

**San Francisco  
Ethics Commission**



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**DRAFT**

# **Report on**

# **San Francisco's Limited**

# **Public Financing Program**

**November 6, 2012 Board of Supervisors Election**

**San Francisco Ethics Commission**

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# Report of the Board of Supervisors Public Financing Program of 2012

This report is intended to satisfy the requirements set forth in Section 1.156 of the San Francisco Campaign and Governmental Conduct Code, which requires the Ethics Commission to produce a report following the November 2012 election stating:

- The amount of public funds disbursed to campaigns in the election;
- The number of candidates who received public funds;
- The number of nonparticipating candidates;
- The amount of qualified campaign expenditures made by all candidates in that election;
- The amount of independent expenditures made in connection with the election; and
- Other relevant information deemed useful by the Ethics Commission.

The data presented is based on information reported in campaign disclosure statements covering through December 31, 2012 and from the Commission's record of public funds disbursements.

## **I. Introduction**

San Francisco's public financing program for candidates for the Board of Supervisors was adopted through a ballot measure (Proposition O) in November 2000. In 2006, the program was extended to include Mayoral candidates as well. The San Francisco Ethics Commission ("Commission") administered the public financing program in elections for candidates for the Board of Supervisors beginning in 2002. Because no candidate for Mayor qualified for public funding in 2007, the Commission administered the public financing program in a Mayoral election for the first time in 2011.

With respect to the qualification thresholds, disbursement formula/amounts and expenditure ceilings, the program as it was administered in the 2012 election was significantly different from the program that was administered in prior years.<sup>1</sup> The public financing program provides candidates running for the Board of Supervisors or Mayor with partial public funding to fund their campaigns. The Commission developed the program with the intent that it would provide candidates a neutral source of additional funding, encourage more candidates to run for office, allow candidates to spend more time discussing the issues and spend less time fundraising, and encourage candidates to limit their spending.

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<sup>1</sup> See Appendix for a complete overview of the requirements of the public financing program as it was implemented in 2012.

**II. Supervisory Candidates on the November 6, 2012 Ballot and the Amount of Public Funds Disbursed in the November 6, 2012 Election**

**A. Candidates Who Sought Office, Whether They Participated in the Public Financing Program and Whether They Were Elected to Office**

There are eleven supervisory districts in San Francisco. In 2012, supervisory elections were held in the six odd-numbered districts in San Francisco: Districts 1, 3, 5, 7, 9 and 11. A total of 26 candidates in six districts appeared on the November 2012 ballot and 12 of these candidates qualified to receive public funds.

The 12 participants of the public financing program ran for office from four districts: Districts 1, 3, 5, and 7. The races in Districts 9 and 11 did not involve a participating candidate; only the incumbent ran for office in those races. Of the six members of the Board of Supervisors who were elected to office in the November 6, 2012 election, three, or 50 percent of those elected, were participating candidates.

Table 1 below lists candidates for the Board of Supervisors whose names appeared on the November 6, 2012 ballot, whether they participated in the public financing program, and whether the candidates were elected to office.

**Table 1: List of 2012 Supervisory Candidates, Whether They Participated in the Public Financing Program, and Whether They Were Elected to Office<sup>2</sup>**

Candidate	District	Participation Status (P=participating candidate; NP=non-participating candidate)	Whether candidate was elected or defeated
Sherman R. D'Silva*	1	NP	Defeated
David Lee	1	P	Defeated
Eric Mar	1	P	Elected
Marc Bruno	3	NP	Defeated
Joseph F. Butler	3	P	Defeated
David Chiu	3	NP	Elected
Wilma Pang*	3	NP	Defeated
London Breed	5	P	Elected
Julian Davis	5	P	Defeated
Daniel Everett*	5	NP	Defeated
Hope Johnson*	5	NP	Defeated

<sup>2</sup> An asterisk (“\*”) indicates candidates who were not required to file electronic campaign statements (i.e., candidates who received less than \$5,000 in contributions). Staff believes that the electronic reports capture the information related to contributions and expenditures that is necessary to prepare this report. The cumulative amount of activity by any candidate who filed either Form 470 or 460 in paper form only should not exceed \$4,999.99, which is an amount staff believes will not skew the general information provided in this report. Accordingly, staff did not look to the content of the paper filings to prepare this report. Staff used the same process in gathering data for the reports on the 2002, 2004, 2006, 2008 and 2010 public financing programs, thus allowing for a more direct comparison among the 2002, 2004, 2006, 2008 and 2010 data.

