) and Section 24.41 of this Code.

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

(2) If an audit reveals that the participating 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.**

Ethics Commission staff will notify a participating candidate in writing if any matching funds must be returned.

(a) Matching funds must be returned through a check payable to the Ethics Commission for deposit in 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.

(c) 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 candidates must use best efforts to obtain, maintain, and submit to the Ethics Commission all required information.

(1) Participating 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 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 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 influencing or attempting to influence the actions of the voters for or against the election of a City candidate. 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.

Sec. 5. Section 24.6 of Chapter 4 of Division 24 of the Los Angeles Administrative Code shall be renumbered to 24.41.

Sec. 6 Section 24.10 of Chapter 5 of Division 24 of the Los Angeles Administrative Code shall be renumbered to 24.51.

Sec. 7. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_  
Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By   
RENEE A. STADEL  
Deputy City Attorney

Date 9-5-12

File No. \_\_\_\_\_