Article I. Findings and Purpose

3.13.010 Title

This Act shall be known as the “Limited Public Financing Act of the City of Oakland.”

3.13.020 Findings and Declarations

The findings of this Act are as follows:

A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions.

C. High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public’s business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.

3.13.030 Purpose of this Act

The purpose of this act is to accomplish the objectives stated in Oakland’s Campaign Reform Act as follows:

A. To ensure that all individuals and interest groups in our city have a fair and equal
opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters
under consideration by the City of Oakland, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

C. To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To encourage competition for elective office.

E. To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.

F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.

G. To help preserve public trust in governmental and electoral institutions.

Article II. Definitions

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.~~

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Article III. Election Campaign Fund

3.13.050 Election Campaign Fund

There is hereby established an account within a special revenue fund of the City of Oakland to be known as the "Election Campaign Fund."

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 eligible to receive ~~limited matching funds~~public financing for the ~~following City offices:~~ office of 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. 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~~Administrator 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~~500,000 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

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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.

3.13.065 Allocation Of Election Campaign Fund

No later than fourteen (14) days after the final day for candidates to accept or reject public financing pursuant to Section 3.13.XXX, the Public Ethics Commission shall determine at a publicly noticed meeting whether, based on the number of participating candidates, the amount of money in the Election Campaign Fund is adequate to provide the maximum amount to potentially eligible candidates. If the Commission determines that the Election Campaign Fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the Commission shall order the disbursement of available funds on a pro rata or other equitable basis. The Commission may at any time revise the disbursement plan consistent with these rules and prevailing law.

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Article IV. Eligibility for Matching Funds

3.13.070 Application and Withdrawal Procedures

A. Each candidate for city officedistrict City Council shall file a statement with the City Clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Oakland Municipal Code sectionSection 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 applyEach candidate for District City Council shall file a Statement Of Acceptance Or Rejection Of Public Financing on a form approved by the Public Ethics Commission no later than seven (7) calendar days after the date the City Clerk has certified the names of candidates to appear on the ballot for the election in which public financing will be sought. The Statement Of Acceptance Or Rejection Of Public Financing shall advise and require that the candidate's decision to accept or reject public financing is irrevocable for the election in which his or her name apears on the ballot.

C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Oakland Municipal Code 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.public financing.

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

E. ~~A candidate who agrees to accept~~In the event expenditure ceilings ~~in Oakland Municipal Code 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 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 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 3.12.220, a candidate who accepted expenditure ceilings shall be permitted to ~~continue receiving matching~~receive public ~~funds~~financing but shall no longer be subject to expenditure ceilings.

3.13.080 Qualification Procedures

An eligible candidate shall be approved to receive public ~~matching funds~~financing 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.~~financing;

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

C. The candidate has received contributions in an aggregate amount of at least ~~5~~three (3) 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 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~~3 percent requirement. The candidate shall provide copies of the contribution checks received to meet this 3 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~~this Act and ~~submits~~to submit to any reasonable audit~~s 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~~public financing is payable. All candidates receiving ~~matching funds~~public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received ~~matching funds~~public financing.

3.13.090 Use of Personal Funds

~~Unless the voluntary expenditure ceilings are lifted in accordance with Oakland Municipal Code Section 3.12.220, a~~A candidate who accepts public ~~matching funds~~financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ~~5~~ten (10) 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.

Article V. Disbursement of Public Matching Funds.

3.13.100 Duties of the Public Ethics Commission and Office of the City Auditor

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~~records submitted to ~~certify a candidate's~~determine a candidate's eligibility to receive

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public ~~matching funds~~financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the Commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.

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 post-election 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~~financing. The City Auditor may chose to limit the scope of any audit to the items submitted for reimbursement. The audit report shall be a public record and 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.~~ The City Auditor shall conduct all audits in accordance with Generally Accepted Government Auditing Standards.

~~3.13.110 Matching Fund Formula~~3.13.110 Requests For Public Financing

A. ~~A certified candidate shall receive public matching funds according to the following formula: One dollar of public matching funds for each dollar received and deposited of the first $100 or less contributed by each contributor 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.~~Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.

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B. The qualified campaign expenditures eligible for reimbursement are:

1. candidate filing and ballot fees;

2. printed campaign literature and production costs;

3. postage;

4. print advertisements;

5. radio airtime and production costs;

6. television or cable airtime and production costs; and

7. website design and maintenance costs.

C. The following conditions and restrictions shall apply to any request for reimbursement:

1. No communication specified in Section 3.13.110(B) shall identify or refer to any candidate other than the candidate seeking reimbursement. All requests for reimbursement shall include a copy of the campaign literature, advertisement, radio or television script, or website configuration.

2. All requests for reimbursement shall be made on a form authorized by the Public Ethics Commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.

3. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist in the campaign account to provide payment and (b) any money received from the Election Campaign Fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any expenditure other than the one for which reimbursement was sought.