Christina Olague	5	P	Defeated
Andrew Resignato*	5	NP	Defeated
John Rizzo	5	P	Defeated
Thea Selby	5	P	Defeated
Andrew Bley	7	NP	Defeated
F.X. Francis Xavier Crowley	7	P	Defeated
Joel Engardio	7	P	Defeated
Michael L. Garcia	7	P	Defeated
Lynn Gavin*	7	NP	Defeated
Julian Lagos*	7	NP	Defeated
Glenn Rogers*	7	NP	Defeated
Robert Squeri	7	NP	Defeated
Norman Yee	7	P	Elected
David Campos	9	NP	Elected
John Avalos	11	NP	Elected

**B. The Amount of Public Funds Disbursed in 2012**

A total of \$5,613,030 in the Election Campaign Fund was available for disbursement. Eligible candidates were able to receive up to a maximum amount of \$155,000 in public funds (or up to \$152,500 for an incumbent). Unlike the public financing programs of 2008, 2010, and 2011, the 2012 public financing program did not provide for a mechanism for candidates to receive additional public funding beyond the \$155,000 cap (\$152,500 for incumbents). The 22 eligible candidates received a total of \$1,228,097 in public funds, an average of \$102,341 per candidate.

Table 2 below provides a breakdown of the amount of public funds disbursed to each qualifying candidate. It also shows the amount of total funds (public plus private) that was available to all candidates, participating and non-participating.

**Table 2: Amount of Public Funds Disbursed as Compared to Total Funds Available to Candidates<sup>3</sup>**

Candidate	District	Amount of Public Funds Disbursed to Participating Candidates	Total Funds Available to Candidates (private funds plus public funds, if any)	Public Funds as a Percentage of Total Funds
David Lee	1	\$155,000	\$319,466	49%
Eric Mar	1	\$152,500	\$361,314	42%
<b><i>District 1 Total</i></b>		<b>\$307,500</b>	<b>\$680,780</b>	<b>45%</b>
Marc Bruno	3		\$7,170	n/a
Joseph F. Butler	3	\$34,540	\$61,519	56%
David Chiu	3		\$258,086	n/a
<b><i>District 3 Total</i></b>		<b>\$34,540</b>	<b>\$326,775</b>	<b>11%</b>
London Breed	5	\$130,866	\$280,210	47%
Julian Davis	5	\$57,590	\$104,645	55%
Christina Olague	5	\$118,510	\$251,966	47%
John Rizzo	5	\$67,934	\$121,625	56%
Thea Selby	5	\$54,794	\$122,232	45%
<b><i>District 6 Total</i></b>		<b>\$429,694</b>	<b>\$880,678</b>	<b>49%</b>
Andrew Bley	7		\$7,825	n/a
F.X. Francis Xavier Crowley	7	\$140,344	\$308,226	46%
Joel Engardio	7	\$50,353	\$102,233	49%
Michael L. Garcia	7	\$145,623	\$279,617	52%
Robert Squeri	7		\$31,197	n/a
Norman Yee	7	\$120,043	\$242,237	50%
<b><i>District 7 Total</i></b>		<b>\$456,363</b>	<b>\$971,335</b>	<b>47%</b>
David Campos	9		\$128,263	n/a
<b><i>District 9 Total</i></b>		<b>\$0</b>	<b>\$128,263</b>	<b>0%</b>
John Avalos	11		\$71,471	n/a
<b><i>District 11 Total</i></b>		<b>\$0</b>	<b>\$71,471</b>	<b>0%</b>
<b><i>Total</i></b>		<b>\$1,228,097</b>	<b>\$3,059,302</b>	<b>40%</b>

Public grants represented 40 percent of the total funds (public and private) that were available to candidates.

