

**CITY OF OAKLAND  
AGENDA REPORT**

OFFICE OF THE CITY CLERK  
JUL 1 2005  
2005 MAY 26 AM 2: 34

**To:** Oakland City Council  
**From:** Oakland Public Ethics Commission  
**Date:** June 7, 2005

**RE: An Ordinance Amending Chapter 3.13 Of The Oakland Municipal Code (aka "The Limited Public Financing Act") To Provide, Among Other Things, That 1) Matching Funds Be Available Only To Candidates For District City Council And The Oakland School Board; 2) The Maximum Amount Which A Candidate May Receive In Matching Funds Be Raised From 15 percent to 30 Percent Of The Voluntary Expenditure Limit; 3) Require Candidates To Collect Eligible Contributions Only From Sources Located Within The City Of Oakland; 4) Candidates May Receive An Initial Grant Of Matching Funds Upon A Determination Of Eligibility; And 5) Run-off Candidates Shall Be Limited In The Receipt Of Matching Funds.**

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**SUMMARY**

At its regular meeting of May 17, 2005, the City Council approved the introduction (first reading) of an ordinance amending the Limited Public Financing Act (Chapter 3.13 of the Oakland Municipal Code) and scheduled the ordinance for final passage (second reading) at its regular meeting of June 7, 2005.

Attached hereto are the previously adopted amendments. They include the floor amendment to Section 3.13.100(D) proposed by Councilmember Quan relating to the audit of candidates involved in a run-off election. **Attachment 1.**

**ACTION REQUESTED OF THE CITY COUNCIL**

Approve final passage of the ordinance.

Respectfully submitted,



Daniel D. Purnell, Executive Director  
Public Ethics Commission

FORWARDED TO THE OAKLAND CITY COUNCIL



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OFFICE OF THE CITY ADMINISTRATOR

Item: **10.17CC**  
ORA/Council  
June 7, 2005



APPROVED AS TO FORM AND LEGALITY

2005 MAY 18 10:34  
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_ C.M.S.

**An Ordinance Amending Chapter 3.13 Of The Oakland Municipal Code (aka "The Limited Public Financing Act") To Provide, Among Other Things, That 1) Matching Funds Be Available Only To Candidates For District City Council And The Oakland School Board; 2) The Maximum Amount Which A Candidate May Receive In Matching Funds Be Raised From 15 percent to 30 Percent Of The Voluntary Expenditure Limit; 3) Require Candidates To Collect Eligible Contributions Only From Sources Located Within The City Of Oakland; 4) Candidates May Receive An Initial Grant Of Matching Funds Upon A Determination Of Eligibility; And 5) Run-off Candidates Shall Be Limited In The Receipt Of Matching Funds.**

**WHEREAS**, the Limited Public Financing Act Of The City Of Oakland (hereinafter the "Act") was passed by the City Council on December 14, 1999 and became effective on January 1, 2001; and

**WHEREAS**, the City Council duly considered at its regular meeting of May 17, 2005, a report from the Oakland Public Ethics Commission proposing various specific amendments to the Act;

**NOW THEREFORE BE IT ORDAINED**, that Oakland Municipal Code Chapter 3.13 is amended to read as follows:

SECTION 1. The City council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal code is hereby amended to add, delete, or modify sections as set forth below (Section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by --strike through-- type; portions of the ordinance not cited or not shown in underscoring or --strike through-- type are not changed.

SECTION 3. Section 3.13.040 of the Municipal Code is hereby amended to read as follows:

### **3.13.040 Interpretation of this Act**

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of the Oakland Municipal Code and in Government Code sections 81000 et seq. as amended govern the interpretation of this Act.

For purposes of this Act, contributions shall be "matchable contributions" only if they are: 1) the first \$100 or less of a contribution received and deposited by the candidate for the office being

sought from each contributor to the candidate or the candidate's controlled committee, 2) received no more than one-hundred eighty (180) days before the date of the election, and 3) made on a financial instrument containing the name of the donor, the name of the payee and drawn on the account of the donor.

For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.

For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.

SECTION 4. Section 3.13.060 of the Municipal Code is hereby amended to read as follows:

### **3.13.060 Appropriation of Funds**

A. The Oakland City Council shall appropriate to the Election Campaign Fund, under the City's current two year budget cycle, an amount sufficient to fund all candidates ~~for city office~~ eligible to receive limited matching funds for the following City offices: District City Councilmember and School Board Director. Notwithstanding this or any other provision of law, this Act shall not apply to the elected office of School Board Director until the first election after the Oakland Unified School District regains all of its rights, duties and powers upon the completion of the conditions set forth in 2003 Cal. from the Election Campaign Fund Stats., Chapter 14, Section 5(e).

B. The Oakland Public Ethics Commission shall provide in the form and at the time directed by the Mayor and City Manager a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the Election Campaign Fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the Election Campaign Fund shall not exceed \$460,000 for any two-year budget cycle, except that the allocation may exceed \$460,000 to reflect changes in the consumer price index. The Public Ethics Commission may limit the allocation of funds for any primary election to assure that sufficient funds remain available for the general election.

