

# **Eleven Years of Reform:**

## **Many Successes -- More to be Done**

### **Campaign Financing in the City of Los Angeles**



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*a report by the*  
**Center for Governmental Studies**

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## Foreword

This report by the Center for Governmental Studies is the result of a year long study of campaign finance laws and practices in the City of Los Angeles. The report is based on a detailed analysis of contribution and expenditure patterns by candidates for Los Angeles City Council, City Attorney, Controller and Mayor during the period 1989 through June 2001. The report also draws on interviews with City candidates, officeholders and staff, relevant literature, experience from other jurisdictions and constitutional law court decisions.

This report on Los Angeles will be incorporated into a longer forthcoming study of publicly funded campaign finance systems in other cities and counties throughout the nation. Jurisdictions under study for this report will include New York City, Tucson, and Long Beach. The Center also plans to publish a second major report on publicly funded campaign financing systems in other states. This second study will examine “clean money” laws in Arizona, Maine and Vermont and traditional matching funds programs in New Jersey, Minnesota and Wisconsin, among other states.

The Center has issued a number of reports on campaign financing. Its first report, *The New Gold Rush: Financing California’s Legislative Campaigns* (1985), examined problems of campaign financing in the California State Legislature and drafted two model laws to remedy them. The 353-page report served as the model for statewide Proposition 68 in the June 1988 election. The Center’s second report, an *Update to the New Gold Rush*, was published in 1987.

The Center’s third report, *Money and Politics in the Golden State: Financing California’s Local Elections* (1989), focused on campaign financing in California city and county elections. The Center also published a fourth report, *Money and Politics in Local Elections: The Los Angeles Area* (1989), which addressed the problems of Southern California’s most populous metropolitan area. These two reports were the basis for the landmark June 1990 Los Angeles City campaign finance ordinance that is the subject of this report. Both Center reports also provided the foundation for Los Angeles County’s 1996 campaign finance ordinance, as well as other local campaign finance laws throughout the nation, including San Francisco, Long Beach, Oakland, Miami-Dade County, Florida, and Westchester County, New York.

The Center wishes to thank its principal researcher, Paul Ryan, who prepared this report. The Center’s President, Bob Stern, and Vice Chairman and CEO, Tracy Westen, supervised the study. Bill Boyarsky, the Center’s Senior Consultant, participated in the drafting and review of the report. The Center is grateful for the time and help of City officials, candidates, and consultants who were interviewed or provided information for the preparation of this report. The Center also gratefully thanks Carnegie Corporation of New York and the Penney Family Fund, which funded this study. The views in the study do not necessarily reflect the opinions of these foundations, and they do not take any responsibility for any of the statements or views in the report.

## Executive Summary

This report by the Center for Governmental Studies closely examines Los Angeles City's political reform law during the first eleven years of its operation. Based on a year of study, including data analyses and interviews with candidates, officeholders and consultants, the report proposes a series of reforms to modernize the law and help it remain consistent with its original assumptions and objectives.

Los Angeles City law currently limits the size of contributions to candidates, offers partial public matching funds to candidates who voluntarily agree to limit their spending and creates a City Ethics Commission to administer, supervise and enforce the law. The Center's report finds that this law has changed the face of Los Angeles municipal politics for the better.

Public matching funds have provided candidates capable of raising modest sums with the ability to wage competitive campaigns without excessive dependence on large donors. Candidates place greater emphasis on raising smaller individual contributions needed to obtain matching funds. Competition among candidates has increased. Limited fundraising periods have helped challengers compete against incumbents who typically raise larger sums in non-election years and have freed officeholders to concentrate on legislation. Nearly all the major candidates have participated in the program. These developments bode well for the competitiveness of future elections.

The report also finds, however, that the law must be improved and strengthened to deal with changing political practices, some of which threaten to thwart the objectives of the reform program. The meteoric rise of independent spending is a major concern. Without regulating the impact of such expenditures, the integrity of the City's campaign financing program will be fundamentally compromised. High spending by wealthy, self-financed candidates is also harmful. When such candidates enter a race and simultaneously opt out of the City matching funds program, spending limits are removed and contribution limits raised for all other candidates. Spending limits are also lifted for all candidates when independent expenditures exceed a certain amount.

The report recommends increased public funding for candidates facing wealthy, self-financed opponents or large independent expenditures. Noting that few City Council candidates reach existing spending limits in primary campaigns, the report recommends that this limit be lowered. On the other hand, because Mayoral spending limits are consistently exceeded due to the increase in self-financed candidates and independent expenditures, the report recommends that Mayoral campaign spending limits be raised. General election candidates should receive full public financing in a lump sum equal to the spending limit, rather than receiving it in incremental amounts. Matching funds ratios should also be increased for City Council candidates.

The study praised the Ethics Commission's efforts at administering the law and proposed no changes regarding its activities or composition.

# I. Introduction

Eleven years ago, in 1990, the Los Angeles City Council placed on the ballot, and the voters approved, a major reform of the City's political system. The new campaign finance ordinance incorporated existing contribution limits with a new system of partial public financing of elections linked to spending limits, a comprehensive code of government ethics and the creation of a City Ethics Commission to administer, supervise and enforce the new law.

The reform accomplished much of what its authors intended. Candidates capable of raising enough modest-sized contributions on their own to qualify for public funds could still communicate their views to the public without total dependence on big donors. Limits on spending slowed the habitual contribution arms races between candidates, in which each felt impelled to out-fundraise the other, just to have the money around for defensive purposes. Small individual contributions needed for matching funds became more important. Competition increased. The practice of year around fund raising, so helpful to incumbents, ended with the imposition of time limits on when donations could be made.

Candidate participation and receipt of matching funds has grown steadily, with the exception of the 1995 election. The number of candidates participating in the program, and thus agreeing to spending limits, has exceeded 80% in four out of the five elections since the program began. The number of serious candidates agreeing to spending limits has nearly reached 100% in the last two elections. This near-full participation is strong evidence that the spending limits are reasonable and the incentives for voluntary compliance are adequate. The fact that so many candidates consistently agree to spending limits may bode well for the competitiveness of future elections.

In short, the face of Los Angeles municipal politics has changed for the better. Nothing, however, is constant in the fast changing world of political campaigns. It is clear that the eleven-year-old reform law should be revised and strengthened to address changing political practices, some of which threaten to thwart the objectives of the reform program.

Some of the key weaknesses pointed out by observers and participants, and by our study of the impact of the reform include:

***Candidates still spend a large amount of their time fundraising.***

Campaign finance reform advocates have long argued that contribution limits combined with public financing and expenditure ceilings would reduce the amount of time candidates needed to spend fundraising, and make them more available to discuss issues. This goal has not become a reality in Los Angeles. According to all the candidates interviewed, fundraising is still a near full-time job for those in competitive campaigns. For example, when asked less than a month before the general election how much time she spends fundraising, successful City Council candidate Jan Perry replied,



“Right now, I am doing it every day from 9 until 3.” Candidates trying to raise money in \$500 amounts, in order to qualify quickly for City matching funds, tend to solicit those with business in City Hall—the traditional special interests of land developers and other businesses along with unions representing government employees. Increasing public financing of candidates’ campaigns would enable candidates to spend less time fundraising, while continuing to communicate effectively with voters.

***City Council spending limits are too high for primary elections.***

In City Council primary elections between 1989 and April 2001, only 10% of the candidates (26 out of 254) made expenditures within \$10,000 of the applicable spending limit. In the 2001 City Council elections, only 8% of the candidates (4 out of 49) reached the spending limit in the primary while 50% (5 out of 10) reached the limit in the general election. In the 1999 Council elections, less than 5% of the candidates (2 out of 41) reached the primary spending limit. Despite the fact that candidates are not hitting the limit, elections have been highly competitive in recent years. In 2001, five out of eight Council races were forced into runoffs.

Under the City’s system of voluntary spending limits, the spending limit becomes a candidate’s *de facto* fundraising goal. Despite the availability of matching funds, candidates still fundraise full-time in an effort to reach this fundraising goal, although few ever attain it. Lowering the Council primary spending limit would enable candidates to reach their fundraising goal earlier in the campaign, free them from their full-time job of dialing for dollars, reduce their dependence on special interests and allow them to spend more time discussing policy issues with the voters.

***Skyrocketing independent expenditures threaten the integrity of the matching funds program.***

Expenditures by independent groups, business organizations, political parties and unions have become a huge and unsupervised force in City elections and a huge loophole in the current law. In the 2001 elections, independent spending by political parties, unions and business interests skyrocketed to \$3.9 million from a previous high of \$323,000 in 1993. Independent spending was highest in the races for Mayor and City Attorney, where nearly \$3 million was spent. Independent expenditures in 2001 caused the spending limits to be lifted for candidates in five City elections—fundamentally threatening the integrity of the matching funds program. Providing additional public financing to candidates facing large independent expenditures, and retaining expenditure ceilings for candidates benefiting from independent expenditures, would discourage independent spending and enable matching funds candidates to compete effectively despite the independent expenditures.

## II. Background and Summary of the Law

### A. Backdrop to Reform

Campaign reform efforts in the City of Los Angeles date back to the early 1970s, when Councilmember Ernani Bernardi began advocating limits on contributions. After his Council colleagues declined to enact such limits, Bernardi obtained enough signatures to put a reform on the ballot. Spurred into action by the threat of Bernardi's tough initiative, the Council put a modified measure on the April 1985 ballot as a Charter Amendment, which was approved by a 77% majority of the voters.

Four years later, public pressure for further reform became intense when Mayor Tom Bradley came under fire for having financial dealings with political supporters. Bradley named a commission, headed by Geoffrey Cowan, to investigate the need for political reform in the City. It held public hearings and made its recommendations to the Mayor and the Council. After considerable debate and rewriting, the Council approved, and the Mayor signed, a package of ethics and campaign finance ordinances. The voters approved the charter amendment, Proposition H, in June 1990 by a convincing 56% to 44% majority.<sup>1</sup> Most of these recommendations had been proposed by the Center's studies *Money and Politics in the Golden State: Financing California's Local Elections* and *Money and Politics in Local Elections: The Los Angeles Area*. Both studies were published in 1989.

The campaign finance and ethics laws apply to all elected City offices, including 15 Councilmembers elected from individual districts and the three citywide offices of Mayor, City Attorney and Controller. Officials are elected in a two-stage non-partisan process. All candidates compete in a non-partisan primary election. Candidates who receive more than 50% of the vote in the primary election win the office outright. If no candidate in the primary receives more than 50% of the vote, the two candidates receiving the most votes in the primary advance to a general election, where the winner is determined.

### B. Current Law

Proposition H, combined with ordinances that took effect upon the Charter Amendment's passage, mandated the creation of the City Ethics Commission, the implementation of a comprehensive code of government ethics, the establishment of a voluntary public matching funds program with spending limits and numerous other campaign finance regulations.<sup>2</sup> Proposition H listed the following as goals of the public matching funds program.

- To assist serious candidates in raising enough money to communicate their views and positions adequately to the public without excessive expenditures or contributions, thereby promoting public discussion of the important issues involved in political campaigns.

- To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign funds for defensive purposes, beyond the amount necessary to communicate with voters.
- To provide a source of campaign financing in the form of limited public matching funds.
- To substantially restrict fundraising in non-election years.
- To increase the value to candidates of smaller contributions.
- To reduce the excessive fundraising advantage of incumbents and thus encourage competition for elective office.
- To help restore public trust in governmental and electoral institutions.<sup>3</sup>

In September 1990, the new Ethics Commissioners were appointed. In 1991, the ethics ordinance and the City's new campaign finance ordinance took effect and the Ethics Commission was fully staffed.

### ***1. Contribution Limits***

The City's contribution limits have evolved into a comprehensive and complex scheme of regulations. The following describes in detail the various limitations on political contributions in Los Angeles.

#### ***a. Fundraising Time Restrictions***

No candidate for City Council may accept a contribution more than 18 months before, nor more than 3 months after, an election. No candidate for Mayor, City Attorney or Controller may accept a contribution more than 24 months before, nor more than 3 months after, an election. The 3 month limitation on fundraising after an election may be extended by the Ethics Commission, upon a candidate's request, for the purpose of retiring a debt incurred during the campaign.<sup>4</sup>

#### ***b. Limits on Contributions From All Donors***

Campaign contributions from all donors are limited to the following amounts.

- To candidates for City Council: \$500 per election.
- To candidates for Mayor, City Attorney, Controller: \$1,000 per election.
- To any other committee which supports or opposes any candidate: \$500 per calendar year.<sup>5</sup>

Aggregate contributions from a single donor in connection with all candidates in any single election are limited to the greater of \$1,000, or \$500 multiplied by the number of City Council offices on the ballot plus \$1,000 multiplied by the number of citywide offices on the ballot.<sup>6</sup> For example, in the 2001 primary election, where there were eight Council seats up for election, as well as three citywide seats, no donor could contribute more than \$7,000 in connection with any candidate campaigns. Donors could contribute

an additional \$4,500 to candidates running in the general election for any of the five Council seats and two citywide seats on the ballot.

***c. Limits on Candidates' Receipt of Contributions From PACs, Corporations and Other Non-Individuals***

Candidates may not accept campaign contributions from non-individual "persons"<sup>7</sup> which, in the aggregate, exceed:

- \$150,000 per election for a City Council candidate;
- \$400,000 per election for a City Attorney or Controller candidate; or
- \$900,000 per election for a Mayoral candidate.<sup>8</sup>

If a candidate declines to participate in the matching funds program (see below) and receives contributions or spends in excess of the applicable spending limits, these limits do not apply to any of the candidates for the same office.<sup>9</sup>

***d. Candidate Personal Wealth Expenditures***

A candidate's contributions to his or her own campaign are also regulated. Any candidate who expends more than \$30,000 in personal funds must, at least 30 days prior to the election, deposit such funds into their campaign account and notify all opponents and the City Ethics Commission, specifying the amount intended to expend in excess of \$30,000.<sup>10</sup>

Moreover, to receive matching funds, a candidate may not contribute more than \$25,000 per election in the case of a candidate for City Council, nor more than \$100,000 per election in the case of a citywide candidate, from his or her personal funds to the campaign.<sup>11</sup> There is no limit on the amount of money that a non-participating candidate may contribute to his or her own campaign.

***e. Contribution Limits Raised***

Opponents of a candidate who spends more than \$30,000 in personal funds are excused from compliance with the standard limit on contribution size (\$500 per election for Council candidates and \$1,000 per election for citywide candidates), until the candidate facing the self-funded opponent has raised funds equal to the amount of personal funds expended by the self-funded opponent.<sup>12</sup> Under such circumstances, the only limit on the size of contributions a candidate may receive is the aggregate limit on contributions a donor may make in connection with all candidates in any single election (the greater of \$1,000, or \$500 multiplied by the number of City Council offices on the ballot + \$1,000 multiplied by the number of citywide offices on the ballot).<sup>13</sup>

***f. Loan Restrictions***

A loan, except a commercial loan made in the regular course of business, is considered a contribution from the maker and is subject to the campaign contribution limits. Extensions of credit, other than commercial loans made in the regular course of

business, which are not repaid within 30 days, are likewise subject to the contribution limits.<sup>14</sup>

There is no limit on the amount of money a candidate may loan to his or her own campaign. A candidate may fundraise after an election for three months (or longer with permission from the Ethics Commission) in an effort to repay loans made from the candidate's personal wealth to his or her own campaign.<sup>15</sup>

## ***2. Matching Funds Program***

The heart of Proposition H's campaign finance provisions was its creation of a public matching funds program. In order to qualify for the matching funds, candidates must first agree to abide by spending limits, must meet a fundraising threshold, must agree not to contribute a large amount of their own money to the campaign, and must abide by various other campaign finance regulations. Small contributions from individuals (not corporations or PACs) to candidates are then matched \$1 in public funds for every \$1 in private contributions, up to a maximum amount of public funds as defined by law.

### ***a. Funding the Program***

Proposition H amended the City Charter to include \$2 million in annual appropriations, adjusted for changes in the cost of living, to fund the public financing program. The appropriations are held in a trust fund with the balance never to exceed \$8 million, adjusted for changes in the cost of living. Annual appropriations are reduced from \$2 million in order to comply with this maximum balance provision.<sup>16</sup>

### ***b. Campaign Contract***

At the time that a candidate files his or her statement of candidacy, the candidate must also file a statement of acceptance or rejection of matching funds. Within 7 days after the last filing date for such declarations, a candidate who had filed a statement accepting matching funds may reject matching funds if another candidate for the same office has rejected matching funds, provided that the candidate returns to the City any matching funds received for that election.<sup>17</sup>

### ***c. Spending Limits***

Every candidate who signs a statement of acceptance of matching funds must abide by the following spending limits, regardless of whether the candidate qualifies to actually receive matching funds.<sup>18</sup>

- City Council: \$330,000 (Primary), \$275,000 (General).
- Controller: \$880,000 (Primary), \$660,000 (General).
- City Attorney: \$990,000 (Primary), \$770,000 (General).
- Mayor: \$2,200,000 (Primary), \$1,760,000 (General).