<sup>3</sup> Total funds in this table include total monetary contributions, loans, in-kind contributions, public funds and candidates' personal funds used for campaign purposes.

### III. Candidate Spending

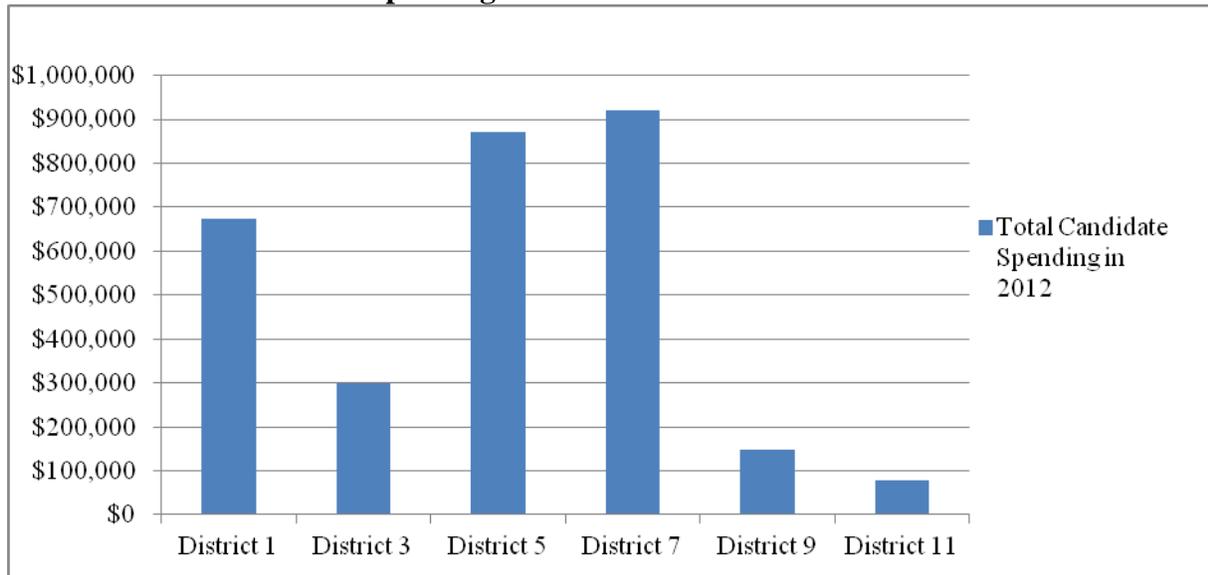
In 2012, candidate spending totaled \$2,987,290. This figure does not include spending by non-candidates. Table 3 below lists the amounts spent by candidates in 2012. The table also shows the highest level of a candidate's Individual Expenditure Ceiling, if the candidate was publicly financed. Publicly financed candidates were required to limit their expenditures to the amount of their Individual Expenditure Ceiling, which began at \$250,000 and was raised by the Ethics Commission based on the highest level of Total Supportive Funds of any opponent of a publicly financed candidate plus the Total Opposition Spending against such publicly financed candidate. Expenditure data includes both paid expenditures and debt.

**Table 3: Candidate Spending in 2012**

Candidate	District	Highest Level of Candidate's Individual Expenditure Ceiling	Total Expenditures Incurred
David Lee	1	\$440,000	\$315,404
Eric Mar	1	\$970,000	\$357,723
<i>District 1 Total</i>			<b>\$673,127</b>
Marc Bruno	3		\$6,990
Joseph F. Butler	3	\$260,000	\$61,404
David Chiu	3		\$230,728
<i>District 3 Total</i>			<b>\$299,122</b>
London Breed	5	\$290,000	\$279,485
Julian Davis	5	\$430,000	\$104,977
Christina Olague	5	\$530,000	\$267,446
John Rizzo	5	\$420,000	\$102,560
Thea Selby	5	\$420,000	\$115,165
<i>District 6 Total</i>			<b>\$869,633</b>
Andrew Bley	7		\$7,277
F.X. Francis Xavier Crowley	7	\$450,000	\$301,618
Joel Engardio	7	\$450,000	\$100,899
Michael L. Garcia	7	\$370,000	\$266,715
Robert Squeri	7		\$31,197
Norman Yee	7	\$470,000	\$211,533
<i>District 7 Total</i>			<b>\$919,239</b>
David Campos	9		\$146,569
<i>District 9 Total</i>			<b>\$146,569</b>
John Avalos	11		\$79,601
<i>District 11 Total</i>			<b>\$79,601</b>
<i>Total</i>			<b>\$2,987,290</b>

The chart below shows total candidate spending by district.