D. Any decision made by the Executive Director to deny a request for reimbursement may be appealed to the Commission whose decision shall be

final. A request to agenize an appeal of the Executive Director's decision shall be made in writing and delivered to the Office of the Public Ethics Commission no more than ten (10) calendar days after receiving written notice of the Executive Director's decision.

E. The total amount of public ~~funds~~financing allocated to each candidate shall not exceed 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.~~

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3.12.120 Disbursement and Deposit of Public ~~Funds~~Financing

A. A candidate or candidate's controlled committee, certified as eligible to receive public ~~matching funds~~financing, shall submit a request for ~~public matching funds~~ reimbursement to the Public Ethics Commission each time a threshold of $~~3~~1,000 or more in ~~matchable funds~~billing invoices is reached.

B. A candidate or candidate's controlled committee, certified as eligible to receive public ~~matching funds,~~financing may submit a request for ~~public matching funds~~reimbursement of $~~1,000~~500 or more ten (10) calendar days before the election.

C. The Public Ethics Commission shall have ten (10) calendar days to cause the review and approval or denial of the request for reimbursement and disburse ~~the public~~ funds from the Election Campaign Fund to the candidate or candidate's controlled committee.

D. ~~The request for public matching funds shall be made on a form determined by the Commission, and shall include copies of each check eligible to be matched by public funds.~~

~~3.13.130 Deposit of Public Funds~~

All ~~public~~ funds disbursed from the Election Campaign Fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within three (3) business days of receipt.

3.13.140 ~~Use of Matching Funds~~

~~Public matching funds may only be used for lawful qualified campaign expenditures incurred by a candidate during the election for which the funds were allocated.~~

~~3.13.150~~ Return of ~~Matching~~Surplus 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~~ Surplus campaign funds remaining at the end of the post-election reporting period following the election for which public financing was received shall be returned to the Election Campaign Fund no later than thirty-one (31) calendar days from the earlier of the last day of the semi-annual reporting period following the election in an amount specified by this section.~~, or the candidate's withdrawal from the election~~. ~~Any unencumbered campaign funds remaining as of the last day of the semi-annual reporting period following the election, or the candidate's withdrawal from the election, shall be considered unencumbered matching funds to be returned to the Election Campaign Fund, up to the amount of matching funds received for that election by the candidate~~A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received for that election. The amount of surplus campaign funds to be returned to the Election Campaign Fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.

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C. Public matchingB. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes 1) accounts payable billed, or, 2) accounts payable for which bills may be expected, for goods or services received during the election.

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

3.13.160 Proof of Payment

A. Each certified candidate or candidate's controlled committee which received public matching funds shall provide to the Public Ethics Commission sufficient proof of all disbursements made from matching funds no later than the due date for the next campaign finance report.

B. The Public Ethics Commission shall determine what constitutes sufficient proof of payment.

3.13.170150 Public Debates

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While not a condition for receiving matching funds, candidates receiving public matching funds are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.

3.13.180160 Enforcement

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the Commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

3.13.~~190~~170 Criminal Misdemeanor Actions

Any person who knowingly or willfully 1) misrepresents his or her eligibility for ~~matching funds~~public financing, 2) ~~violates sections 3.13.090, 3.13.130, 3.13.140 or 3.13.150(b)~~makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions ~~set forth in~~ of this ~~section~~Act, is guilty of a misdemeanor. Prosecution shall be commenced within four (4) years after the date on which the violation occurred.

3.13.~~200~~180 Enforcement Actions

A. Any person who intentionally or negligently 1) misrepresents his or her eligibility for ~~matching funds~~public financing, 2) ~~violates sections 3.13.130, 3.13.140 or 3.13.150(b)~~makes a material misrepresentation in connection with a request for reimbursement, or 3) causes, aids or abets any other person to violate the provisions ~~set forth in~~ of this ~~section~~Act, is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person alleging a violation of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Public Ethics Commission shall review, investigate and make determinations regarding any alleged violation consistent with the Public Ethics Commission's General Complaint Procedures.

D. The Commission has full authority to settle any action involving public ~~matching funds~~financing in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed $1,000 per violation and to order the repayment of ~~matching funds~~public financing received or expended in violation of law.

F. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

G. No complaint alleging a violation of any provision of this Act shall be filed more than two (2) years after the date the violation occurred.

3.13.~~220~~190 Construction

The Act shall be liberally construed to accomplish its purposes.

3.13.~~230~~200 Applicability of Other Laws

Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.

3.13.~~240~~210 Severability

If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

~~**3.13.270 Effective Date**~~

~~The effective date of this Act shall be January 1, 2001.~~

~~**3.13.280 Effect On Run-off Municipal Elections**~~

~~Chapter 3.13 of this code (Sections 3.13.010 - 3.13.260 inclusive) shall have no effect for the 2004 general and runoff municipal elections.~~

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