There is no statutory provision providing for a cost of living adjustment to these spending limits.

***d. Lifting Spending Limits***

When a candidate who declines to participate in the matching funds program makes campaign expenditures in excess of the spending limit, the spending limit is no longer binding on any candidate running for the same office. Also, if an independent expenditure committee or committees, in the aggregate, spend more than \$50,000 in the case of a City Council race, \$100,000 in a City Attorney or Controller race, or \$200,000 in a Mayoral race, in support or in opposition to a candidate, the spending limit is no longer binding on any candidate running for the same office.<sup>19</sup>

In order to facilitate this lifting of the spending limits, a candidate who chooses not to participate in the matching funds program and spends more than 100% of the applicable spending limit must notify the City Ethics Commission by telephone and either telegram or fax the day the funds are received or the limitation is exceeded. The Commission then notifies all other candidates for the same office by phone or fax.<sup>20</sup> Likewise, any person who makes independent expenditures of more than \$1,000 must notify the City Ethics Commission within 24 hours each time one or more expenditures are made which meet this threshold.<sup>21</sup>

***e. Qualification for Receipt of Matching Funds***

In order to qualify to receive matching funds, a candidate must be opposed by a candidate who has either qualified for matching funds or who has raised, spent, or has cash on hand of at least:

- \$50,000 in the case of a candidate for City Council;
- \$100,000 for City Attorney and Controller; and
- \$200,000 for Mayor.<sup>22</sup>

Each candidate must notify the City Ethics Commission on the day such candidate raises, spends or has cash on hand of more than \$50,000 in the case of a candidate for City Council, \$100,000 for City Attorney or Controller, and \$200,000 for Mayor.<sup>23</sup> Also, in order to receive matching funds, the candidate may not contribute more than \$25,000 per election in the case of a candidate for City Council, or more than \$100,000 per election in the case of any other candidate, from his or her personal funds to the campaign.<sup>24</sup> Matching funds candidates must also agree in writing to participate in at least one debate prior to a primary election, and at least two debates prior to a general election.<sup>25</sup>

Finally, in order to qualify to receive matching funds, a candidate must raise the following amounts of "seed money" within the contribution limits.

- Candidates for City Council: \$25,000 (only the first \$250 of a contribution applies towards this threshold).

- Candidates for City Attorney and Controller: \$75,000 (only the first \$500 of a contribution applies towards this threshold).
- Candidates for Mayor: \$150,000 (only the first \$500 of a contribution applies towards this threshold).<sup>26</sup>

Loans, contributions from immediate family members and a candidate's personal contributions do not apply to the qualification thresholds.<sup>27</sup> However, legal contributions from all other sources, including non-individuals, do apply toward the qualification threshold.

***f. Allocation of Matching Funds***

Contributions from individuals (not corporations, labor unions or PACs) up to \$250 for Council candidates and up to \$500 for citywide candidates are matched with \$1 in public funds for every \$1 in private contributions, up to the maximum public funds allocation (described below).<sup>28</sup> Loans, pledges, non-monetary contributions, contributions from the candidate or the candidate's immediate family members, and contributions made more than 12 months before the election are not matched.<sup>29</sup> A candidate may not request a payment of less than \$10,000 in matching funds, except during the 14 days preceding an election, when a candidate may request matching funds payments of \$1,000 or more.<sup>30</sup>

No candidate is eligible to receive matching funds in excess of the following amounts for a primary or general election.<sup>31</sup>

- City Council: \$100,000 (Primary), \$120,000 (General).
- Controller: \$267,000 (Primary), \$300,000 (General).
- City Attorney: \$300,000 (Primary), \$350,000 (General).
- Mayor: \$667,000 (Primary), \$800,000 (General).

Participating candidates who advance to a general election continue to be eligible for matching funds and also automatically qualify for a lump-sum grant equal to one-sixth of the of maximum amount of matching funds available to the candidate in the general election.<sup>32</sup>

- City Council: \$20,833 (one-sixth of \$125,000).
- Controller: \$50,000 (one-sixth of \$300,000).
- City Attorney: \$58,333 (one-sixth of \$350,000).
- Mayor: \$133,333 (one-sixth of \$800,000).

***g. Officeholder Expense Fund***

Each elected City officer is permitted to establish and maintain one officeholder expense fund for expenditures related to his or her official duties. Such funds may not be used in connection with the officeholder's future campaign for elective office. Permissible uses of these funds include:

- Expenditures for office equipment and supplies;
- Expenditures for work-related travel;
- Donations to tax-exempt charitable organizations;
- Contributions or expenditures to support or oppose candidates seeking election to an office other than a City office;
- Contributions or expenditures to support or oppose ballot measures; and
- Contributions to a political party or committee where no portion of the contribution will personally benefit the officeholder, her family, or her committee treasurer.

Contributions to an officeholder fund may not exceed \$1,000 for citywide officeholders or \$500 for a Councilmember. No City officer may accept contributions or make expenditures which, in the aggregate, exceed \$75,000 per fiscal year to or from the officeholder fund.<sup>33</sup>

### ***3. Los Angeles City Ethics Commission***

The City Ethics Commission is composed of five part-time members, with one member appointed by each of the following: the Mayor, the City Attorney, the Controller, the President of the Council and the President Pro Tem of the Council. All appointments are subject to confirmation by a majority vote of the Council. Members of the Commission serve a single, staggered five-year term.<sup>34</sup> The Commission has a budget of \$1.89 million for fiscal year 2001-02 and employs an executive director plus 22 full-time staff. In addition to this annual operating budget, the Council appropriates an additional \$2 million per year to fund the public financing program, as required by the Proposition H Charter amendment.<sup>35</sup>

The Ethics Commission is charged with implementation and administration of all City Charter provisions and laws concerning campaign financing, lobbying, conflicts of interest and governmental ethics. The Commission's duties include:

- Administration of the public financing program;
- Receipt of campaign finance disclosure reports from all candidates, regardless of their participation in the matching funds program;
- Auditing candidates' disclosure reports, regardless of their participation in the matching funds program, in order to ensure compliance with state and local law; and
- Analyzing the effectiveness of the campaign finance regulations in order to make recommendations for campaign finance reform in a report to be presented to the Council and Mayor every three years.<sup>36</sup>



### III. Findings

#### A. Campaign Spending

##### 1. *Spending Limit In Primary Elections For Council Is Too High*

Not one Council candidate interviewed following the 2001 elections complained that the spending limits were too low. On the contrary, one candidate told us, “If you can’t run a Council race for \$300,000, there’s something wrong with you.”<sup>37</sup> The statistics clearly reflect this sentiment. In Council primaries between 1989 and April 2001, only 10% of the candidates (26 out of 254) made expenditures within \$10,000 of the applicable spending limit. In fact, less than 14% of the candidates (35 out of 254) spent more than \$275,000. In Council general elections during the same period, far more candidates reached the spending limit, with 52% (22 out of 42) making expenditures within \$10,000 of the applicable spending limit and 19% (8 out of 42) making expenditures over the limit. (**Graph 1**, p. 47, **Chart 1**, p. 50 and **Chart 2**, p. 50 display this information.)

The graph and charts include data for two election years prior to the implementation of voluntary spending limits, in order to give a sense of spending both pre- and post-spending limits. In 1989 and 1991 combined, only 10% (8 out of 82) of Council primary candidates reached the spending limits that would be applied to Council primaries in 1993. This percentage has only been exceeded in one election year since the implementation of voluntary spending limits—1995, when 30% of Council primary candidates reached the limit.

One fundamental purpose of a spending limit is to level the playing field between candidates with varying access to wealthy donors by setting a spending limit that most serious candidates can reach. Another important purpose is to reduce the amount of time that candidates spend fundraising by creating a fundraising goal that candidates will reach early in the election cycle. Mike Woo explains, “[T]he fact that there is a spending limit means that there is an artificially determined number that becomes the fundraising goal.” But he went on to say that he didn’t meet this fundraising goal until less than a week before the 2001 Council primary. With only 10% of Council primary candidates ever reaching the spending limit, it is clear that neither of these purposes for spending limits are being achieved. The fact that only a tiny fraction of Council candidates are reaching the primary spending limit, combined with the fact that fundraising remains a near full-time occupation for all candidates, suggests that this spending limit for Council candidates is too high. We recommend, in the final section of this report, that the Council primary election, but not the general election, spending limit be lowered in an effort to level the campaign finance playing field and to reduce the amount of time candidates spend fundraising.

## *2. Mayoral Spending Limits Are Too Low*

Judging the adequacy of citywide office spending limits is more difficult. While candidates for the offices of Controller, City Attorney and Mayor must direct their campaigns to the same number of voters—the entire registered voter pool of the City—the spending limits for each office vary. One interesting question is whether a spending limit should be based on the number of constituents of the office, the public visibility of the office, or historical spending patterns. Public financing programs have traditionally taken the last approach, with spending limits that reflect the historic difference in campaign costs for each respective office.

In Los Angeles, for example, expenditures by candidates for the offices of Controller and Mayor varied dramatically despite the fact that both are citywide offices. The highest spending candidates for Controller in the 1993, 1997 and 2001 primary elections spent \$61,000, \$111,808 and \$667,893 respectively. In contrast, the highest spending candidates for Mayor during the same years spent \$4.4 million, \$3.4 million and \$4.4 million respectively.

It is clear from these figures that the highest spending Mayoral candidates have far exceeded the \$2.2 million primary spending limit in every election since the matching funds program was implemented. The highest spending Controller candidate fell more than \$200,000 short of the \$880,000 primary spending limit—despite the fact that all of these candidates were campaigning to the same number of voters. A complicated picture emerges.

At first glance it may seem as though the primary election spending limits for the office of Controller are too high, while the limits for Mayor are too low. But this is not necessarily the case. Two out of the last three Mayoral Primaries have been extremely competitive, with no candidate receiving a majority of the votes cast. In contrast, there has yet to be a competitive race for Controller under the matching funds program; the winning candidate has received 77%, 71% and 62% of the vote in 1993, 1997 and 2001 respectively. Thus it seems premature to judge the adequacy of the spending limits for the office of Controller. In the event that a competitive election for Controller were to occur, a spending limit lower than \$880,000 would likely inhibit a candidate's ability to communicate effectively with the City's immense registered voter pool. Furthermore, lowering the spending limit would not likely create a more competitive environment, as no second-place finisher has even raised \$200,000 since the matching funds program was implemented. There are certainly many factors that might explain why elections for the office of Controller have not been competitive in recent years, but excessive campaign spending is not one of them.

As mentioned above, Mayoral races in Los Angeles have been extremely competitive and spending has been much higher than that contemplated by the architects of the matching funds program. The spending limits have been exceeded in every Mayoral primary and general election held under the public financing program. Former Mayor Richard Riordan chose not to participate in the matching funds program in both

1993 and 1997, and he exceeded the voluntary spending limits in both races. Consequently, the spending limits were lifted for Riordan's opponents in both elections (pursuant to the spending limit trigger provision). The spending limits were again lifted for all Mayoral candidates in 2001 as a result of wealthy candidate expenditures in the primary and large independent expenditures in the general.

These Mayoral races raise questions regarding the impact of wealthy self-financed candidates and the impact of large independent expenditure campaigns. They likewise raise the question of whether a competitive Mayoral campaign can be run under the existing limits. When asked whether the limits are reasonable, Deputy Mayor Matt Middlebrook, who managed Jim Hahn's campaign in 2001, replied, "No. I don't know what the optimum limit would be. I know that we spent \$4.3 million in the primary and did not run a gold-plated campaign. We did not do a significant amount of mailing, had no field program, and spent \$4.3 million."<sup>38</sup> Hahn was by no means the only candidate to exceed the \$2.2 million limit in 2001. The top four vote getters—Villaraigosa, Hahn, Soboroff and Wachs—all exceeded the limit. Similarly, in the 1993 Mayoral primary three of the top four candidates exceeded the spending limit. These elections provide convincing evidence that the Mayoral primary spending limit is too low.

The adequacy of spending limits applicable to City Attorney elections (\$990,000 in the primary and \$770,00 in the general) is likewise difficult to determine. The spending limits have been lifted in two out of the three elections held under the matching funds program, once as a result of a wealthy candidate and, in the 2001 election, as a result of independent expenditures. In the 1997 primary, winner Jim Hahn spent \$1.2 million, while second place finisher Ted Stein spent nearly \$1.5 million. There was no general election because there were only two candidates in the primary. In the 2001 primary, two out of four candidates exceeded the spending limit—the first place finisher, Mike Feuer, spent \$1 million, and the second place finisher, Rocky Delgadillo, spent \$1.2 million. In the primary elections in both 1997 and 2001, the highest spending candidate finished in second place, although, in 2001 the candidates advanced to a general election where Delgadillo outspent Feuer again and also won the race. However, unlike Mayoral contests where candidates have made expenditures that were double the spending limit on multiple occasions, City Attorney candidates have exceeded the applicable limits by much smaller amounts—at most by \$400,000. This being the case, it is quite possible that competitive campaigns for City Attorney could be held within the constraints of existing limits absent wealthy candidates or large independent expenditure campaigns. For this reason, we do not recommend that the City Attorney limits be raised at this time.

### ***3. Skyrocketing Independent Expenditures Threaten the Integrity of Matching Funds Program***

Independent expenditures arguably constitute the single biggest threat to the integrity of the City's public financing system. When asked what aspects of the matching funds program are not working well, Ethics Commission Executive Director LeeAnn

Pelham replied, “Being able to respond effectively to the growing independent expenditures that we see. And I don’t know what the answer is to that. . . . So that’s the big question of the day.” (**Graph 2**, p. 47, shows the dramatic rise in independent expenditures, particularly in citywide races, that occurred in 2001. **Chart 3**, p. 51, displays the data.) If an independent expenditure committee or committees, in the aggregate, spend more than \$50,000 in a City Council race, \$100,000 in a City Attorney or Controller race, or \$200,000 in a Mayoral race, in support or in opposition to a candidate, the spending limit is lifted for *every* candidate running for the same office, including the candidate benefiting from the expenditures.<sup>39</sup>

Spending limits have been lifted as a result of independent expenditures with increasing frequency since the inception of the matching funds program. In 1993, spending limits were lifted as a result of independent expenditures in only one race—the Mayoral contest between Mike Woo and Richard Riordan—where the state and national Democratic Party committees combined to spend \$207,429 in support of Mike Woo.<sup>40</sup> (Even in the absence of these independent expenditures, the limit would have been lifted as a result of Riordan’s expenditures in excess of the spending limit.) Independent expenditures played a significant role in Council elections for the first time in 1999 when, as a result, spending limits were lifted in two races. Independent expenditures supporting Alex Padilla lifted the limits in the 7<sup>th</sup> district primary. Independent expenditures supporting Victor Griego lifted the limits in the 14<sup>th</sup> district general election.<sup>41</sup> This trend of increasing independent expenditures was most apparent in the 2001 elections, when spending limits were lifted in five races. Independent expenditures supporting Jim Hahn lifted the limits in the Mayoral general election. Expenditures supporting Rocky Delgadillo lifted the limits in the City Attorney primary and general elections. Independent spending in support of 3<sup>rd</sup> Council district candidate Dennis Zine and 15<sup>th</sup> Council district candidate Hector Cepeda lifted the limits in these two general elections. Sufficient independent expenditures were also made in the Mayoral primary to lift the limit, but the limit had already been eliminated because a candidate had exceeded the spending limit.

Newly elected Councilmember Jan Perry stated, “The lack of control in the independent expenditure arena is what scares me as a candidate.”<sup>42</sup> Other candidates echoed this sentiment. When asked whether the public financing program adequately deals with the influence of independent expenditures, 2001 City Attorney candidate Mike Feuer responded,

“Absolutely not. My race is the poster child for how absurd the rules are. If you’re the beneficiary of an independent expenditure campaign of any significant amount, it’s ridiculous for the spending limits that you operate under to be eliminated and for you to continue to receive public matching funds. The structure of that makes absolutely no sense.”<sup>43</sup>

Such a response from Feuer is understandable, considering that more than \$770,000 in independent expenditures were made opposing Feuer and supporting his opponent,

Rocky Delgadillo. In contrast, only \$1,842 in independent expenditures supporting Feuer were reported.

As a result of the independent expenditures supporting Delgadillo, the spending limits were lifted for both candidates. Delgadillo went on to outspend Feuer by more than \$530,000 in the primary and general elections combined—which, when combined with \$770,000 in independent expenditures, amounts to a \$1.3 million advantage in funds spent advocating Delgadillo’s election. Despite this sizeable spending advantage by Delgadillo, both candidates received the maximum public funds available, \$650,000. Delgadillo beat Feuer by about four percentage points.