**Chart 1: Total Candidate Spending in 2012**



#### **IV. Spending by Third Parties**

In 2012, third parties were required to report independent expenditures, member communications, and electioneering communications on the Commission's Third Party Disclosure Form. Third party spending regarding Supervisorial candidates in the November 2012 election as disclosed on the Third Party Disclosure Form totaled \$1,507,057 (\$1,062,367 in supportive spending and \$444,690 in opposition spending).<sup>4</sup>

The table below summarizes the data reported on the Third Party Disclosure Form related to the candidates.

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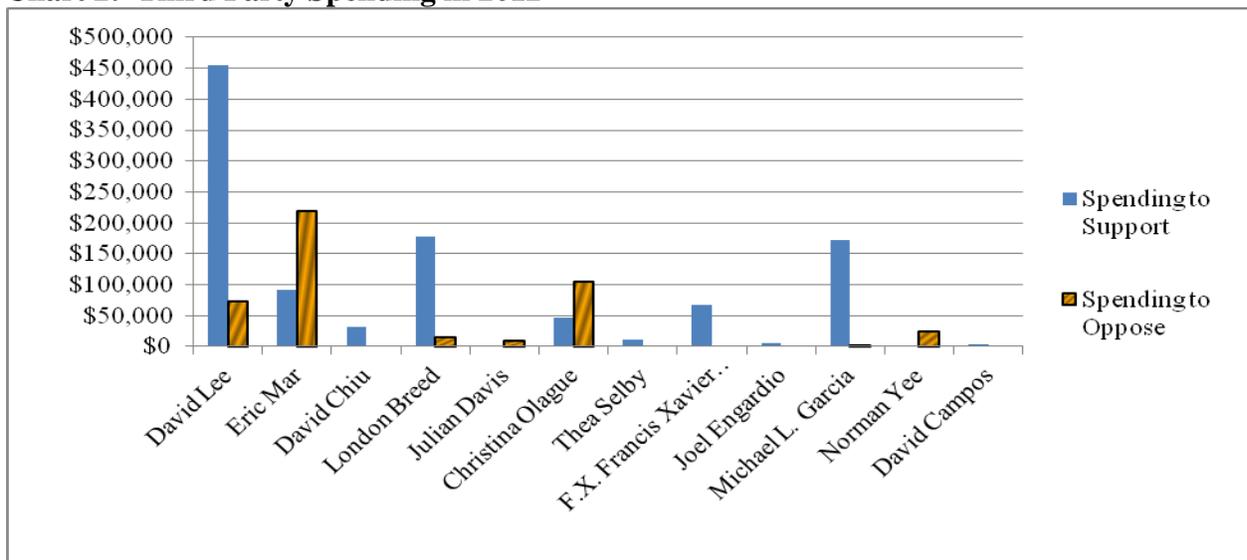
<sup>4</sup> In past public financing reports, this section also included data that was reported on the FPPC Form 465. However, Form 465 data is not included here because the Form 465 requires disclosure of only independent expenditures whereas the Third Party Disclosure Form requires disclosure of independent expenditures as well as member communications and electioneering communications.