C. The Election Campaign Fund shall be established as an interest bearing account. Unspent funds in the Election Campaign Fund at the end of a two year budget cycle shall remain in the Fund and accrue for disbursement to candidates eligible for matching funds in future elections and for administrative costs pursuant to subsection 3.13.060(d) below. In no event shall additional allocations to the Fund be made to cause the available balance in the Fund to exceed five hundred thousand dollars (\$500,000), to include allocations made to the Public Ethics Commission pursuant to subsection 3.13.060(d) below.

D. Up to 7.5% of the amount allocated to the Election Campaign Fund pursuant to subsections 3.13.060 (a) and (b) may be utilized by the Public Ethics Commission to cover the anticipated cost of administering the provisions of this Act. The Public Ethics Commission shall make a sufficient proportion of such funds available to the City Auditor to conduct compliance reviews as provided in section 3.13.100.

SECTION 5. Section 3.13.070 of the Municipal Code is hereby amended to read as follows:

### 3.13.070 Application and Withdrawal Procedures

A. Each candidate for city officer ~~no later than the time of filing his or her declaration of candidacy,~~ shall file a statement with the City Clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings ~~under~~ pursuant to Oakland Municipal Code section 3.12.190.

B. A candidate who intends to accept public matching funds from the Election Campaign Fund shall sign an oath under penalty of perjury that the candidate and the candidate's controlled committee have, to the best of his or her knowledge, complied with all applicable contribution and expenditure limitations under the Oakland Campaign Reform Act and intends to comply with such contribution and expenditure limitations at all times in which the limitations apply.

C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code ~~section~~ Section 3.12.200, the candidate shall be subject to the contribution limits of Sections 3.12.050(a) and 3.12.060 (a) and shall not be eligible for matching funds.

D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code, ~~section~~ Code Section 3.12.200, the candidate shall be subject to the contribution limits of Oakland Municipal Code ~~sections~~ Sections 3.12.050 (c)(b) and 3.12.060 (c)(b) as adjusted pursuant to sections Sections 3.12.050(d) and 3.12.060(d), 3.12.050(g) and 3.12.060(g), and shall be eligible for public matching funds upon meeting the qualification requirements as provided in this Act.

E. A candidate who agrees to accept the expenditure ceilings in Oakland Municipal Code ~~section~~ Section 3.12.200 shall not change the decision, unless an opposing candidate files a statement of rejection, or as otherwise provided in Oakland Municipal Code ~~section~~ Section 3.12.220. In the event an opposing candidate files a statement of rejection, any candidate for the same office may rescind his or her acceptance within 10 calendar days of the deadline for filing nomination papers, provided that the candidate has not accepted any contributions in amounts greater than the limitations set forth in Oakland Municipal Code ~~section~~ Section 3.12.050 (a) and 3.12.060(a). Any candidate rescinding his or her acceptance of the expenditure ceilings shall not be eligible for public matching funds. In the event expenditures ceilings are lifted pursuant to

Oakland Municipal Code ~~section~~Section 3.12.220, a candidate who accepted expenditure ceilings shall be permitted to continue receiving matching public funds but shall no longer be subject to expenditure ceilings.

SECTION 6. Section 3.13.080 of the Municipal Code is hereby amended to read as follows:

### 3.13.080 Qualification Procedures

An eligible candidate shall be approved to receive public matching funds if the candidate meets all of the following requirements:

A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public matching funds.

B. The candidate is certified to appear on the ballot for the election for which matching funds are sought.

C. ~~Any disclosures required by the Public Ethics Commission to be filed by the candidate or candidate's controlled committee indicate that the~~The candidate has received matchable contributions in an aggregate amount of at least 5 percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence sought. ~~Matchable contributions shall consist of only the first \$100 or less of a contribution or contributions received and deposited by the candidate for the office sought from each individual contributor to the candidate or candidate's controlled committee and do not include any contributions received eighty-eight or more days prior to closing of the nomination period for the office sought. No contribution shall be matched unless it is made on a financial instrument containing the name of the donor, the name of the payee and drawn on the account of the donor, or business address appears on the written instrument used to make the contribution. Contributions from the candidate's own funds shall not be counted towards meeting this 5 percent requirement.~~

D. The candidate is opposed by another candidate for the same office who has qualified for matching funds, or the candidate is opposed by another candidate for the same office who has received contributions or made expenditures or has cash on hand in an amount of at least 7 percent of the voluntary expenditure ceiling for that office.

E. The candidate agrees to all conditions and requirements of the use of public funds set forth in the Act and submits to any reasonable audits or compliance reviews deemed appropriate by the Public Ethics Commission or other civil authorities.

F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the Public Ethics Commission. The Public Ethics Commission shall conduct or sponsor at least three training programs before the nomination period closes in any general municipal election.

G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time matching funds are payable. All candidates receiving matching funds shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received matching funds.

SECTION 7. Section 3.13.090 of the Municipal Code is hereby amended to read as follows:

**3.13.090 Use of Personal Funds**

Unless the voluntary expenditure ceilings are lifted in accordance with Oakland Municipal Code ~~section~~Section 3.12.220, a candidate who accepts public matching funds shall not receive a ~~contribution or contributions or loans~~ from the candidate's own funds ~~that exceed~~which aggregate total exceeds 5 percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.