Independent spending also played a substantial role in the 2001 Mayor’s race. Spending limits were lifted in this Mayoral primary election as a result of high spending by Steve Soboroff, a self-financed candidate who refused to participate in the matching funds program. Spending limits were also lifted in the general election as a result of large independent expenditures. More than \$900,000 in independent expenditures were made supporting Jim Hahn and opposing Antonio Villaraigosa, while only \$156,000 in independent expenditures were made supporting Villaraigosa.

Villaraigosa made up for this deficit through a different category of independent spending known as “member communications.” A member communication is a paid communication from an organization—such as a political party or labor union—made solely to its members. The typical member communication is a mailer expressly advocating the election of one or more candidates. Television and radio advertising are not permissible forms of member communication, because receipt of such communication cannot be limited to members of the sponsoring organization.

Under recent changes in state law resulting from passage of California’s Proposition 34, member communications were specifically exempted from state reporting requirements through their exclusion from the legal definitions of “independent expenditure” and “contribution.” Because these member communications were excluded from the state’s definition of “independent expenditure,” these communications were likewise excluded from the City’s reporting requirements and spending limit trigger provision. The Ethics Commission and local political watchdogs were outraged at this unforeseen impact of Proposition 34. In a remarkable move made *during* the election season—between the primary and general elections—the City amended its campaign finance laws to require the disclosure of member communications made to influence City elections.

According to disclosure reports received and published by the Ethics Commission, more than \$847,000 was spent on member communications during the 2001 elections. The California Democratic Party spent more than \$693,404 on member communications. The Party spent approximately \$508,000 on member communications supporting Villaraigosa exclusively, and an additional \$185,000 on communications supporting Villaraigosa along with a larger slate of Democratic candidates including City

Attorney candidate Mike Feuer, and City Council candidates Judith Hirshberg, Tom Hayden, Jan Perry and Janice Hahn (sister of Villaraigosa's opponent Jim Hahn).

Villaraigosa also received modest support from numerous labor unions, including the California Teachers Association and the L.A. County Federation of Labor. Total member communications supporting Villaraigosa exceeded \$740,000. In contrast, Hahn enjoyed the support of less than \$40,000 in member communications. Combined independent expenditures and member communications in support of Villaraigosa were approximately \$896,000, while combined independent expenditures and member communications supporting Hahn were approximately \$937,000—a mere \$41,000 differential in the end.

The most troubling aspect of independent expenditures in the Mayor's race is that, as a result of such expenditures, the spending limit was lifted for both candidates in the general election. Consequently, Hahn spent \$2.8 million in the general and Villaraigosa spent \$3.6 million, both far exceeding the \$1.7 million spending limit. In fact, candidates for Mayor have begun to expect that the spending limit will be lifted as a result of independent expenditures and, consequently, fundraise well beyond the spending limit. Deputy Mayor Matt Middlebrook, who was Mayor Hahn's campaign manager, put it this way, "With the onslaught of independent expenditures, which have dramatically increased, you kind of roll the dice by not taking that possibility into account and just keep raising." As a result of independent expenditures, the spending limits in the Mayor's race have become hypothetical at best.

In addition to the Democratic Party, some of the biggest independent spenders in 2001 included:

- Richard Riordan, who spent more than \$425,000 supporting City Attorney candidate Rocky Delgadillo and Mayoral candidate Steve Soboroff;
- Brian Kennedy (doing business as Regency Outdoor Advertising), who made \$260,000 in expenditures supporting Mayor Jim Hahn and \$125,000 in expenditures supporting Delgadillo;
- the Eller Media Company, which made more than \$300,000 in billboard expenditures supporting Delgadillo;
- three Native American Tribes, the Morongo and the Soboba Bands of Mission Indians and the Santa Ynez Band of Chumash Indians, which combined to spend \$350,000 in opposition to Mayoral candidate Antonio Villaraigosa; and
- the Los Angeles Police Protective League, which made nearly \$200,000 in total independent expenditures supporting Council candidates Hillman, Zine and Janice Hahn.

With regard to independent expenditures in Los Angeles, two things are clear. Independent expenditures have been increasing in recent years, and this trend is likely to continue. Without regulating the impact of such independent expenditures, the integrity

of the City's campaign finance program will be fundamentally compromised, as will the intent of the voters who enacted the matching funds program in 1990.

Addressing the problem of independent expenditures will require some creativity and may put the City of Los Angeles at the forefront of campaign finance reform in the United States. Under the U.S. Supreme Court's interpretation of the Constitution, a prohibition of independent expenditures violates the First Amendment.<sup>44</sup> Consequently, the City's best available regulatory options are those which reduce incentives to organizations and individuals wishing to benefit their favored candidate through independent spending. (Our recommendations are detailed in section IV-C.)

#### ***4. High Spending Wealthy Candidates Undermine Public Financing Program***

Large expenditures of personal wealth by candidates for City office undermine the campaign finance program in at least two ways. (a) Personal wealth expenditures above \$30,000 cause an increase in individual contribution limits for all candidates in the race until those candidates raise funds equal to the personal wealth used. (b) Large personal wealth expenditures frequently cause the spending limit and the aggregate limit on contributions from non-individuals (PACs) to be lifted for other candidates in the race.

##### ***a. Contribution Limits Increased***

Any expenditure of personal wealth above \$30,000 by a candidate results in the increase of the individual contribution limit (\$500 for Council, \$1,000 for citywide office) as applied to every other candidate running for the same office, until such candidates have raised funds equal to the personal wealth expenditure with over-the-limit contributions.<sup>45</sup> Under such a scenario, the only limitation on the amount of money a donor may give to a candidate is the aggregate contribution limit for the election—the greater of \$1,000, or \$500 multiplied by the number of City Council offices on the ballot + \$1,000 multiplied by the number of citywide offices on the ballot.<sup>46</sup> As described in Section II, the aggregate contribution limit for a donor in the 2001 primary election was \$7,000. Consequently, a special interest PAC that had not made any other campaign contribution was eligible to give \$7,000 to a candidate running in the 5<sup>th</sup> Council district primary as a result of Tom Hayden's use of personal wealth in his campaign. This increase in the contribution limit from \$500 to \$7,000 clearly increases the likelihood that large contributors will receive some benefit from their contributions.

The contribution limits have been increased as a result of personal wealth expenditures for at least twelve elections since the inception of the matching funds program—including all three Mayoral primaries. (**Chart 4**, p. 51, displays the candidate names and the amounts of personal wealth expended.) As a result of the contribution limits being increased, more than 1,300 contributions in excess of the standard contribution limits have been received by candidates since 1993 for a total of more than \$3.8 million—an average contribution of \$2,917. The recipients of the largest amounts of over-the-limit contributions include:

- 1993 Mayoral general election candidate Mike Woo, who received 363 contributions over the \$1,000 limit for a total of \$845,840—an average of \$2,330 per contribution;
- 2001 Mayoral primary candidate Jim Hahn, who received 101 contributions over the limit for a total of \$355,200—an average of \$3,517 per contribution;
- 2001 Mayoral primary candidate Antonio Villaraigosa, who received 175 contributions over the limit for a total of \$811,597—an average of \$4,638 per contribution (the highest average for a major candidate in matching funds program history); and
- City Councilmember Jack Weiss, who received \$42,750 in contributions that exceeded the \$500 limit in the 2001 primary and general elections—an average of \$1,379 per contribution.

Both the number and the size of these contributions threaten the integrity of the campaign finance system. The fact that the City's Mayor, elected in June 2001, received more than 100 contributions with an average size of more than \$3,500 significantly increases the potential for undue political influence by wealthy donors and most certainly fuels the public's perception of political influence, regardless of its actual existence.

It is clear that the campaign finance program must in some way assist candidates who face wealthy, self-financed opponents. It is not clear that suspending the individual contribution limits is the best way to do so. For this reason we recommend that the wealthy opponent trigger be amended so as not to allow large contributions that threaten the integrity of City elections. Instead, as described in the final section of this paper, candidates facing wealthy opponents should be given additional public funds that pose no such threat.

***b. Spending Limits and Aggregate Limits on PAC Contributions Lifted***

The second manner in which large expenditures of personal wealth often undermine the campaign finance program is by causing the spending limit and the aggregate limit on PAC contributions to be lifted. Candidates who intend to spend a substantial amount of personal wealth are not allowed to participate in the matching funds program—which limits personal wealth expenditures to \$25,000 per election in the case of a Council candidate and \$100,000 per election in the case of a citywide candidate.<sup>47</sup> These wealthy, self-financed candidates are therefore not bound by spending limits and typically spend well in excess of the limit—particularly in Mayoral races. As a result, the spending limit is then lifted for all matching funds candidates in the same race, and the aggregate limit on PAC contributions is lifted for every candidate in the race. However, rare exceptions do occur. In the 2001 5<sup>th</sup> Council district election, Tom Hayden chose to fund a substantial portion of his campaign with personal wealth but also abided by the spending limits.

The spending limits have been lifted as a result of a high spending candidate in at least eleven races since they were first implemented in 1993—six times in Council races,



four times in Mayoral races and once in a City Attorney race. In fact, the spending limit has been lifted as a result of wealthy candidate expenditures in all three Mayoral Primaries held under the public financing system. In 1993 Richard Riordan spent more than \$6 million in personal funds and more than \$9 million total in winning the Mayor's race. In the 1997 primary, Riordan again exceeded the spending limit by more than a million dollars and outspent his nearest opponent more than six to one in his successful reelection bid. In the 2001 Mayoral election, Steve Soboroff followed in footsteps of friend and supporter Riordan by spending more than \$4 million dollars in his unsuccessful campaign, causing the spending limit to be lifted for all candidates.

The wealthy opponent spending limit “trigger” provision is crucial to obtaining high levels of candidate participation in the matching funds program. Without such a provision, most serious candidates might feel far too vulnerable to high spending opponents and would forego the matching funds program. The trigger provision strikes a reasonable balance between enforcing the spending limits and allowing participating candidates to compete effectively when faced by an opponent who chooses not to abide by the limits. While there have been exceptions, candidates facing high spending opponents have typically been unable to keep pace with wealthy candidates' spending.<sup>48</sup> On average, Council candidates facing high spending opponents have spent 40% less than the candidate who broke the spending limit. Citywide candidates have fared slightly better, on average spending about 34% less than the wealthy opponent. For this reason, we recommend that candidates facing high spending opponents be assisted with additional public funding.

## **B. Public Financing**

### ***5. Candidate Participation Nears 100% in Recent Elections***

Matching funds were first available to candidates in Los Angeles for the 1993 elections. (**Graph 3**, p. 48, displays program participation and receipt of public financing data for all candidates between 1993 and 2001.) An arguably more accurate estimation of the popularity of the program is participation among serious candidates, as opposed to candidates who wish merely to appear on the ballot. (**Graph 4**, p. 48, shows program participation among “serious” candidates, with “serious” defined simply as a candidate who has raised at least \$5,000 in contributions.) Some might credibly argue that a candidate who raises only \$5,000 for a Mayoral campaign in the City of Los Angeles is not a serious candidate. However, we have opted to be over-inclusive rather than under-inclusive and, consequently, have chosen a rather low threshold of exclusion. (The raw data for candidate participation is included in **Chart 5**, p. 52.)

As is clear from both graphs and **Chart 5**, candidate participation and receipt of matching funds has grown steadily with the exception of the 1995 election. The number of candidates participating in the program, and thus agreeing to spending limits, has exceeded 80% in four out of the five elections since the program was implemented. The number of “serious” candidates agreeing to spending limits has nearly reached 100% in

the last two elections, with only one out of thirty “serious” candidates not participating in 1999 and two out of fifty-six in 2001. Such high levels of participation are certainly a sign of approval by candidates. This near-full participation is solid evidence that either the spending limits are reasonable, the limits are too high, or candidates are confident that the limits will be lifted. The incentives for compliance with the spending limits are clearly adequate. If in fact the spending limits are too high, or candidates assume that the limits will be lifted, then candidates have nothing to lose through program participation. (The adequacy of the spending limits is discussed in detail in section III-A.)

During the first four regular elections under the program, the percentage of serious candidates receiving public matching funds ranged between 25% and 53%. This figure jumped dramatically in the 2001 election to 70%. These seemingly low figures between 1993 and 1999 may indicate that the fundraising thresholds for qualification are too high. In order to qualify for matching funds, a candidate for Mayor must raise \$150,000, a candidate for other citywide office must raise \$75,000, and a Council candidate must raise \$25,000. However, a primary goal of any public financing program must be to conserve taxpayer dollars by funding only those candidates who can demonstrate a modicum of public support. The thresholds serve this purpose by requiring a candidate to prove public support through successful fundraising. The fact that thirty-nine candidates, out of a field of sixty-four, in the 2001 elections were able to exceed the thresholds is convincing evidence that the thresholds are not too high. In the 2001 Mayoral race, six candidates exceeded the fundraising threshold; in the City Attorney race, three candidates exceeded the threshold; in the Controller race, two candidates exceeded the threshold; and in eight City Council races, thirty-four candidates raised more than the threshold. Ten of eleven races in the 2001 elections involved at least two candidates who exceeded the applicable fundraising threshold. This evidence suggests that, despite the seemingly low percentages of candidates receiving public funds from 1993 through 1999, the qualification requirements are not excessively burdensome.

#### ***6. Few Council Candidates Leverage Maximum Matching Funds—Matching Funds Rate Needs Adjustment***

One goal of the City’s campaign finance reform Charter amendment was “To help restore public trust in governmental and electoral institutions.”<sup>49</sup> In order to do so, the Charter amendment made public financing available to candidates as a replacement for private special interest money that the public rightly perceives to corrupt the political process. Unfortunately, throughout the history of public financing in Los Angeles, few candidates have qualified to receive the maximum amount of public financing available under the law. (**Graph 5**, p. 49, shows the percentage of City Council primary election candidates who have received the maximum amount of public funds available, while **Graph 6**, p. 49, displays the same information for citywide office candidates. **Chart 6**, p. 52, displays the raw data.<sup>50</sup>)

These graphs distinguish between “Candidates Receiving Matching Funds” and “Candidates Accepting Spending Limits.” “Candidates Accepting Spending Limits” is the more inclusive category. It includes all candidates who participated in the matching funds program by agreeing to spending limits, many of whom did not qualify to receive matching funds for a variety of reasons—including their failure to meet the fundraising threshold or the failure of their opponent to do so. “Candidates Receiving Matching Funds” are those candidates who not only agreed to participate in the matching funds program, but who also met all of the requirements to receive public financing. This distinction is significant because, in order to evaluate how easy or difficult it is for a *qualified* candidate to receive the maximum public funding available, it is arguably more useful to look specifically at those candidates who met the minimum requirements for receiving public funds than to look at the entire universe of candidates who agreed to spending limits.

With the exception of 1995, the percentage of qualified candidates who received the maximum public funding available has never exceeded 25% in a primary election. In the 1995 primary election, 60% of Council candidates who qualified for matching funds (3 of 5) received the maximum amount available (\$100,000). Out of the larger universe of all candidates agreeing to spending limits, the percentage receiving the maximum public funds available in the primary has exceeded 10% only once—in 1995, when 21% of all participating candidates received the maximum \$100,000 in public funds. No Council candidate has ever received the maximum public funding available in a general election (\$120,000).

In terms of receiving the maximum public funds available, candidates for citywide office have fared slightly better than Council candidates in primary elections and much better in general elections. As shown in **Graph 6**, the percentage of citywide candidates who both qualified for matching funds and received the maximum amount available was 40% and 50% in 2001 and 1997 respectively. In citywide office general elections from 1993-2001, all five matching funds candidates received the maximum amount of funds available.

Given the generally low rate at which Council candidates have qualified to receive the maximum amount of matching funds available, combined with the fact that the public financing program has not reduced the amount of time candidates spend fundraising, an increase in the matching funds rate for Council candidates would significantly enhance the matching funds program. This recommendation for increased public financing is detailed in section IV-B.