**Table 4: Third Party Spending in 2012**

		SFEC Third Party Disclosure Form	
Affected Candidate	District	Spending to Support	Spending to Oppose
David Lee	1	\$454,922	\$72,738
Eric Mar	1	\$91,885	\$219,040
<b>District 1 Spending</b>		<b>\$546,807</b>	<b>\$291,778</b>
David Chiu	3	\$31,730	
<b>District 3 Spending</b>		<b>\$31,730</b>	
London Breed	5	\$177,555	\$15,067
Julian Davis	5	\$1,266	\$8,570
Christina Olague	5	\$45,904	\$104,016
Thea Selby	5	\$10,839	
<b>District 5 Spending</b>		<b>\$235,564</b>	<b>\$127,653</b>
F.X. Francis Xavier Crowley	7	\$66,829	
Joel Engardio	7	\$4,920	
Michael L. Garcia	7	\$171,945	\$1,985
Norman Yee	7	\$1,985	\$23,274
<b>District 7 Spending</b>		<b>\$245,679</b>	<b>\$25,259</b>
David Campos	9	\$2,587	
<b>District 9 Spending</b>		<b>\$2,587</b>	<b>\$0</b>
<b>Total Third Party Spending</b>		<b>\$1,062,367</b>	<b>\$444,690</b>

The chart below displays third party spending regarding candidates in graphic form.

**Chart 2: Third Party Spending in 2012**



## V. Public Financing at a Glance

It is difficult to identify the effects of the public financing program on the outcome of the elections. Although public financing has now been implemented in the 2002, 2004, 2006, 2008, 2010 and 2012 elections for candidates for the Board of Supervisors, there are many variables relating to these elections. In 2002, elections took place in districts where only two-year terms had elapsed. In 2004, ranked choice voting was implemented, which caused many prior constants to change; i.e., there were no more run-off elections. In 2002, 2006 and 2010 the even-numbered districts were voted on whereas seats in the odd-numbered districts were voted on in 2004, 2008 and 2012. Significant provisions of the public financing program changed over the years. The threshold for qualifying for public financing and the deadline for applying for public financing were changed after the 2002 public financing cycle. The maximum amount of public funds that participants could seek was significantly higher in 2010 and 2008 (it was \$89,000 in 2010 and \$87,500 in 2008) than the maximum amount available in prior years (the amount available in prior years was \$43,750). Furthermore, in 2012 the maximum amount was raised to \$155,000 for Non-Incumbents and \$152,500 for Incumbents and the disbursement formula was changed. In addition, the 2008 and 2010 public financing programs had a provision whereby candidates could receive greater than the initial maximum amount if the Commission determined the Per Candidate Available Disbursement Limit to be greater than the initial disbursement threshold. In 2008, 2010 and 2012, participating candidates were required to abide by an Individual Expenditure Ceiling, which did not exist in prior years. In 2008, 2010, and 2012 there were additional filing requirements on persons making third party expenditures. In conclusion, it is difficult to distinguish between the effects of these factors from the effects of the public financing program on the outcome of the elections.

Based on the data provided in reports of prior years, whenever an incumbent was involved in an election, the incumbent won regardless of whether the incumbent was a participating candidate. However, in 2012, one incumbent was not re-elected to office. Generally, in races where no incumbent is involved, a participating candidate wins. The record shows an increase in the overall amount of public funds disbursed between 2002 and 2012. The record also shows an increase in the percentage of candidates who are publicly financed. This data seems to indicate a trend towards greater acceptance of public financing of candidates in elections. The table below provides summary data of the 2012 election as well as data from prior elections.

**Table 5: Summary Data from the 2012 and Past Elections**

<b>Election Year</b>	<b>2012</b>	<b>2010</b>	<b>2008</b>	<b>2006</b>	<b>2004</b>	<b>2002</b>
Amount of Public Funds Disbursed	\$1,228,097	\$1,477,713	\$1,315,470	\$216,784	\$757,678	\$281,989
Average Amount of Public Funds Disbursed	\$102,341	\$67,169	\$69,235	\$36,131	\$32,943	\$31,332
Number of Candidates who Qualified for the Ballot	26	46	42	26	65	28
Number of Participating Candidates	12	22	19	6	23	9
Number of Seats up for Election	6	5	7	5	7	5
Number of Contested Seats	4	4	7	5	7	4
Percentage of Candidates who were Publicly Financed	46%	48%	45%	23%	35%	32%
Percentage of Elected Candidates who were Publicly Financed	50%	60%	71%	20%	43%	60%
Percentage of Incumbents Re-Elected	80%	100%	100%	100%	100%	100%
Total Amount of Candidate Spending	\$2,987,290	\$3,581,175	\$3,875,551	\$1,781,148	\$3,654,616	\$2,213,316
Amount of Third Party Spending <sup>5</sup>	\$1,507,057	\$1,305,460	\$1,324,241	\$543,063	\$251,201	\$261,906