SECTION 8. Section 3.13.100 of the Municipal Code is hereby amended to read as follows:

**3.13.100 Duties of the Public Ethics Commission**

A. The Public Ethics Commission shall develop any and all forms necessary to carry out the provisions of the Act, including forms for statements of acceptance or rejection of ~~expenditure ceilings and forms for candidate requests for public matching funds~~. The Public Ethics Commission may, in its discretion, require any document or form to be filed in an electronic format that is provided by the Public Ethics Commission to the candidates free of charge.

B. The Public Ethics Commission shall cause the review of the statements of acceptance or rejection, nomination papers, requests for public subsidies and other campaign financial reports in a timely fashion to certify a candidate's eligibility to receive public matching funds.

C. The certification of a candidate's eligibility for public matching funds shall provide the reasons why a candidate is or is not eligible, the amount of the public matching funds disbursed, and what actions a candidate may take to correct any insufficiencies.

D. The City Auditor shall conduct mandatory audits or compliance reviews of all ~~candidates accepting public matching funds~~. ~~Audits or compliance reviews shall be conducted of other candidates only when necessary to determine if compliance with the eligibility requirements of section 3.13.080(d) were met~~. The results of any audit(s) or compliance review(s) conducted shall be provided to the Public Ethics Commission. The City Auditor shall propose administrative standards for conducting audits and compliance reviews consistent with the requirements of this Act to be duly approved by resolution of the City Council. In the event a candidate who accepts

matching funds during a primary election is required to participate in a run-off election, no audit of such candidate shall commence sooner than sixty (60) calendar days after the run-off election.

SECTION 9. Section 3.13.110 of the Municipal Code is hereby amended to read as follows:

### **3.13.110 Matching Fund Formula**

A. A certified candidate shall receive public matching funds according to the following formula:

A. — One formula: One dollar of public matching funds for each dollar received and deposited of the first \$100 or less contributed by each individual contributor per election, provided that the contribution is made by contributors whose principal residence or whose primary place of doing business is located within the City of Oakland and which residence or business address appears on the written instrument used to make the contribution. The address appearing on the written instrument shall be presumed to be the contributor's principal residence or primary place of doing business. No complaint shall be filed with the Public Ethics Commission unless accompanied by evidence that demonstrates a high probability that the presumption is incorrect.

B. The total amount of public funds allocated to each candidate shall not exceed ~~45~~thirty (30) percent of the voluntary expenditure ceiling per election for the office being sought.

C. In no event shall the Public Ethics Commission match a contribution which it has determined to be aggregated with a previously matched contribution from another person pursuant to Section 3.12.080.

D. Upon certification of a candidate's eligibility, the candidate shall receive an initial lump-sum payment representing ten percent of the total amount of available matching funds for which he or she is allocated to receive. An eligible candidate shall receive a second lump-sum payment in an amount equal to the initial lump-sum payment upon demonstration that he or she has received and deposited contributions totaling at least ten percent of the expenditure ceiling for the office being sought and which contributions originate from donors whose principal residence or primary place of doing business is located within the City of Oakland. Any lump-sum payment made pursuant to this section shall be inclusive of, and shall not cause a candidate to exceed, the total amount of available matching funds he or she is allocated to receive.

E. Each candidate who qualifies for a run-off election shall receive a payment equal to the amount he or she received pursuant to Section 3.13.110(D). No other matching funds shall be available to a run-off candidate.

F. In the event matching funds are paid to a candidate based on a contribution that is returned to the donor for any reason, the candidate shall return to the Public Ethics Commission the amount received in matching funds based on the returned contribution no later than seven (7) business days after the contribution is returned to the donor.



SECTION 10. Section 3.13.150 of the Municipal Code is hereby amended to read as follows:

**3.13.150 Return of Matching Funds**

A. Public matching funds provided by this Act remain the property of the City until disbursed or encumbered for lawful qualified campaign expenditures.

B. Unencumbered matching funds must be returned to the Election Campaign Fund ~~within thirty (30) no later than thirty-one (31) calendar days from the day following the defeat, withdrawal or election to office by the certified candidate earlier of the last day of the semi-annual reporting period following the election, or the candidate's withdrawal from the election.~~ Any unencumbered campaign funds remaining after the defeat, withdrawal or election to office by the certified candidate, as of the last day of the semi-annual reporting period following the up to the amount of matching funds received for that election by the candidate, election, or the candidate's withdrawal from the election, shall be considered unencumbered matching funds to be returned to the Election Campaign Fund pursuant to this section. Fund, up to the amount of matching funds received for that election by the candidate.

C. Public matching funds shall not be disbursed to the certified candidate from the Election Campaign Fund to match any contribution following the defeat, withdrawal, or election to office by the candidate except that public matching funds may be disbursed to a certified candidate after the date of the election for which matching funds are sought provided that the candidate submitted a properly documented claim form for public matching funds before the date of the election.

IN COUNCIL, OAKLAND, CALIFORNIA, (DATE)

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST:

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California