### ***7. Matching Funds Program Costs Are a Tiny Fraction of the City Budget***

On average, public financing in Los Angeles costs 54¢ per resident per year, and the total sum spent is less than five-hundredths of one percent of the annual City budget. (**Chart 7**, p. 53, displays data for matching funds disbursed, program administrative

costs, total program costs as a percentage of the budget, cost per voter and cost per resident for the years 1992-2001. The chart displays information from two complete four-year election cycles, and for a two year half-cycle.) The “Matching Funds Program Administrative Cost” is based on the Ethics Commission’s estimate of total Campaign Finance Program costs for fiscal year 2001-02 (\$397,100) multiplied by four for both four-year election cycles (\$1,588,400) and multiplied by two for the 2000-01 two-year election cycle (\$794,200). According to the Commission, this figure is a slight over-estimate of the administrative cost of the matching funds program because it includes costs associated with regulating the campaign finance activities of candidates who do not participate in the matching funds program. It would be virtually impossible to separate out these non-matching funds program costs because the same staff is used for all campaign finance regulation. The “Cost Per Registered Voter Per Year” is calculated on the basis of active voter registration as of June 5, 2001: 1,538,213. The “Cost Per Resident Per Year” is based U.S. Census Bureau population statistics, with the 1990 Census data used for the 1992-95 election cycle and the 2000 Census data used for 1996-2001.

As is the case with public financing programs in other cities throughout the United States, the program costs in Los Angeles are a tiny fraction of the total City budget. Even in the most costly period analyzed, 2000-01, total program costs were barely one-tenth of one percent of the total City budget. By comparison, the total cost of the campaign finance program in 2000-01 was *a mere one-quarter of the City’s total operating budget for the City zoo*. The City’s total operating costs for the Los Angeles Zoo in fiscal year 2000-2001 were \$18.334 million—which doesn’t include liability costs for Komodo Dragon bites. When multiplied by two, for the two year election cycle, the Zoo’s budget is four times greater than the \$9.167 million cost of the campaign finance program. It would be difficult to argue that the City is spending too much money on maintaining the integrity of its electoral process.

### ***8. Matching Funds Program Has Increased Influence of Small Contributors***

The City’s allocation of matching funds is intended to increase the value of contributions from individuals as compared to contributions from corporations and PACs. The system is furthermore intended to increase the value of smaller contributions by limiting matching funds to contributions up to 50% of the applicable contribution limit. The philosophy behind this method of public funds allocation is that small individual contributions are an important form of political participation that carry little risk of political corruption and, consequently, should be encouraged. Contributions with more potential to corrupt the political process—namely larger contributions from individuals and contributions from entities that represent special interests, such as corporations and PACs—are not encouraged by not matching them with public funds. The result is that a \$250 contribution from an individual is worth \$500 to a Council candidate, while a \$250 contribution from a PAC is worth only \$250. Likewise, a \$500 contribution from an individual is worth \$750 to a Council candidate (because \$250 of the contribution is

matched by the City), while the maximum PAC contribution of \$500 to a Council candidate is worth only \$500 because it is not matched.

Prior to the implementation of the matching funds program in Los Angeles, City Council incumbents typically received a majority of their contributions from business sources, as opposed to individuals. Between 1981 and 1985, City Council incumbents received 64% of their contributions from business sources, while challengers received only 26% of their contributions from business sources.<sup>51</sup> Proposition H was intended to decrease this domination of the campaign finance arena by business interests. Following the implementation of the matching funds program, between 1993 and 1997, contributions from corporations and PACs to incumbents were reduced to 38%, while business contributions to challengers were reduced to 17%.<sup>52</sup> Overall, recipients of matching funds relied less on contributions from non-individuals than did candidates who did not receive matching funds. Between 1993 and 1997, 21% of the contributions to recipients of public funds were from non-individuals, as compared to 35% of the contributions to candidates who did not receive matching funds.<sup>53</sup>

When asked if he deliberately solicited more contributions from individuals than from corporations and PACs during the 2001 elections Councilmember Reyes replied, “Oh yeah, absolutely,” because he wanted to receive matching funds but also to demonstrate that he had a community base.<sup>54</sup> According to Councilmember Jan Perry,

“Matching funds reduced my need to appeal to a particular special interest community. It’s a little easier to get \$250 from a person as an individual, or a hundred dollars, than it is to get \$500. But the contribution is matched, so it’s worth as much as a \$500 contribution from a corporate PAC without the special interest strings.”<sup>55</sup>

New York City goes a step further than the City of Los Angeles to encourage individual contributions over corporate contributions. In New York City, a publicly financed candidate who agrees not to accept corporate contributions receives four dollars in public funds for every one dollar raised in individual contributions, up to \$250 per contributor. When asked whether candidates in Los Angeles should be given similar incentive to forego corporate contributions, numerous candidates stated that such a provision is unnecessary. Mike Feuer stated,

“I don’t think it matters that much here. That assumes that the big evil in fundraising there is all these corporate contributions drowning out the voices of the average [voter]. I don’t see that here. And because the corporate donations aren’t matched, as it is, there’s already a disincentive to get the corporate check if you have a choice.”<sup>56</sup>

Former Councilman Mike Woo suggested that such a provision would be ineffective because it would be so easy to circumvent. In fact, as the system currently exists, it is clearly to a candidate’s advantage to coax matchable individual contributions from one or

more corporate officers than to receive the maximum contribution from a corporation itself.

It is clear that the matching funds program has increased the importance of smaller individual contributions. Future amendments to the matching funds program should seek to further this trend by offering a premium on small contributions from individual donors.

### ***9. Public Financing Has Enabled Grassroots Candidates to Run Competitive Campaigns for City Council***

When asked what has worked best with the matching funds program, Ethics Commission director LeeAnn Pelham replied:

“I think what works best is people who say to us that they were able to think about running for office because they thought that the public funds helps give them a way to be more competitive than they would otherwise. I would describe them as your grassroots candidates, who feel that there’s some way that they have a shot at actually being a legitimate candidate running for City office.”<sup>57</sup>

Among candidates interviewed, the availability of matching funds had a varying impact on their decision to run for office. When asked if the availability of matching funds influenced his decision to run for office, first-time officeholder Ed Reyes, elected to Council in 2001, replied,

“Absolutely. I think it was more the way the rules controlled the level of funds coming in that allowed me to be competitive. Because I knew that the folks I’d be running up against would have an endless source of income if it wasn’t for those limitations. My parents are from Mexico. I’m the first generation that has grown up here, I’m born here. I don’t have the traditional ties to the power groups or the power structure. I literally came from the neighborhood. Without public financing, I knew that I wouldn’t have been able to throw a stone like in the David and Goliath story. I probably would have been throwing a pebble. With public financing I knew I had a shot.”<sup>58</sup>

Councilmember Reyes had more than just a shot. He was in fact the only candidate to win an open-seat Council race without a run-off election, and received more than \$55,000 in matching funds to do so.

In 1999, 10<sup>th</sup> Council district candidate Madison Shockley ran his first campaign for public office against incumbent Nate Holden. Though Holden out-fundraised Shockley nearly two to one in the primary, Shockley was able to narrow the gap with

nearly \$100,000 in matching funds. Shockley was outspent by less than \$100,000 in the primary and waged an impressive grassroots campaign—forcing Holden into a general election. Shockley again fully utilized the City’s campaign finance system in the general election, receiving 44% of his \$243,519 in total campaign funds through the matching funds program, but lost a close race to Holden.

During the program’s inaugural year, matching funds assisted two challengers in defeating incumbents who had agreed to abide by spending limits. In the 1993 race for 3<sup>rd</sup> Council district seat, challenger Laura Chick received nearly \$70,000 in matching funds on her way to second place in the primary, outspending the incumbent by \$6,400. This momentum carried Chick through the general election, where she out-fundraised incumbent Joy Picus by \$60,000, received \$92,000 in matching funds and won the race by 16% of the vote.

In the 1993 15<sup>th</sup> Council district primary, incumbent Joan Milke Flores accepted the spending limit yet still spent twice as much as second-place finisher Rudy Svorinich, who spent \$146,316. But with the help of \$82,207 in matching funds, Svorinich was outspent by only \$50,000 in the general election and went on to beat the incumbent by 6% of the vote. This is only a small sampling of the candidates who have used the City’s matching funds to wage competitive campaigns that otherwise might not have been possible.

In contrast, some candidates with long histories in Los Angeles politics and connections to traditional campaign contributors, though agreeing to the spending limits and receiving matching funds, stated that the availability of matching funds was not a major factor in their decisions to run for office. First time candidate Jan Perry, a well-connected long-time political player in the City who won her race for the 9<sup>th</sup> district Council seat, stated that the availability of matching funds did not significantly influence her decision to run because she had experience raising money for past candidates at the local level and was confident that she could fundraise adequately with or without public financing. Nevertheless, Perry supports the matching funds program wholeheartedly. “If you understand the program and study it, it is an enormous support and help to . . . someone who is a regular person and doesn’t have any access to PAC money in a big way, or special interest money. It’s a pretty good equalizer.”<sup>59</sup> Likewise, former Councilmember and 2001 candidate for City Attorney Michael Feuer stated that the availability of matching funds was immaterial to his decision to run for either office but he continues to advocate for the strengthening and expansion of the program.<sup>60</sup>

### ***10. Matching Funds Initial Qualification Requirements Are Appropriately Set***

The purpose of the fundraising thresholds is to restrict access to public funds to those candidates who are able to demonstrate a broad base of public support. Council candidates must raise money from at least 100 contributors; City Attorney and Controller candidates must raise money from at least 150 contributors; and Mayoral candidates must

raise money from at least 300 contributors before public matching funds will be available.

The qualification requirements have proven stringent enough to restrict public financing to serious candidates. The fundraising thresholds are by far the most difficult qualification requirement for candidates to meet. Nonetheless, more than 60% of the candidates running for office in the 2001 regular elections were able to exceed the threshold and receive matching funds. The requirement that a matching funds candidate be opposed by a candidate who has either qualified for matching funds or has spent a substantial amount of money further ensures that Los Angeles taxpayer money will be used only when needed to fund competitive races. One Council candidate, eager to receive matching funds but faced by an opponent who was slow in reaching the \$25,000 threshold, told us:

“I was hoping my contenders would have been more aggressive in fundraising because I wanted [them] to reach the matching funds limit, because that would help me even more. That’s what democracy is about. It’s getting fair representation, and allowing for a competitive environment for people to pick who they feel is the best.”<sup>61</sup>

Given the high participation rates, combined with the high percentage of participating candidates receiving matching funds in Los Angeles elections, the qualification requirements are by no means too high. For this reason, no changes to the qualification requirements are recommended.

### ***11. The Public Financing Trust Fund Has Worked Well and Serves As Model for Other Jurisdictions***

In contrast to municipalities where matching funds programs have been severely under funded, such as Austin and Long Beach, Proposition H’s creation of a trust fund has allowed the Ethics Commission to promote the program vigorously and to meet easily every qualified request for matching funds in the program’s history. In 2001, the Ethics Commission disbursed more than \$8 million to 39 qualified candidates. Since the program’s first implementation—for the 1993 election—the Commission has distributed approximately \$16 million dollars in matching funds. The program’s consistent and reliable source of funding has been a significant factor in the overall success of the program. Jurisdictions considering the implementation of a matching funds program should consider using a similar funding structure, which is guaranteed through its adoption as a Charter Amendment, and which reduces the budgetary impact of the program by spreading the cost over the four-year election cycle.



## C. Fundraising

### *12. Contribution Limits Encourage Matching Funds Program Participation and Reduce the Influence of Special Interests*

Though enacted five years prior to the matching funds program, the City's mandatory contribution limits serve as strong incentives for candidates to participate in the matching funds program because the difficulty of fundraising under the constraints of contribution limits is somewhat alleviated by the matching funds. Contribution limits also serve to reduce the influence of would-be large campaign contributors. Proponents of contribution limits argue, and the U.S. Supreme Court has acknowledged, that contribution limits may reduce political corruption or the appearance of corruption.<sup>62</sup> By limiting the amount of money that any single contributor can give to a candidate, contribution limits reduce the likelihood that an elected official is beholden to a few wealthy donors.

Theoretically, if the contribution limits were set low enough to enable a low-income individual to give the maximum allowable contribution, then such contributions from low-income individuals would be as valuable to a candidate as those from wealthy individuals. This would increase the likelihood that an elected official would represent the interests of all constituents, rather than representing only the interests of wealthier donors who are needed to run a future reelection campaign. Such low contribution limits would also increase the likelihood that candidates who represent the interests of low-income individuals would be able to compete effectively with candidates who enjoy the support of wealthy individuals and business interests.

In an electoral system funded in whole or in part by private contributions, however, such theoretical ideals must be balanced against a candidate's need to raise enough money to wage an effective campaign. In Los Angeles, each Councilmember represents an average of 150,000 registered voters and more than 200,000 residents. Communicating a campaign message to so many people is a costly endeavor. In the 2001 elections, the least amount of money spent by a winning candidate was \$194,895—and this winner was an incumbent. The winner of the least expensive open seat Council race spent more than \$306,000.<sup>63</sup>

City Council candidates may not accept contributions larger than \$500 per election, while candidates for citywide office may not accept contributions larger than \$1,000. It is obvious that most low-income individuals could not make a \$500 contribution to their favorite Council candidate. A \$1,000 contribution to a citywide candidate is even further beyond the realm of possibility for most Los Angeles residents. The theoretical ideal has clearly not been met—wealthy individuals and business interests wield more political influence than the average Los Angeles resident under current law.

Nonetheless, raising \$300,000 in \$500 increments is a daunting task that, without matching funds, would require a candidate to convince more than 600 donors to make the maximum allowable contribution. In reality, few donors are willing to contribute \$500,

forcing Council candidates to seek contributions from far more than 600 donors. The availability of \$100,000 in public financing in Council primaries alleviates this fundraising burden. In the best-case scenario, a matching funds candidate could raise \$300,000 by receiving 400 contributions of \$500 dollars from individuals (not businesses or PACs). The first \$250 dollars of each such individual contribution would be matched by \$250 in public funds, for a total of \$200,000 in private contributions and \$100,000 in public funds. However, few candidates could fundraise exclusively from individual donors, and few candidates qualify to receive the maximum amount of public funds available—as discussed in detail below. Consequently, this best-case scenario has never been realized and even matching funds candidates must raise far more than 400 contributions to wage a successful Council campaign.

Ed Reyes, for example—who received \$56,000 in matching funds—raised more than 941 contributions for a total of \$240,627 in his campaign to win the 1<sup>st</sup> Council district primary.<sup>64</sup> Jan Perry—who received the maximum \$100,000 in matching funds—needed more than 831 contributions to raise \$220,543 in her campaign to take second place in the primary and move on to the general election in the 9<sup>th</sup> Council district.<sup>65</sup>

If, to advance the theoretical ideal of equalizing political influence, the contribution limit were lowered to \$100—which is the contribution limit in many small cities throughout the U.S. such as Austin and Boulder—a Council candidate would be required to raise at least 3,000 contributions to reach a fundraising total of \$300,000 without public financing. This would be a near impossible task for any candidate. Even if such a candidate received the City’s maximum allocation of matching funds in a Council primary by raising at least 1,000 matchable contributions, the candidate would still need to raise at least 2,000 contributions total for the primary election alone.

Given the current level of public financing in L.A.’s elections, the existing contribution limits strike a reasonable balance between the theoretical ideal of equalizing the political influence of all campaign contributors, regardless of wealth, and allowing candidates to raise adequate funds to wage effective campaigns. Under the \$500 limit, Council candidates have been able to raise sufficient funds to wage effective campaigns, while wealthy donors have been limited in the amount of influence they would exert in the absence of the \$500 limit. Nonetheless, some candidates feel as though the \$500 limit has done little to alter the landscape of political influence. According to 2001 Council candidate, and former Councilmember Mike Woo,

“Candidates still go to the same people they would have gone to otherwise to raise money. It’s just that they can’t raise as much from them. I don’t think that the matching [funds] program has really reduced the influence of donors. I think the same people who were influential before are still influential. They don’t have to give as much. But they’re still influential.”<sup>66</sup>

However, Woo did acknowledge that the availability of matching funds alleviates the fundraising burden and that contribution limits serve an important purpose.