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<sup>5</sup> For the 2002, 2004 and 2006 elections, the amounts for third party spending were obtained from FPPC Form 465. For the 2008, 2010 and 2012 elections, the amounts listed here for third party spending were obtained from San Francisco Ethics Commission forms that require the disclosure of independent expenditures, member communications and electioneering communications (FPPC forms require disclosure of only independent expenditures).

## **APPENDIX: Overview of San Francisco's Limited Public Financing Program**

### **A. Introduction**

In 2012, San Francisco's limited public financing program for candidates running for Board of Supervisors provided eligible candidates up to \$155,000 (or up to \$152,500 for incumbent candidates). The total annual cost of the public financing program, including program administration, cannot exceed \$2.75 per year per resident of San Francisco.

### **B. Criteria and Conditions for Qualifying for Public Financing**

In order to qualify for public financing, a candidate for the November 2012 election was required to:

- seek election to the office of the Board of Supervisors and be eligible to hold office if elected;
- file *Form SFEC-142(a) Statement of Participation or Non-Participation* with the Ethics Commission indicating that he/she intends to participate in the Board of Supervisors Public Financing Program;
- raise at least \$10,000 (Non-Incumbents) or \$15,000 (Incumbents) in qualifying contributions from at least 100 residents (Non-Incumbents) or 150 residents (Incumbents) of the City in contribution amounts ranging from \$10 to \$100;
- agree to limit spending on his or her campaign to no more than his/her Individual Expenditure Ceiling of \$250,000 or as raised by the Ethics Commission;
- submit a declaration (*Form SFEC-142(b)-1*), a qualifying contributions list (*Form SFEC-142(c)-1*), and supporting documentation to the Ethics Commission to establish eligibility to receive public financing;
- be opposed by a candidate who has qualified for public financing or by a candidate who has received contributions or made expenditures that in the aggregate equal or exceed \$10,000;
- bear the burden of proving that each contribution relied upon to establish eligibility is a qualifying contribution and that all contributions received comply with the Campaign Finance Reform Ordinance ("CFRO");
- bear the burden of proving that expenditures made with public funds were used only for qualified campaign expenditures;
- not make payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate; and not make more than a total of 50 payments to a contractor or vendor who has made a contribution to the candidate;
- not accept any loans to the campaign from anyone except the candidate, and not loan more than \$5,000 of the candidate's own money to his/her campaign;
- agree to participate in at least three debates with opponents;
- have paid any outstanding fines owed to the City by the candidate or any of the candidate's campaign committees;
- have filed any outstanding statements, reports or forms owed to the City by the candidate or any of the candidate's campaign committees; and

- have no finding by a court within the past five years that the candidate knowingly, willfully or intentionally violated the CFRO or the campaign finance provisions of the Political Reform Act.

Candidates were prohibited from using public funds to pay administrative, civil, or criminal fines, or to pay for inaugural activities or officeholder expenses. Under the law, all qualified candidates are subject to a mandatory audit.

### C. Applying for Public Funds

In order to be certified by the Executive Director of the Ethics Commission as having met the requirements to receive public financing, candidates were required to submit, along with other items:

- 1) no later than August 10, 2012, the deadline for filing nomination papers, a *Statement of Participation or Non-Participation (Form SFEC-142(a))* indicating an intent to participate in the public financing program; and
- 2) beginning February 6 and no later than August 28, 2012, a *Declaration for Public Funds* along with a list of qualifying contributions (*Forms SFEC-142(b)-1 and SFEC-142(c)-1*) and other supporting material.