“If public funds had not been available, then I would have had to work harder to raise more private funds. I would have had to start earlier or I would have had to have more people out there raking up the money. It would have been very hard. I think the matching funds replace some of the money that candidates would otherwise try to raise from private sources. [And] the contribution limits, I think, prevent the specter of donors buying candidates, except to the extent to which the public may think that even a \$500 donation may buy a candidate.”<sup>67</sup>

### ***13. Candidates Still Fundraise Full-time***

Campaign finance reform advocates have long argued that limits on campaign fundraising and spending would de-emphasize the importance of money in elections and, consequently, reduce the amount of time that candidates and officeholders would spend fundraising. According to this argument, candidates and officeholders would then spend more time discussing issues with their constituents, and fulfilling their duties as elected officials. But some candidates don’t consider the amount of time spent fundraising to be a bad thing. Jan Perry said “I don’t think it’s harmful. It’s another threshold that one has to cross. It’s a survival skill. A test of viability, survivability, tenacity and seriousness.”<sup>68</sup>

In Los Angeles, our research has revealed that this goal of reform advocates has not become reality. According to all of the candidates with whom we spoke, fundraising is still a near full-time job for candidates waging competitive campaigns. When asked less than one month before the general election how much time she spent fundraising, Council candidate Jan Perry replied, “Right now I’m doing it every day from 9 until 3.”<sup>69</sup> When asked the same question, Council candidate Ed Reyes replied, “It was kind-of like an inverse slope. At the beginning everything was dedicated to the phone. . . . At the beginning, . . . I started at seven in the morning . . . and [went] until eight or nine [at night].”<sup>70</sup> And Mike Woo told us, “I don’t think that the matching funds program significantly reduces the amount of time or the percentage of time which candidates spend on fundraising.”<sup>71</sup> The problem may lie with the contribution limits. Woo stated,

“I think that the contribution limit may be too low. To some extent, I’m focusing on one of the inherent problems with limits, which is, especially with contribution limits, it means that you have to go to that many more people to be able to get the money and in some ways it’s more work and takes more time, defeating some of the purpose of having the limits.”<sup>72</sup>

One obvious solution to this problem would be to raise the contribution limits. However, Woo was the only candidate we spoke to who felt the contribution limits might be too low. Every candidate interviewed, including Woo, recognized that large campaign contributions hold the potential to corrupt the political process. Rather than raising the

contribution limits, candidates consistently advocated further exploration of policies to increase matching funds or implement full public financing to reduce the amount of time candidates spend fundraising. Increasing the amount of public funds in candidate campaigns, while maintaining reasonable spending limits, would reduce the time spent fundraising without risking corruption through the undue influence of wealthy donors. (The options of increasing matching funds or implementing full public financing are discussed in section IV-B of this report.)

#### ***14. Most Candidates Do Not Raise Funds Until Close to the Election***

Los Angeles was one of the first jurisdictions to enact a provision limiting when a candidate may start collecting funds. Candidates for citywide office (Mayor, City Attorney, and City Controller) may not raise funds until 24 months before the election, while candidates for City Council may not start collecting campaign money until 18 months before the election. This limitation on when candidates can start collecting funds accomplishes two purposes: it reduces contributor influence on City officeholders and it enhances competition for City offices.

In terms of the influence on City officeholders, this prohibition on fundraising means that for at least two years, most elected City officials cannot devote any part of their time to raising campaign funds. This allows them to devote more of their time to City business and less time to campaigning. This means fewer fundraising events while City Council hearings and important debates are being conducted. This also means that there is less pressure to give campaign funds at the same time that a particular ordinance or development is being considered by the Council or the Mayor.

In terms of the impact on the election, officeholders have traditionally tried to raise as much campaign money as early as possible to scare off challengers. One state legislator boasted that he was going to try to raise \$500,000 in the off year so that he would not be faced with any serious competition. He succeeded on both counts.

The off year fundraising prohibition, however, does not apply to officeholder funds, which are allowed to be raised each year. Incumbent City officials are permitted to raise or spend no more than \$75,000 a year, in years in which they are not running for office. In addition, because of the four year terms for Council, the off year prohibitions are staggered so that half the Council may be permitted to raise campaign funds, while the other half is subject to the prohibition.

In Los Angeles since the law went into effect, most incumbents and other candidates have not been chomping at the bit to start their fundraising as soon as possible. There are some exceptions, however, most notably the new Mayor Jim Hahn and his predecessor, Richard Riordan. Both started raising campaign funds as soon as the 24 month cooling off period ended. Riordan, by 18 months before the election, had

collected \$301,000. Hahn raised \$290,000 in the time period through June 30, 1999, about 21 months before the election.

But these two major candidates were the exception, not the rule. Only a few other citywide candidates began immediately to raise funds. They included City Attorney candidate Mike Feuer, who gathered \$182,000 in the first three months, and City Controller Rick Tuttle, who began raising some funds 22 months before the election.

A few City Council candidates roared out of the starting blocks as soon as they could begin fundraising. The most notable candidate was Janice Hahn, the Mayor's sister, who ran in the 15<sup>th</sup> district City Council race. She began her fundraising on October 14, 1999, and had collected \$29,000 by the end of the year. She was eclipsed by one other City Council candidate, Scott Schriber in the 3<sup>rd</sup> district, who gathered \$31,000 by end of 1999. (Schriber, however, never filed his papers to run for office.)

Of the 8 winning Council candidates this year, only two began fundraising more than 12 months before the election, Janice Hahn at 18 months before the election and incumbent Cindy Miscikowski, 14 months before the election. For the 8 winners, the median time when they started raising funds was 11.5 months before the election. For all City Council candidates, the median was 10 months before the election. Dennis Zine, winner in the 3<sup>rd</sup> Council district, began raising funds on October 12, 2000, a mere six months before the election.

In 2001, the Ethics Commission sponsored legislation which, among other things, reduced the period of fundraising by 6 months. Under the ordinance, citywide candidates would have had a 30 month cooling off period and City Council candidates a 36 month fundraising free period, 6 months more than current law. While the City Council overwhelmingly passed this proposal, Mayor Hahn, in his first month in office, vetoed the ordinance, which also contained other reforms.

The Ethics Commission should present this reform again to the Council and the Mayor. The less time that candidates can fundraise, the more that City business will be conducted without the need to raise campaign money at the same time. Incumbents will also have less of an advantage over their challengers in terms of early fundraising.

### ***15. The Lack of Restrictions on Loans Allows Winning Candidates to Pocket Post-Election Contributions***

Though campaign loans to candidates are characterized by City law as contributions and subject to contribution limits, loans by a candidate to his or her own campaign are not limited in size. The only regulation of such loans is that the candidate must deposit the money into his or her campaign account before spending it. Furthermore, a candidate may fundraise after an election for three months (or longer with permission from the Ethics Commission) in an effort to repay loans to his or her

campaign. According to Ethics Commission director LeeAnn Pelham, extensions to fundraise up to six months after an election are typically granted when sought by a candidate.

This lax regulation of candidate loans and the repayment of such loans creates troubling potential for political corruption. Candidates who loan themselves campaign money and then win the election are allowed to fundraise for six months—*and the funds raised go directly from their campaign account into their personal bank account*. While candidates who lose an election typically have difficulty raising money after the election, elected officeholders never lack eager campaign contributors. The danger posed by campaign contributions from special interest groups going directly into an officeholder's personal bank account is obvious.

Most recently, in the 2001 4<sup>th</sup> Council district special election campaign currently underway, Beth Garfield has loaned her campaign \$700,000 from her personal wealth.<sup>73</sup> In the event that Ms. Garfield wins the October 23 general election, lobbyists and PACs may line up to assist Garfield in her effort to repay this loan to her personal bank account. While the resultant campaign contributions may or may not impact Garfield's policy decisions, the appearance of undue influence will be significant. City residents may understandably question the integrity of Los Angeles politics. Garfield is not alone. Earlier this year, Council candidate Tom Hayden loaned his campaign \$341,000, Mayoral candidate Kathleen Connell loaned her campaign \$100,000 and Council candidate Steve Saltzman loaned his campaign \$44,500.

The lack of restrictions on candidate personal loan repayment most certainly need repair. The following section offers recommendations for closing this loophole in the City's campaign finance laws.

## **D. Program Administration**

### ***16. Ethics Commission's Good Work Has Been Vital to the Success of Campaign Finance Program***

The creation of an administrative body with the specific purpose of administering and enforcing the campaign finance regulations, combined with appropriation of adequate funding, has clearly made the public campaign finance program of Los Angeles one of the best in the United States. The Ethics Commission does an extremely difficult job quite well. The Commission has written numerous excellent, detailed reports evaluating the effectiveness of the campaign finance laws. The Commission has sought constantly to improve the campaign finance program, bringing numerous proposals for reform to the Council every year.

The Commission has also done an excellent job designing and implementing a system of electronic campaign finance report filing and disclosure. This system of electronic filing and disclosure allows anyone with access to a computer to search the

Commission’s website for campaign contribution and expenditure data, as well as independent expenditure data, which is updated regularly throughout the election cycle and is accessible seven days a week, every week of the year. This use of computer technology allows for the full potential of campaign finance disclosure laws to be realized and makes research for reports such as this one phenomenally easier than it would be otherwise.

The Commission is charged with policing the same elected officials who control its budget—not an enviable task. Despite this political reality, the Commission has repeatedly stood up to the Mayor and Council, advocating reforms that have historically been and continue to be resisted by some incumbents. Most recently, the Commission proposed and the Council approved a campaign finance reform ordinance that would have decreased the fundraising period for Mayoral and Council candidates—an effort to decrease the advantages of incumbency. The ordinance would have also increased the matching funds rate from \$1 to \$2 in public funds for every \$1 contributed by an individual. Mayor Jim Hahn, in office for less than one month, vetoed the ordinance. The Commission’s Executive Director, LeeAnn Pelham, replied in a press release:

“We are disappointed that the new Mayor, himself a former matching funds participant, chose not to support this package of enhancements to the City’s comprehensive set of reforms. . . . Since its enactment, the program has demonstrated a sound return on the public’s investment, and this was an important opportunity to broaden those benefits to voters by shortening the campaign period while enabling candidates to more fully leverage available public matching funds within existing funding levels.”<sup>74</sup>

When asked to comment on the performance of the Ethics Commission, candidates rated the Commission from “good” to “great” but consistently noted that the Commission’s investigations of alleged violations of campaign finance laws during the campaign season need to be completed more quickly. Typically, investigations into alleged violations of law are not completed until after an election—too late, according to some. Councilmember Jan Perry stated that the Commission “need[s] to work on rapid response investigative approaches and bringing people into compliance quickly.”<sup>75</sup> Candidates also recognize the difficulty of the Commission’s job. Former Councilmember and City Attorney candidate Michel Feuer stated, “The Ethics Commission doesn’t, in a timely way, appear to be investigating meaningful allegations. And they’re in a tough place, because campaigns use them.”

The greatest risk posed by more rapid investigation is that the Commission’s public announcement of an investigation into a candidate’s campaign would cast a dark cloud over that candidate regardless of the merit of the allegation. A candidate could do serious harm to an opponent by making a false accusation that is followed by a high-profile Commission investigation before the election. Instead, the Commission avoids this potential to influence the outcome of an election by publicizing their investigations after the election takes place. When violations of campaign finance laws are found, the Commission imposes fines on wrongdoers.

Based on its track record, we are confident that the Ethics Commission will continue to perform its duties well. For this reason we make no recommendation for changes to the Commission's structure at this time.

## IV. Recommendations

### A. Adjust Spending Limits

#### 1. Lower Council Primary Spending Limit from \$330,000 to \$275,000

In City Council primary elections between 1989 and April 2001, only 10% of the candidates (26 out of 254) made expenditures within \$10,000 of the spending limit.<sup>76</sup> In fact, less than 14% of the candidates (35 out of 254) spent more than \$275,000. (See Finding No. 1, p. 10) In Council general elections during the same period, far more candidates reached the spending limit, with 52% (22 out of 42) making expenditures within \$10,000 of the spending limit. (See **Graph 1**, p. 47, **Chart 1**, p. 50, and **Chart 2**, p. 50.)

A central purpose of spending limits is to limit the amount of time candidates spend fundraising, while still allowing them to raise sufficient funds to wage competitive campaigns. Spending limits also reduce special interest influence in politics by lessening the amount of private contributions candidates would solicit in the absence of spending limits. Spending limits also level the playing field between candidates with and without access to wealthy donors.

Spending limits are ineffective to the extent that these purposes are not being met. Under a voluntary spending limit regime, the spending limit becomes a candidate's *de facto* fundraising goal. In Los Angeles City Council primary elections, the spending limits have certainly prevented campaign expenditures from spiraling out of control as they have at many levels of government in recent years. So few candidates have reached their *de facto* primary election fundraising goal of \$330,000, however, that fundraising remains a full-time preoccupation for every serious Council candidate. The fact that so few candidates reach this fundraising goal forces them to solicit contributions from every available source—including special interests with business at City Hall. It is only when candidates feel confident that their fundraising goals will be met that they can afford the luxury of turning down contributions from special interest sources. A candidate with greater access to wealthy contributors will likely be the one-in-ten Council primary candidate who reaches the spending limit and outspends other candidates in the race—undermining the notion of a level playing field.

Based on our findings, we recommend that the City of Los Angeles lower the City Council Primary election spending limit to \$275,000. For the 1999 and 2001 elections combined, only 13 out of 90 Council candidates (14%) spent more than \$275,000. A \$275,000 Primary election spending limit would reduce the amount of time that Council



candidates spend fundraising, reduce the pressure on candidates to solicit private contributions from undesirable sources and reduce the unfair competitive advantage enjoyed by incumbents and other candidates with greater access to financial resources. At the same time, a \$275,000 limit would provide Council candidates with sufficient funding to wage competitive campaigns by freely and effectively communicating their messages to the voting public.

***2. Increase Mayoral Spending Limits from \$2.2 Million to \$4 Million in the Primary Election and from \$1.76 Million to \$3 Million in General Election***

Under current law, the primary election spending limit for the office of Mayor is \$2.2 million, and the general election spending limit is \$1.76 million. These spending limits have been lifted in every race held under the matching funds system as a result of either a high-spending wealthy candidate or large independent expenditures. (See Finding No. 2, p. 11) In the two open seat Mayoral primaries held under the matching funds system in 1993 and 2001, a total of six candidates exceeded the limits. All four Mayoral candidates who have run in general elections since voluntary spending limits were implemented have exceeded the limit.

In the 2001 Mayoral primary the highest spending candidate, Jim Hahn, more than doubled the limit by spending \$4.45 million. Steve Soboroff was the second highest spending candidate, with expenditures exceeding \$4.1 million. Two other candidates, Antonio Villaraigosa and Joel Wachs, also exceeded the \$2.2 million limit. In the 2001 general election, Villaraigosa more than doubled the limit on his way to a second-place finish.

The fact that no candidate has won a Mayoral election while adhering to the spending limits since the limits took effect in 1990 suggests that the limits were initially set too low. We recommend that the City increase the Mayoral primary spending limit to \$4 million and the Mayoral general election spending limit to \$3 million. These higher limits will better reflect the real costs of campaigning for the City's highest office in the new millennium, while still requiring candidates accepting matching funds and expenditure ceilings to spend less than the highest spenders in the 1993, 1997 and 2001 Mayoral elections.

**B. Increase Public Financing to Council Candidates**

***3. Provide Full Public Financing to General Election Council Candidates Adhering to Spending Limits***

Under current law, Council candidates who advance to the general election receive an immediate grant of \$20,833 in public funds—one-sixth of the maximum \$125,000 in public funds available to them over the course of the general election.

Candidates must then continue to raise matchable contributions in order to access the total \$125,000 sum. No Council candidate, however, has ever received the total available \$125,000 in public funding, probably because they have little time (less than two months) between the primary and general elections in which to raise matchable contributions. (See Finding No. 6, p. 19)

We recommend that Council candidates who accept matching funds in the primary election and then advance to a general election, immediately receive \$275,000 in public financing—the full amount of the general election spending limit. The purpose of the current matching funds system, which allocates public funding on the basis of private contributions raised by a candidate, is to require a candidate to demonstrate popular support before allowing the candidate access to public campaign financing. By receiving enough votes to advance to a general election, candidates clearly demonstrate a broad base of public support, making the task of additional fundraising unnecessary to prove this support.

Full public financing of City Council general election campaigns would eliminate the need for candidates to fundraise full-time and, consequently, would allow these candidates to focus on grassroots campaigning and discussing important public policy issues with voters. Full public financing of City Council general elections would likewise eliminate the need for candidates to accept contributions from moneyed special interests that are anxious to contribute to the campaigns of *both* general election candidates because one of them is guaranteed to be elected to office. Full public financing of Council general elections will provide a level playing field between candidates regardless of their ties to wealthy donors.

In the event that the general election spending limit is eliminated as the result of large independent expenditures or a high spending candidate, we recommend that Council candidates who receive full public financing be allowed to resume fundraising without further assistance of public funds. This provision will encourage participation by wealthy candidates in the public financing program, discourage large independent expenditure campaigns and provide candidates who do participate with sufficient resources to compete effectively against any opponent.

#### ***4. Increase Matching Funds Rate for Small Contributions to Council Candidates***

Under current law, City Council candidates who meet preliminary requirements to receive public financing receive \$1 in public matching funds for every \$1 in private contributions from individuals, up to \$250 per contributor per election. Very few candidates, however, have been able to access the total \$100,000 in public financing available in the primary election under this matching funds formula. (See Finding No. 6, p. 19, **Graph 5**, p. 49, and **Chart 6**, p. 52.) In fact, throughout the history of the City's

matching funds program only 11 out of 148 candidates (7.4%) who agreed to the primary spending limit received the maximum public financing of \$100,000.

As discussed in Recommendation No. 3, this inability of candidates to access the full public financing available to them is a weakness in the current system. As a result, candidates are still forced to fundraise full-time and must rely heavily on private contributions that may subject them to the risk of undue influence from special interests with business in City Hall.

We recommend that the current \$1-to-\$1 matching funds ratio for contributions to Council candidates be increased to \$2 in public funds for every \$1 in individual contributions, up to \$250 per contributor per election. Under the current law, a contribution of \$250 from an individual is worth a total of \$500 to a matching funds candidate. A candidate has an equal incentive to solicit a \$250 contribution from an individual and the maximum \$500 contribution from a corporation or a PAC, even though the latter contribution is not matched. An increase in the matching funds rate will make small contributions from individuals more valuable to a candidate than the maximum corporate or PAC contribution. Under the proposed \$2-to-\$1 match, a \$250 contribution from an individual will be worth \$750 to a matching funds candidate, while the \$500 PAC contribution will continue to be worth just \$500.

The increased importance of small, individual contributions will encourage candidates to spend more time campaigning to average City residents and less time soliciting special interest contributions. An increase in the matching funds rate will also enable more Council candidates to access the \$100,000 in available public financing available for primary elections. Candidates will reach their fundraising goal (*i.e.*, the spending limit) more quickly and spend less time doing it. An increase in the matching funds rate will further enhance the competitiveness of candidates with broad public support in low-income communities but few ties to wealthy campaign donors.

We recommend that the current matching funds rate for citywide candidates be maintained, not increased. Our research has shown that the matching funds program has less impact on citywide office elections than on Council elections. In races for citywide office, spending limits have frequently been lifted as a result of independent expenditures or high spending candidates. Candidates for citywide office are typically wealthy, have held lower office, or are otherwise well-connected to wealthy campaign donors. Consequently, candidates for citywide office have had little difficulty fundraising and qualifying for the maximum levels of available public financing. In fact, every matching funds candidate to run for citywide office in a general election has received the maximum public funding available, while no Council candidate has ever received the maximum public funding in a general election. When asked if Mayor Hahn's receipt of public matching funds substantially effected his ability to run a competitive campaign, Deputy Mayor Middlebrook replied:

“In the mayor's race, no. I think he would have had the ability to raise it one way or the other just having been in City government, and the fact that

he started early, and was committed and worked hard. We would have been able to raise the spending limit [without the matching funds]. We ultimately spent, I believe, \$4.3 million including the matching funds in the primary. Whether we could have raised that money without matching funds, I don't know, probably not. But we could have run a competitive race with or without the matching funds.”<sup>77</sup>

Public funds disbursed to citywide candidates are dollars well spent. Additional public funds should be targeted to the races where they are most needed and will have the greatest impact—City Council races.

## **C. Increase Assistance to Candidates Facing Wealthy Opponents or Large Independent Expenditures**

### ***5. Do Not Eliminate Spending Limit for Candidates Who Benefit from Independent Expenditures***

Independent expenditures are skyrocketing in Los Angeles politics and threaten the integrity of the campaign finance system. Independent spending has risen in meteoric fashion from a previous high of \$323,201 in 1993 to an astounding \$3,197,752 in the 2001 elections. (See Finding No. 3, p. 12. **Graph 2**, p. 47 and **Chart 3**, p. 51, display the data for independent spending in Los Angeles elections from 1989 through 2001.)

The City must adopt policies to discourage independent spending and to assist matching funds candidates opposed by large independent expenditures. Under current law, all candidates in a race are released from the spending limit when the independent expenditure trigger amount is exceeded. We recommend that the City amend the existing independent expenditure trigger provision to *maintain the spending limit for the candidate benefiting from the expenditure* while continuing to lift the spending limit for the beneficiary's opponents. This recommended reform is as much for the sake of fundamental fairness as it is for the creation of a disincentive to independent spenders. Under the current system, candidates supported by independent spending receive the added benefit of being released from the spending limit. As a result, matching funds candidates opposed by independent expenditures must combat both the independent expenditures and the increased spending capacity of their opponents. This seems fundamentally unfair.

To be sure, the current law avoids the necessity of the Ethics Commission deciding whether a candidate has in fact “benefited” from an independent expenditure. Instead, the Commission relies on the stated intent of the independent spender. If the independent spender states on their campaign finance report that the expenditure was made “to support” John Doe, or “to oppose” Jane Doe, the Commission accepts this assertion. Because the current law lifts the spending limit for all candidates in the race, candidates have little reason to complain. Our recommendation to maintain the spending limit on the alleged beneficiary raises the stakes in accepting the independent spender's

claimed intent. Our next recommendation raises the stakes even higher, so this concern is addressed in the following recommendation.

***6. Increase Matching Funds Rate for Candidates Facing Wealthy Opponents or Large Independent Expenditures***

Independent expenditures have skyrocketed in Los Angeles elections. (See Recommendation No. 5.) In addition to facing large independent expenditures, many matching funds candidates have also had to face wealthy, high spending opponents. (The impacts of wealthy candidates on the matching funds program are discussed in Finding No. 4, p. 16.) Under current law, matching funds candidates who face either large independent expenditures or opponents who exceed the spending limit are released from compliance with the spending limit. As discussed in Recommendation No. 5, the problem of independent spending is often combined with the problem of a high spending opponent. High spending candidates have triggered the elimination of spending limits in at least 11 races since 1993, while large independent expenditures have triggered the elimination of spending limits in another seven races.

In an effort to assist matching funds candidates who face either a wealthy, high spending opponent or large independent expenditures, we recommend that candidates receive an additional dollar in public matching funds under such circumstances. We recommend specifically that, if a candidate who declines to accept matching funds makes campaign expenditures in excess of the spending limit, or if an independent expenditure committee or committees in the aggregate spend more than \$50,000 in the case of a City Council race, \$200,000 in the case of an election for Mayor, or \$100,000 in the case of an election for other citywide office, in support or opposition to any such candidate, all matching funds candidates running for the same office receive one additional dollar in matching funds for every dollar in matchable contributions raised for that election, up to double the standard matching funds limit.

Under this recommended reform, the total amount of public funds received by a candidate could not exceed the following amounts (twice the maximum amount of public funds available to candidates under current law):

- City Council: \$200,000 (Primary), \$240,000 (General)
- Controller: \$534,000 (Primary), \$600,000 (General)
- City Attorney: \$600,000 (Primary), \$700,000 (General)
- Mayor: \$1,334,000 (Primary), \$1,600,000 (General)

Nearly every candidate interviewed embraced this recommendation enthusiastically. When asked if she would advocate a higher rate of matching funds for candidates facing a high spending opponent, Councilmember Jan Perry replied, “Yes, absolutely. That would reduce the incentive to break the cap.”<sup>78</sup>

The most significant challenge to implementing recommended independent expenditure reforms would be the task of determining whether an independent expenditure was truly to a candidate's benefit. This finding would be necessary to determine whether the spending limit should be lifted for the other candidates and those candidates given additional public funds. Under current City law, the maker of an independent expenditure must disclose to the Ethics Commission which candidate the expenditure is intended to support or oppose. Under the current trigger provision, which lifts the spending limit for all candidates in the race, such disclosure is sufficient. Such disclosure would likewise be sufficient for the majority of independent expenditures made under the proposed revisions.

Increasing the benefits to candidates opposed by independent spending also increases the importance of determining whether a candidate actually benefits from an independent expenditure. Maine's Commission on Governmental Ethics and Election Practices recognized this reality when writing its implementing regulations for the State's independent expenditure trigger which, like the one proposed here, provides additional public financing to candidates facing independent expenditures. One of the Commission's implementing regulations reads,

To prevent the abuse of the [independent expenditure] Provision, the Commission will not base any calculation on independent expenditures which, although containing words of express advocacy, also contain other words or phrases which have no other reasonable meaning than to contradict the express advocacy.<sup>79</sup>

The Commission gave, as an example, an independent expenditure communication saying, "Vote for John Doe – he's incompetent and inexperienced." Maine's Commission implemented the state's independent expenditure matching funds provision in the fall 2000 elections. While Maine has seen a notable increase in independent expenditures over past years, it has had no difficulty making decisions regarding the beneficiaries of expenditures.<sup>80</sup>

Though the abuses contemplated by Maine's Ethics Commission seem possible, a more likely and difficult scenario would be one in which an unpopular organization sincerely wishes to advocate the election of a candidate, much to that candidate's dismay. Imagine, the Ku Klux Klan choosing to "support" Mayoral candidate Jim Hahn—the only Caucasian candidate in the 2001 Mayoral general election—with sizeable independent expenditures. The benefit of such expenditures to Hahn's campaign would be doubtful at best, particularly when one considers that a sizeable portion of Hahn's support base came from the City's African-American community. Under such a scenario, should Antonio Villaraigosa's campaign seek additional public funds to combat these independent expenditures? Should Villaraigosa's spending limit be lifted and Hahn's maintained?

The most practical solution to this potential problem is to vest decision making authority in the Ethics Commission, establishing a statutory requirement of "clear and

convincing evidence” to rebut the presumption that an independent expenditure supports or opposes the candidate the spender claims. It seems highly unlikely that such incidents would occur with any frequency, if ever. After all, independent spenders are typically seeking political influence beyond that which is possible within the constraints of contribution limits. Presumably there are few organizations that would spend a substantial amount of money supporting a candidate who wants nothing to do with them.

Both independent expenditure trigger recommendations hold great promise for enhancing the City’s public financing program. They will discourage independent spending and enable candidates to compete despite large independent expenditures against them. Any potential difficulties implementing the recommendations would be outweighed by the improvements these provisions would bring to the program.

## **D. Enhance Restrictions on Fundraising**

### ***7. Shorten Fundraising Period***

Under current law, candidates for citywide office may begin fundraising 24 months before an election, and Council candidates may begin fundraising 18 months before an election. This restriction on the time periods in which candidates can fundraise is intended to reduce contributor influence on City officeholders during non-election periods and to prevent incumbents from amassing large war chests to deter would-be challengers. (*See Finding No. 14, p. 29.*) Based on our findings that most candidates do not utilize the entire fundraising period, we concur with the Ethics Commission’s recommendation that the fundraising period for citywide candidates be reduced to 18 months, and the fundraising period for Council candidates be reduced to 12 months. This reduction in fundraising periods will reduce the undue influence of contributors with business at City Hall and diminish the fundraising advantage typically enjoyed by incumbent officeholders over challengers.

### ***8. Limit to \$30,000 Candidate Loans to Own Campaign***

Under current law, candidates may lend an unlimited amount of personal wealth to their campaigns, and then repay themselves with funds solicited from campaign contributors after the election. While there have not been many candidates who have lent money to their campaigns and then repaid the loan as officeholders using post-election contributions, the potential for abuse is disconcerting. Beth Garfield, for example, lent her campaign \$700,000 from her personal wealth in the 2001 4<sup>th</sup> Council district special election campaign now underway. (*See Finding No. 15, p. 30.*) This example alone warrants action to close the loophole in the City’s campaign finance law.

We recommend that the City prohibit candidate loans to their own campaigns that exceed \$30,000 outstanding as of the date of the election. Any loan balance exceeding

\$30,000 as of the date of the election should be considered a non-repayable contribution from the candidate to her campaign. This reform will allow candidates the freedom to use their personal wealth in waging their campaigns but greatly reduce the potential for abuse.

***9. Repeal Provision that Raises Contribution Limits when Personal Wealth Expenditures Exceed \$30,000***

Under current law, individual contribution limits are suspended for all candidates facing an opponent who makes a contribution of personal wealth to his or her own campaign exceeding \$30,000, until such candidates raise contributions equal to the wealthy opponent's contribution of personal funds. This provision was enacted prior to implementation of the matching funds program. It sought to assist candidates facing wealthy opponents. Given the current availability of public financing, combined with other recommendations for reform, we believe this provision is no longer necessary.

Many candidates have received over-the-limit contributions under the current provision. (*See* Finding No. 4, p. 16) For example, in his 2001 campaign for office, Mayor Jim Hahn received 101 contributions over the \$1,000 limit for a total of \$355,200. Hahn's over-the-limit contributions averaged \$3,500 in size—more than triple the contribution limit. Our findings indicate that this provision undermines the integrity of the campaign finance system. For this reason, we recommend that the City Charter provision that suspends the individual contribution limits for candidates facing opponents who make contributions to their own campaign exceeding \$30,000 be repealed.

***10. Cap Officeholder Account Balance at \$75,000***

Under current law, officeholders are permitted to maintain an officeholder expense fund for expenses related to the individual's official duties—including work-related travel expenses and the purchase of office supplies. Officeholders may not accept contributions or make expenditures which, in the aggregate, exceed \$75,000 per fiscal year. However, no limit is currently placed on the total existing balance of an officeholder's expense fund at any one time. This permits officeholders to accumulate very large officeholder funds.

According to First Quarterly Officeholder Statement filed with the Ethics Commission by former City Councilmember John Ferraro's officeholder committee in 2001, Ferraro's officeholder account had a balance of \$537,073. This existing provision allows officeholders to raise \$75,000 a year, and thus create the potential for undue contributor influence, without any specific need for the money. We see no reason to permit officeholders to accumulate such large sums in their expense funds when annual



expenditures are capped at \$75,000. We recommend that the City cap officeholder expense fund balances at \$75,000.

***11. Adjust All Spending and Contribution Limits for Changes in the Cost of Living (“COLA”)***

The City’s campaign finance law currently contains no provision requiring adjustment of contribution and spending limits to reflect changes in the cost of living. This was an oversight in the law as originally drafted. Nearly every jurisdiction in the United States with contribution or spending limits adjusts its limits periodically. The cost of living in the City of Los Angeles has increased substantially over the past decade, perhaps by as much as 30%, but these changes have not been reflected in the City’s campaign finance limits.

We recommend that all contribution and expenditure limits be adjusted, either upward or downward, on January 1 of even-numbered years to reflect the most recent change in the annual average of the Consumer Price Index as published by the United States Department of Labor for the Los Angeles—Long Beach metropolitan statistical area. Contribution limits should be rounded off to the nearest \$100, and spending limits to the nearest \$5,000.

## Notes

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- <sup>1</sup> Patrick McGreevy, *Bradley Hedges on His Promise to Give Up Raise*, L.A. DAILY NEWS, June 7, 1990.
- <sup>2</sup> Proposition H is codified in the Los Angeles City Charter as Article IV, § 471 (2000). The campaign finance ordinances that took effect on passage of Proposition H are codified in the City of Los Angeles Municipal Code as §§ 49.7.1—31 (2001). The contribution limits passed in 1985 are codified in the Los Angeles City Charter as Article IV, § 470 (2000).
- <sup>3</sup> Los Angeles City Charter, Art. IV § 471(a)(2) (2000).
- <sup>4</sup> Los Angeles, Cal., Municipal Code § 49.7.7 (2001).
- <sup>5</sup> Los Angeles City Charter, Art. IV §§ 470(c)(3)-(5) (2000).
- <sup>6</sup> *Id.* at § 470(c)(6).
- <sup>7</sup> "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert. Cal. Government Code § 82047 (West 2000).
- <sup>8</sup> Los Angeles City Charter, Art. IV § 470(c)(7) (2000).
- <sup>9</sup> *Id.* at § 470(c)(7)(D).
- <sup>10</sup> *Id.* at § 470(c)(10).
- <sup>11</sup> Los Angeles, Cal., Municipal Code § 49.7.19(A)(3) (2001).
- <sup>12</sup> Los Angeles City Charter, Art. IV § 470(c)(10)(B) (2000).
- <sup>13</sup> *Id.* at § 470(c)(6).
- <sup>14</sup> *Id.* at § 470(c)(8). *See also* Los Angeles, Cal., Municipal Code § 49.7.6 (2001).
- <sup>15</sup> Los Angeles City Charter, Art. IV § 470(c)(8). *See also* Los Angeles, Cal., Municipal Code §§ 49.7.6 and 49.7.7 (2001).
- <sup>16</sup> Los Angeles City Charter, Art. IV §§ 471(c)(1) and (2) (2000).
- <sup>17</sup> Los Angeles, Cal., Municipal Code at § 49.7.18(A) (2001).
- <sup>18</sup> *Id.* at § 49.7.13.
- <sup>19</sup> *Id.* at § 49.7.14.
- <sup>20</sup> *Id.* at § 49.7.15.
- <sup>21</sup> *Id.* at § 49.7.26.
- <sup>22</sup> *Id.* at § 49.7.19(A)(2).
- <sup>23</sup> *Id.* at § 49.7.18.
- <sup>24</sup> *Id.* at § 49.7.19(A)(3).
- <sup>25</sup> *Id.* at § 49.7.19(C).
- <sup>26</sup> *Id.* at § 49.7.19(A)(1).
- <sup>27</sup> *Id.*
- <sup>28</sup> *Id.* at § 49.7.20.
- <sup>29</sup> *Id.*
- <sup>30</sup> *Id.* at § 49.7.21(A).
- <sup>31</sup> *Id.* at § 49.7.22.
- <sup>32</sup> *Id.* at § 49.7.19(B).
- <sup>33</sup> *Id.* at § 49.7.12.
- <sup>34</sup> Los Angeles City Charter, Art. VII § 700 (2000).
- <sup>35</sup> Los Angeles City Charter, Art. IV § 471(b) (2000).
- <sup>36</sup> Los Angeles City Charter, Art. VII § 702 (2000).
- <sup>37</sup> Interview with Jan Perry, Councilmember from the 9<sup>th</sup> Council district, May 6, 2001.
- <sup>38</sup> Interview with Matthew Middlebrook, Los Angeles Deputy Mayor and former campaign manager for Mayor James Hahn, August 31, 2001.
- <sup>39</sup> Los Angeles, Cal., Municipal Code at § 49.7.14.
- <sup>40</sup> *See* Los Angeles City Ethics Commission, *Investing in Competition*, p. 62 (1998).
- <sup>41</sup> *See* Los Angeles City Ethics Commission, *Investing in Competition: An Update From the 1999 City Council Elections*, pp. 8-10 (1999).
- <sup>42</sup> Interview with Perry, *supra* note 37.
- <sup>43</sup> Interview with Michael Feuer, former Councilmember and 2001 candidate for the office of City Attorney, June 19, 2001.
- <sup>44</sup> *See Buckley v. Valeo*, 424 U.S. 1, 45 (1976) (*per curiam*).