Candidates agreed to comply with all the eligibility requirements set forth above by signing and submitting the *Declaration for Public Funds*. On the accompanying list of qualifying contributions, candidates were required to include the contributor's full name, street address, occupation and employer if the contribution was \$100 or more; the total amount contributed; the amount of the contributor's qualifying contribution; the date the qualifying contribution was received; the date the qualifying contribution was deposited; and the deposit batch number. Supporting materials include photocopies of the written instruments used by the contributors to make the qualifying contributions, deposit receipts and other items such as evidence of San Francisco residency. Claims for additional public funds were required to be submitted in a similar manner.

### D. Formula for Disbursing Public Funds

Candidates who were certified as eligible to participate in the public financing program received a grant of \$20,000. After the initial payment, candidates were able to seek additional public funds based on the amount of matching contributions raised and documented in timely claims submitted to the Ethics Commission.<sup>1</sup> After the initial payment of \$20,000, for each dollar of matching contributions up to the next \$50,000 that candidates raised, they received two dollars from the Election Campaign Fund. Thereafter, for each additional dollar of matching contributions raised, candidates received one dollar of public funds until reaching the maximum. The maximum amount

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<sup>1</sup> A matching contribution is a contribution that is not a qualifying contribution or a loan, is made by an individual who is a resident of San Francisco (other than the candidate or the candidate's immediate family), is not received more than 18 months before the November election, and complies with all the requirements of the CFRO and its implementing regulations.

of public funds a candidate could have received was \$155,000 (Non-Incumbents) or \$152,500 (Incumbents), as shown in the table below:

	Private Funds Raised by Non-Incumbents	Matching Public Funds	Private Funds Raised by Incumbents	Matching Public Funds
Initial	\$10,000	\$20,000	\$15,000	\$20,000
1:2	\$50,000	\$100,000	\$50,000	\$100,000
1:1	\$35,000	\$35,000	\$32,500	\$32,500
<b>Total</b>	<b>\$95,000</b>	<b>\$155,000</b>	<b>\$97,500</b>	<b>\$152,500</b>
<b>Total Public and Private Funds</b>	<b>\$250,000</b>		<b>\$250,000</b>	

E. Campaign Spending Limits

To receive public funds, candidates were required to agree to limit their spending to the amount of the Individual Expenditure Ceiling, the expenditure ceiling that is established for each candidate for the Board of Supervisors who is certified by the Ethics Commission as eligible to receive public funds. Each candidate’s Individual Expenditure Ceiling starts at \$250,000 and may be raised under certain circumstances. The ceiling may be raised in \$10,000 increments if the highest level of Total Supportive Funds of any opponent of a publicly financed candidate plus the Total Opposition Spending against such publicly financed candidate exceeds \$250,000 by at least \$10,000.

F. Additional Reporting Requirements for Participating and Non-Participating Candidates

All candidates for the Board of Supervisors were required to file *Form SFEC-152(a)-1* if they received contributions, or made expenditures that equaled or exceeded \$10,000. These statements serve to inform the Commission of candidates’ financial activities so that the Commission could determine whether a candidate who had applied for public financing met the requirement of being opposed by a candidate who either qualified to receive public financing or received contributions or made expenditures of \$10,000 or more. If the Ethics Commission certified at least one candidate for the Board of Supervisors as eligible to receive public funds, all candidates running for office from the same district were required to file *SFEC-152(a)-2* within 24 hours of receiving contributions or making expenditures that equaled or exceeded \$100,000. Thereafter, such candidates were required to file *Form SFE-152(a)-2* within 24 hours of each time that they received additional contributions or made additional expenditures that equaled or exceeded \$10,000.

G. Additional Reporting Requirements for Third Party Spending

In a race where the Ethics Commission had certified at least one candidate as eligible to receive public funds, any person who made \$5,000 or more in independent expenditures, electioneering communications, or member communications that clearly identified any candidate for the Board of Supervisors, was required to file a statement within 24 hours

of reaching or exceeding the threshold. Other filing requirements relating to third party spending regarding a candidate for City elective office, such as a candidate for the Board of Supervisors, included the reporting of independent expenditures for mass mailings that total \$1,000 or more, or payments for electioneering communications that total \$1,000 or more. These statements served to inform the Ethics Commission of Total Supportive Funds and Total Opposition Spending relating to candidates so that the Commission could determine whether the Individual Expenditure Ceiling of any candidate should be adjusted.