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- <sup>45</sup> Los Angeles City Charter, Art. IV § 470(c)(10)(B) (2000).
- <sup>46</sup> *Id.* at § 470(c)(6).
- <sup>47</sup> Los Angeles, Cal., Municipal Code § 49.7.19(A)(3) (2001).
- <sup>48</sup> One exception was the 1995 fifth Council district general election, where Barbara Yaroslavsky broke the spending limit yet only outspent winner Mike Feuer by 7% (\$21,122). Another notable exception was the 2001 Mayoral primary, where Steve Soboroff broke the spending limit but finished third in the race and was outspent by Jim Hahn by more than 7% (\$308,548).
- <sup>49</sup> Los Angeles City Charter, Art. IV § 471(a)(2) (2000).
- <sup>50</sup> In fact, I included all candidates who received at least 98% of the maximum \$100,000 in public funds available because such candidates, for all practical intents and purposes, did reach the maximum.
- <sup>51</sup> California Commission on Campaign Financing, MONEY AND POLITICS IN THE GOLDEN STATE, p. 38 (1989).
- <sup>52</sup> Los Angeles City Ethics Commission, *supra* note 40, at 51.
- <sup>53</sup> Los Angeles City Ethics Commission, *supra* note 40, at 52.
- <sup>54</sup> Interview with Eduardo Reyes, Councilmember from the 1<sup>st</sup> Council district, June 14, 2001.
- <sup>55</sup> Interview with Perry, *supra* note 37.
- <sup>56</sup> Interview with Feuer, *supra* note 43.
- <sup>57</sup> Interview with LeeAnn Pelham, Executive Director of the Los Angeles City Ethics Commission, September 4, 2001.
- <sup>58</sup> Interview with Reyes, *supra* note 54.
- <sup>59</sup> Interview with Perry, *supra* note 37.
- <sup>60</sup> Interview with Feuer, *supra* note 43.
- <sup>61</sup> Interview with Reyes, *supra* note 54.
- <sup>62</sup> *See Buckley*, 424 U.S. 1, 23-35 (1976) (*per curiam*).
- <sup>63</sup> Incumbent Cindy Miscikowski spent \$194,895 to defeat Aurthur Mortell, who spent \$27,527, in the 11<sup>th</sup> Council district primary. Open-seat candidate Ed Reyes spent \$306,139 in defeating Robert Nakahiro, who spent \$76,858, in the 1<sup>st</sup> Council district primary.
- <sup>64</sup> Ed Reyes—who received \$56,000 in matching funds—raised 691 itemized contributions for a total of \$215,283 between 4/11/00 and 6/5/01 in his campaign to win the first Council district primary. Reyes raised an additional \$25,344 in more than 250 un-itemized contributions smaller than \$100.
- <sup>65</sup> Jan Perry needed 756 itemized contributions to raise \$213,000 in her campaign to take second place in the primary and move on to the general election in the ninth Council district. Perry raised an additional \$7,543 in more than 75 un-itemized contributions less than \$100.
- <sup>66</sup> Interview with Michael Woo, former City Councilmember, former Mayoral candidate, and 2001 candidate for the 13<sup>th</sup> Council district seat, August 8, 2001.
- <sup>67</sup> *Id.*
- <sup>68</sup> Interview with Perry, *supra* note 37.
- <sup>69</sup> Interview with Perry, *supra* note 37.
- <sup>70</sup> Interview with Reyes, *supra* note 54.
- <sup>71</sup> Interview with Woo, *supra* note 66.
- <sup>72</sup> Interview with Woo, *supra* note 66.
- <sup>73</sup> *See Patrick McGreevy, Stakes Raised in Council Race*, L.A. TIMES, Sept. 25, 2001.
- <sup>74</sup> Los Angeles City Ethics Commission Press Release, *Improvements to City's Comprehensive Set of Campaign Reform Laws Vetoed By Mayor*, July 10, 2001.
- <sup>75</sup> Interview with Perry, *supra* note 37.
- <sup>76</sup> The spending limit for City Council primary elections was \$300,000 for the 1993 and 1995 elections. During this period, candidates were permitted to spend an additional \$30,000 for legal compliance costs. Prior to the 1997 elections, the Ethics Commission simplified the accounting process for campaigns by adding compliance costs onto the spending limit creating a new \$330,000 primary election spending limit. Likewise, the general election spending limit was increased from \$250,00 to \$275,000 in 1997.
- <sup>77</sup> Interview with Middlebrook, *supra* note 38.
- <sup>78</sup> Interview with Perry, *supra* note 37.
- <sup>79</sup> *See* Maine Commission on Governmental Ethics and Election Practices, Commission Rules Ch. 3 Maine Clean Elections Act and Related Provisions § 6(3)(B)(5).

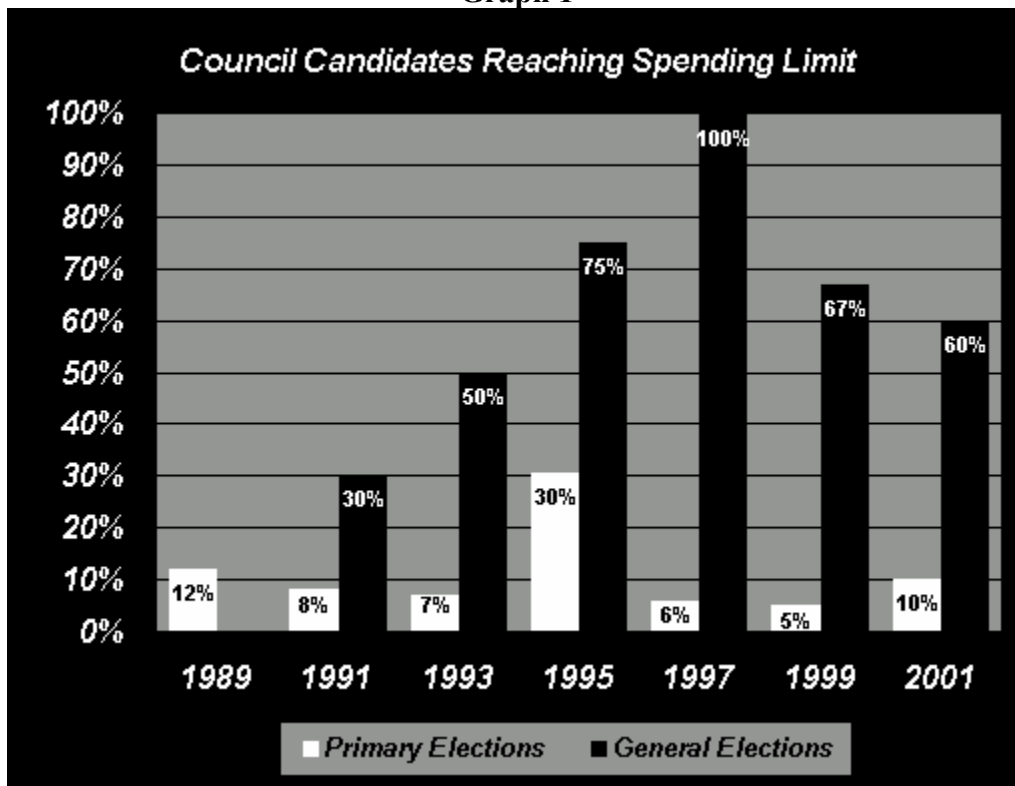
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<sup>80</sup> Telephone interview with Bill Hain, Director of the State of Maine Commission on Governmental Ethics and Election Practices, October 1, 2001.

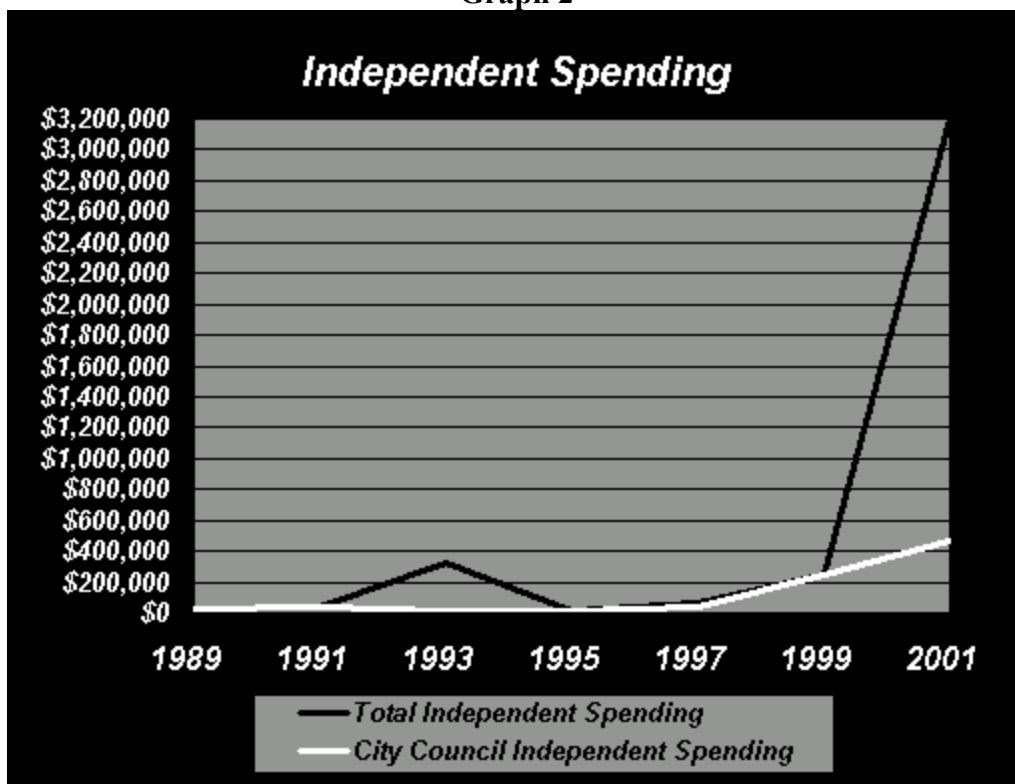
## **V. Appendices**

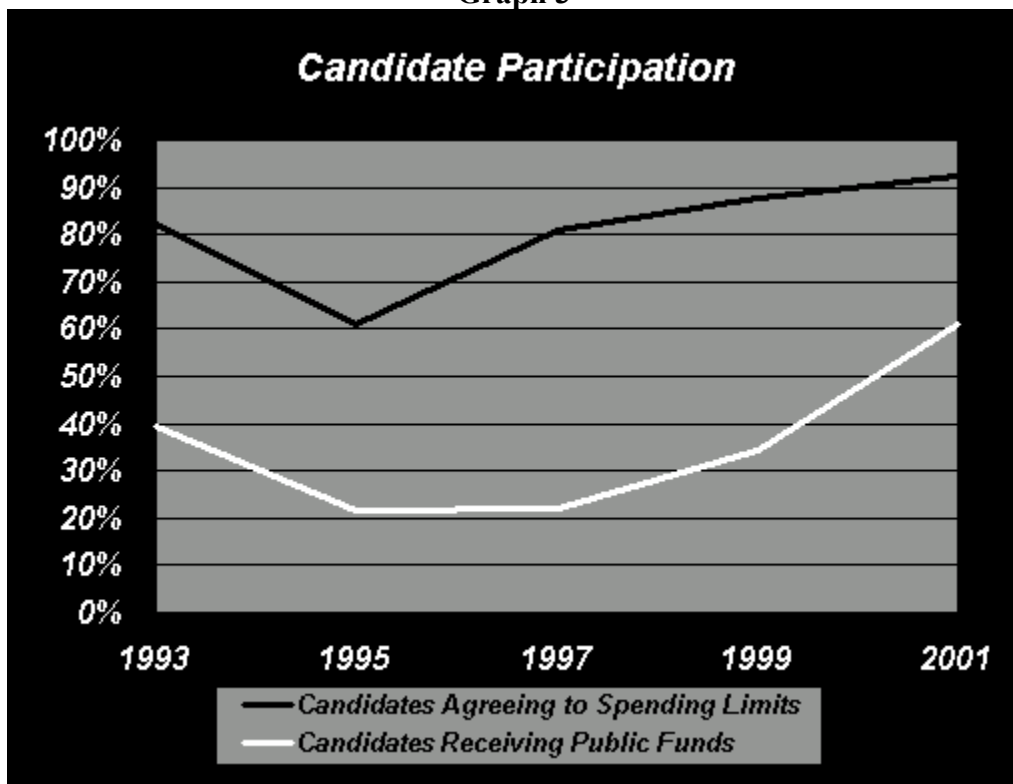
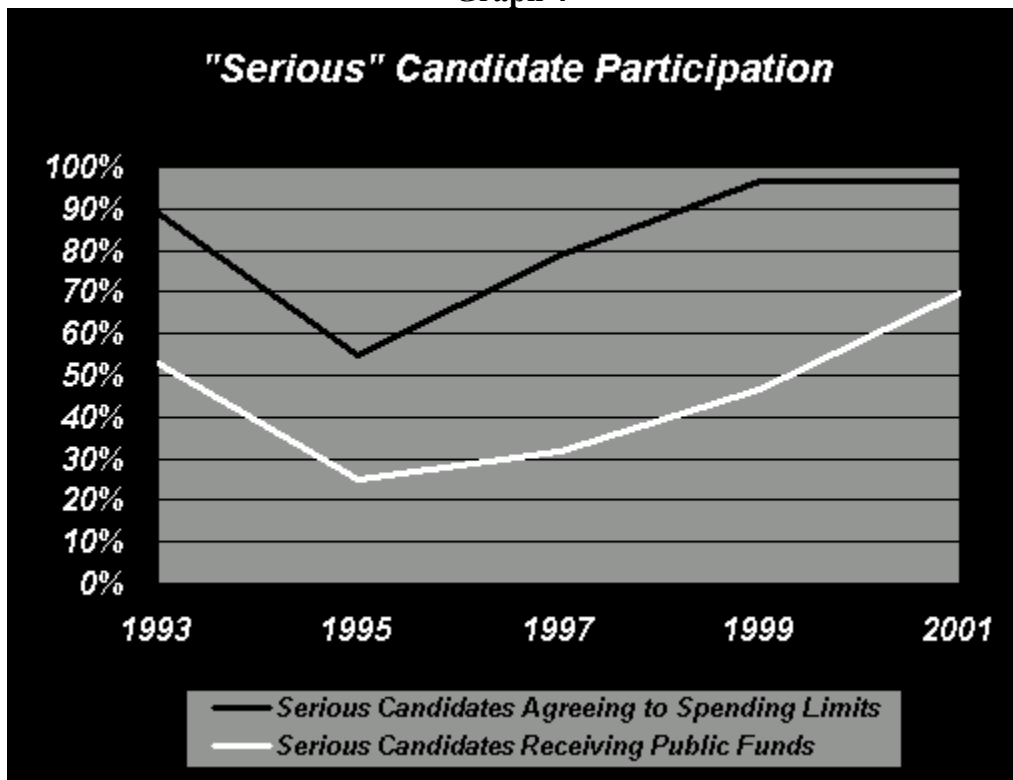
A. Appendix A: Los Angeles Graphs

Graph 1

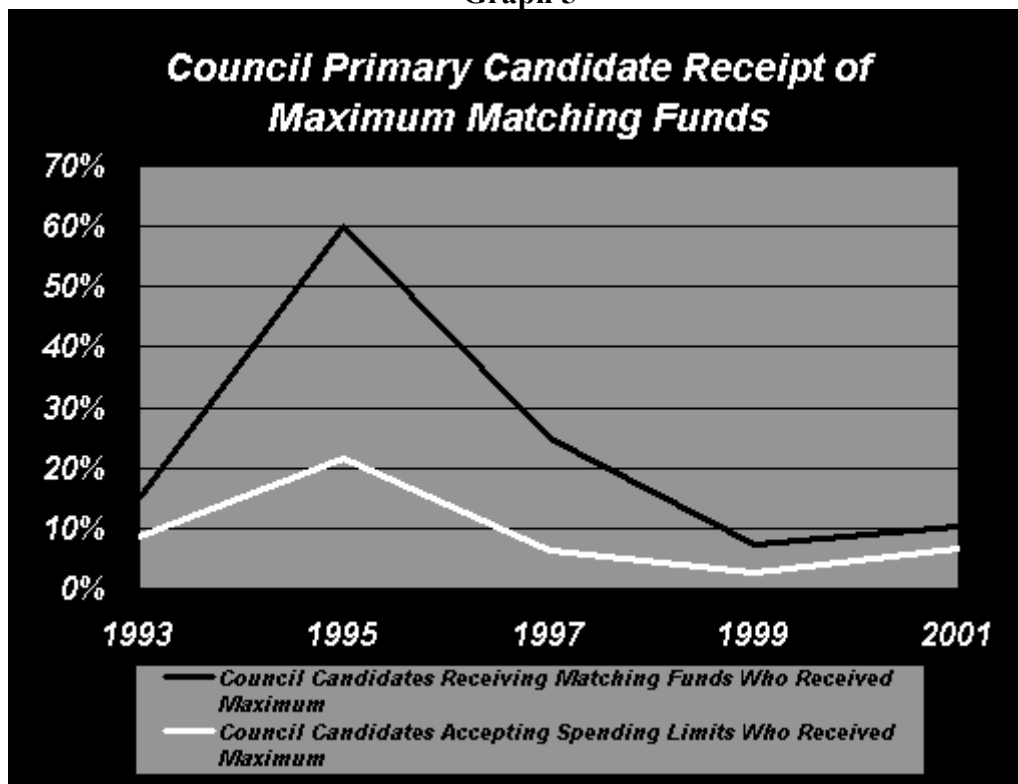


Graph 2

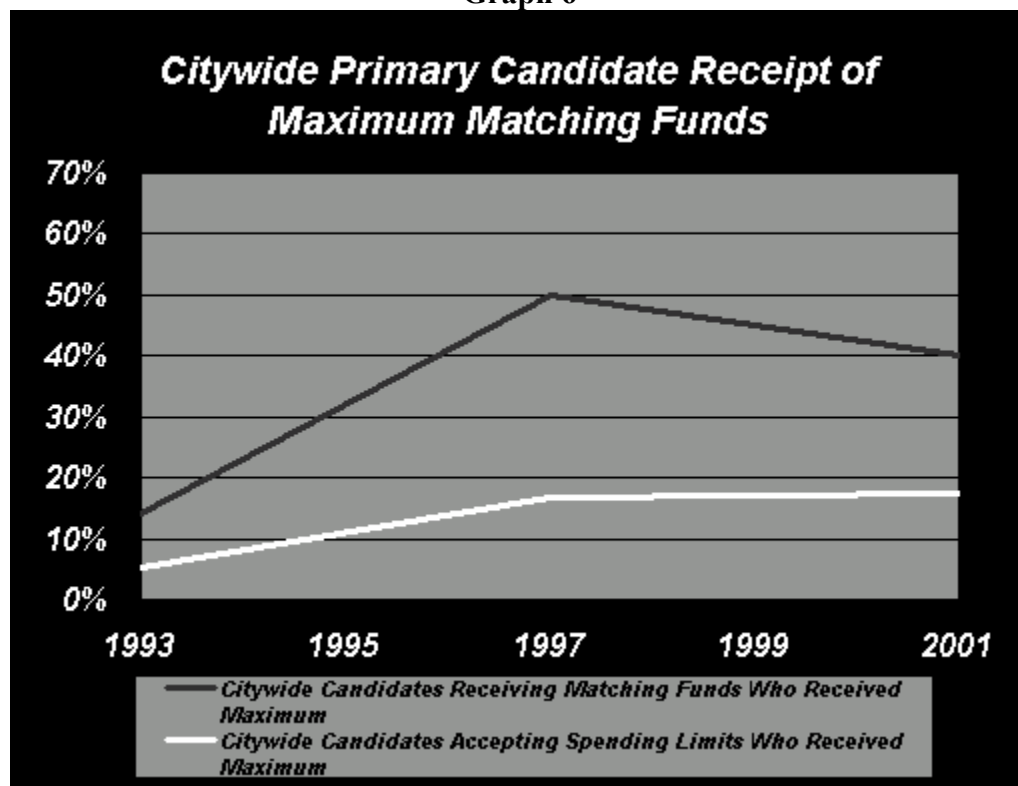


Graph 3<sup>i</sup>Graph 4<sup>ii</sup>

Graph 5



Graph 6





**B. Appendix B: Los Angeles Charts**  
**Chart 1**

<b>Council Candidates Reaching Spending Limit—Primary Elections</b>				
<b>Year</b>	<b><u>Applicable Limit</u></b>	<b><u>Candidates Who Came Within \$10,000 of Limit</u></b>	<b><u>Total Candidates</u></b>	<b><u>% of Candidates Who Came Within \$10,000 of Limit</u></b>
1989	\$300,000	4	33	12%
1991	\$300,000	4	49	8%
1993	\$300,000	3	42	7%
1995	\$300,000	7	23	30%
1997	\$330,000	1	17	6%
1999	\$330,000	2	41	5%
2001	\$330,000	5	49	10%
<b><u>Total:</u></b>		<b>26</b>	<b>254</b>	<b>10%</b>

**Chart 2**

<b>Council Candidates Reaching Spending Limit—General Elections</b>				
<b>Year</b>	<b><u>Applicable Limit</u></b>	<b><u>Candidates Who Came Within \$10,000 of Limit</u></b>	<b><u>Total Candidates</u></b>	<b><u>% of Candidates Who Came Within \$10,000 of Limit</u></b>
1989	\$250,000	0	2	0%
1991	\$250,000	3	10	30%
1993	\$250,000	4	8	50%
1995	\$250,000	3	4	75%
1997	\$275,000	2	2	100%
1999	\$275,000	4	6	67%
2001	\$275,000	6	10	60%
<b><u>Total:</u></b>		<b>22</b>	<b>42</b>	<b>52%</b>

Chart 3

<b>Independent Spending in Los Angeles<sup>iii</sup></b>			
<b><u>Year</u></b>	<b><u>City Council Races</u></b>	<b><u>Citywide Races</u></b>	<b><u>Total</u></b>
<b>1989</b>	\$23,706		\$23,706
<b>1991</b>	\$42,701		\$42,701
<b>1993</b>	\$15,022	\$308,181	\$323,203
<b>1995</b>	\$13,599		\$13,599
<b>1997</b>	\$43,005	\$19,927	\$62,932
<b>1999</b>	\$247,179		\$247,179
<b>2001</b>	\$466,343	\$2,731,409	\$3,197,752
<b><u>Total:</u></b>	<b>\$851,555</b>	<b>\$3,059,517</b>	<b>\$3,911,072</b>

Chart 4

<b>Candidates Who Used Over \$30,000 in Personal Funds in an Election</b>			
<b><u>Name</u></b>	<b><u>Race</u></b>	<b><u>Year</u></b>	<b><u>Amount</u></b>
Riordan	Mayoral Primary	1993	\$3,000,000
Riordan	Mayoral General	1993	\$3,000,000
Sanders	Mayoral Primary	1993	\$40,990
Finn	CD 7 Primary	1993	\$54,600
Lumpkin	CD 9 Primary	1993	\$147,530
Braude	CD 11 Primary	1993	\$59,000
Riordan	Mayoral Primary	1997	\$250,000
Hayden	Mayoral Primary	1997	\$100,000
Stein	City Atty Primary	1997	\$201,000
Soboroff	Mayoral Primary	2001	\$687,000
Hayden	CD 5 Primary	2001	\$171,000
Hayden	CD 5 General	2001	\$170,000
<b><u>Total:</u></b>			<b>\$7,881,120</b>

**Chart 5**  
**Candidate Participation**

	1993	1995	1997	1999	2001
<b>Total Candidates</b>	71	23	27	41	64
<b>Candidates Agreeing to Spending Limits</b>	58 82%	14 61%	22 81%	36 88%	59 92%
<b>Total “Serious” Candidates<sup>iv</sup></b>	53	20	19	30	56
<b>“Serious” Candidates Agreeing to Spending Limits</b>	47 89%	11 55%	15 79%	29 97%	54 96%
<b>Candidates Receiving Public Funds</b>	28 39%	5 22%	6 22%	14 34%	39 61%
<b>“Serious” Candidates Receiving Public Funds</b>	28 53%	5 25%	6 32%	14 47%	39 70%

**Chart 6**

**Candidate Receipt of Matching Funds**

<u>Year</u>	<b>Total Participating Council Candidates</b>	<b>Participating Council Candidates Receiving Matching Funds</b>	<b>Council Candidates Receiving Maximum Matching Funds Available</b>	<b>Total Participating Citywide Candidates</b>	<b>Participating Citywide Candidates Receiving Matching Funds</b>	<b>Citywide Candidates Receiving Maximum Matching Funds Available</b>
<b>1993</b>	<u>Primary:</u> 35 <u>General:</u> 8	<u>Primary:</u> 20 <u>General:</u> 8	<u>Primary:</u> 3 <u>General:</u> 0	<u>Primary:</u> 19 <u>General:</u> 1	<u>Primary:</u> 7 <u>General:</u> 1	<u>Primary:</u> 1 <u>General:</u> 1
<b>1995</b>	<u>Primary:</u> 14 <u>General:</u> 2	<u>Primary:</u> 5 <u>General:</u> 2	<u>Primary:</u> 3 <u>General:</u> 0			
<b>1997</b>	<u>Primary:</u> 16 <u>General:</u> 2	<u>Primary:</u> 4 <u>General:</u> 2	<u>Primary:</u> 1 <u>General:</u> 0	<u>Primary:</u> 6 <u>General:</u> N/A <sup>v</sup>	<u>Primary:</u> 2 <u>General:</u> N/A <sup>vi</sup>	<u>Primary:</u> 1 <u>General:</u> N/A <sup>vii</sup>
<b>1999</b>	<u>Primary:</u> 37 <u>General:</u> 6	<u>Primary:</u> 14 <u>General:</u> 6	<u>Primary:</u> 1 <u>General:</u> 0			
<b>2001</b>	<u>Primary:</u> 46 <u>General:</u> 9	<u>Primary:</u> 29 <u>General:</u> 9	<u>Primary:</u> 3 <u>General:</u> 0	<u>Primary:</u> 23 <u>General:</u> 4	<u>Primary:</u> 10 <u>General:</u> 4	<u>Primary:</u> 4 <u>General:</u> 4
<b><u>Total</u></b>	<b><u>Primary:</u> 148 <u>General:</u> 27</b>	<b><u>Primary:</u> 72 <u>General:</u> 27</b>	<b><u>Primary:</u> 11 <u>General:</u> 0</b>	<b><u>Primary:</u> 48 <u>General:</u> 5</b>	<b><u>Primary:</u> 19 <u>General:</u> 5</b>	<b><u>Primary:</u> 6 <u>General:</u> 5</b>

Chart 7

<b>Public Financing Program Costs</b>							
<b>Election Cycle</b>	<b>Matching Funds Disbursed</b>	<b>Matching Funds Program Administrative Cost<sup>vii</sup></b>	<b>Total Matching Funds Program Costs</b>	<b>Total City Budget<sup>ix</sup></b>	<b>% Total City Budget</b>	<b>Cost Per Registered Voter Per Year<sup>x</sup></b>	<b>Cost Per Resident Per Year</b>
<b>1992-95</b>	\$5.347 Million <sup>xi</sup>	\$1.588 Million	\$6.935 Million	\$15.66 Billion	0.044%	\$1.13	\$0.50 <sup>xii</sup>
<b>1996-99</b>	\$2.207 Million <sup>xiii</sup>	\$1.588 Million	\$3.795 Million	\$16.11 Billion	0.024%	\$0.62	\$0.26 <sup>xiv</sup>
<b>2000-01</b>	\$8.373 Million <sup>xv</sup>	\$0.794 Million	\$9.167 Million	\$8.48 Billion	0.108%	\$2.98	\$1.24 <sup>xvi</sup>
<b><u>Total:</u></b>	<b>\$15.927 Million</b>	<b>\$3.97 Million</b>	<b>\$19.897 Million</b>	<b>\$40.25 Billion</b>	<b>0.049%</b>	<b>\$1.29</b>	<b>\$0.54<sup>xvii</sup></b>

## Notes to Appendices

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- <sup>i</sup> This graph includes participation data for all candidates, both citywide and City Council.
- <sup>ii</sup> “Serious” is defined as a candidate who raised at least \$5,000 in contributions.
- <sup>iii</sup> See Los Angeles City Ethics Commission, *supra* note 40, at 63; Los Angeles City Ethics Commission, *supra* note 41, at 7-8; Los Angeles City Ethics Commission Reports on Independent Expenditures for the 2001 Primary and General Elections (July 25, 2001).
- <sup>iv</sup> “Serious” is defined as a candidate who raised at least \$5,000 in contributions.
- <sup>v</sup> There were no citywide general elections in 1997.
- <sup>vi</sup> There were no citywide general elections in 1997.
- <sup>vii</sup> There were no citywide general elections in 1997.
- <sup>viii</sup> Based on L.A. City Ethics Commission staff member Bruce Aoki’s estimate of total Campaign Finance Program costs for fiscal year 2001-02 (\$397,100) multiplied by four, for both four-year election cycles (\$1,588,400) and multiplied by two for the 2000-01 two-year election cycle (\$794,200).
- <sup>ix</sup> Matching funds are actually drawn from an \$8 million Matching Funds Trust Fund established by the City Council, as required by the City Charter. The budget figures provided are based on actual adopted budgets, according to the City of Los Angeles Office of Administrative and Research Services’ *2001-02 Proposed Budget Supporting Information for the Ad Hoc Committee on the City Budget*, 32 (April 2001). The fiscal year (FY) 1991-92 budget was \$3.886 billion; FY 1992-93 was \$3.8879 billion; FY 1993-94 was \$3.8893 billion; FY 1994-95 was 3.9975 billion; FY 1995-96 was \$3.9506 billion; FY 1996-97 was \$4.063 billion; FY 1997-98 was \$4.0201 billion; FY 1998-99 was \$4.0797 billion; FY 1999-2000 was \$4.1711 billion; and FY 2000-01 was \$4.3087 billion.
- <sup>x</sup> Based on active voter registration as of June 5, 2001: 1,538,213. See City of Los Angeles Office of the City Clerk—Election Division, City of Los Angeles Voter Registration and Turnout (visited Aug. 21, 2001) <<http://www.lacity.org/CLK/election/VoterReg.pdf>>.
- <sup>xi</sup> See Los Angeles City Ethics Commission, *supra* note 40, at Appendix III.
- <sup>xii</sup> Based on U.S. Census Bureau data from the 1990 census for the City of Los Angeles: 3,485,398. See U.S. Census Bureau American Factfinder (visited Aug. 21, 2001) <<http://factfinder.census.gov/servlet/BasicFactsServlet>>.
- <sup>xiii</sup> See Los Angeles City Ethics Commission, *supra* note 40, at Appendix III. See also Los Angeles City Ethics Commission, *supra* note 41, at Appendix II-B.
- <sup>xiv</sup> Based on U.S. Census Bureau data from the 2000 census for the City of Los Angeles: 3,694,820. See U.S. Census Bureau American Factfinder (visited Aug. 21, 2001) <<http://factfinder.census.gov/servlet/BasicFactsServlet>>.
- <sup>xv</sup> See Los Angeles City Ethics Commission, *2001 Primary Election Contributions and Expenditures as Reported on Campaign Disclosure Statements*, 3 (2001). See also Los Angeles City Ethics Commission, *2001 General Election Contributions and Expenditures as Reported on Campaign Disclosure Statements*, 1 (2001).
- <sup>xvi</sup> Based on U.S. Census Bureau data from the 2000 census for the City of Los Angeles, *supra* note xiv.
- <sup>xvii</sup> *Id.*