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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: September 8, 2011

To: Members, Ethics Commission

From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director

Re: Proposed Amendments to the Campaign Finance Reform Ordinance

Background

At the Commission's March 14, 2011 meeting, staff presented an overview of proposed amendments to the Campaign Finance Reform Ordinance ("CFRO"), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq. ("C&GC Code"). After receiving input from the Commission and the public at that meeting, staff held two interested persons meetings, where staff received a number of comments and suggestions. Based on these meetings and staff's internal review of the CFRO, as well as its implementation of the CFRO over the last several years, staff recommends six major changes to the law:

1. Consolidate the disclosure and disclaimer requirements that apply to third parties that make communications about candidates for City elective office.
2. Consolidate the disclosure and disclaimer requirements that apply to communications paid for by candidates for City elective office.
3. Replace the 24-hour schedule for disclosure reports with an alternate schedule that requires frequent reporting in the period shortly before Election Day but less frequent reporting in earlier months.
4. Allow a candidate to designate approximately ten percent of his or her campaign expenditures as compliance costs that would not count towards the CFRO's spending caps.
5. Retain the \$500 per person limit on contributions to candidates, but add language in the CFRO to reflect the Charter's requirement that the Commission annually adjust the limitation to reflect changes in the Consumer Price Index.
6. Eliminate the overall annual contribution limit, which currently provides that no individual may contribute – to all candidates combined – more than \$500 multiplied by the number of open offices in that election.

In addition, staff recommends several related and technical amendments regarding the use of campaign funds, the public financing program, definitions, email notice provisions, persuasion polls, and false endorsements. This memorandum discusses the above proposed changes, which are designed to clarify, strengthen and simplify the CFRO. Rather than discuss the proposed changes section by section as they appear in the CFRO, this memo discusses the proposed changes according to subject matter. In each section of the memo, staff provides relevant background, discusses the proposed changes, and sets forth decision points for the Commission to make. There are 26 decision points, separated into 13 discussion areas.

* * *

Staff recommends that the changes, if enacted, go into effect on **January 1, 2012**, so that they will not affect committees active in the November 2011 election. The Commission considered a separate set of amendments to the CFRO at its meeting in July 2011. Those amendments, which were drafted in response to the Supreme Court's June 27 decision in *Arizona Free Enterprise Club's Freedom Club PAC, et al. v. Bennett*, will go into effect during the current election season if adopted by the Board of Supervisors. The amendments discussed in this memo are separate and would not affect those pending amendments.

The Ethics Commission and the Board of Supervisors may amend the CFRO if (1) the amendment furthers the purposes of the law; (2) the Ethics Commission approves the proposed amendment by at least a 4/5 vote of all its members; (3) the proposed amendment is available for public review at least 30 days before the amendment is considered by any Board committee; and (4) the Board approves the proposed amendment by at least a 2/3 vote of all of its members.

The draft amendments are attached to this memo. Also attached are: (1) a chart summarizing disclosure and disclaimer requirements under the current CFRO and (2) examples of disclaimer text in varying text sizes.

Discussion and Decision Points

1. Disclosure and Disclaimer Requirements for Communications by Third Parties

Background

Under the CFRO, third parties (non-candidates) must file disclosure reports and make "paid for by" disclaimers on several types of communications. These disclosure and disclaimer requirements differ depending on the type of communication, the amount spent to pay for it, the race to which it refers, and the proximity of Election Day. The law requires disclosure reports for some types of communications and "paid for by" disclaimers for others, and the contents of those reports and disclaimers also differ depending on the type of communication. As a result, the CFRO provides a patchwork of different disclosure and disclaimer rules that can be confusing for the regulated community and challenging to enforce. Specifically, CFRO currently provides separate sets of rules for four different types of third-party communications about candidates:

- *Mass mailings* with over 200 pieces of mail for or against a candidate (disclosure report and “paid for by” disclaimers required by CFRO § 1.161(b));
- *Electioneering communications* that clearly identify a candidate within 90 days of an election and are distributed to 500 or more people (disclosure report and “paid for by” disclaimers required by CFRO § 1.161.5(b));
- *Campaign advertisements* for or against candidates, including TV or radio programming, newspaper ads and billboards (“paid for by” disclaimer statement required by CFRO § 1.162); and
- *Recorded telephone messages* distributed to 500 or more households (“paid-for by” disclaimer required by CFRO § 1.163).

The CFRO requires different content in disclosure reports and different filing schedules for each of these categories of communications. Moreover, special reports must be filed on an expedited basis for certain communications costing more than \$5,000 that refer to candidates in races where there is at least one publicly financed candidate (which is available in Board and Mayor races) or where at least one candidate has accepted a voluntary expenditure ceiling (which is available in races for all other local offices). *See* CFRO §§ 1.134; 1.152(a)(3), (b)(3).

And all these requirements supplement state law, which requires committees to file semi-annual reports (due July 1 for the reporting period January 1 – June 30, and due January 31 for the reporting period July 1 – December 30), pre-election reports (due October 5 and 21, 2011), and 24-hour reports during the late period (16 days prior to the election) if they receive/make contributions or make independent expenditures of \$1,000 or more.

Proposed Changes

a. Third party disclaimer and disclosure requirements:

The information required of third parties under the CFRO provides important facts to help voters make electoral decisions. This information is also critical in enabling Commission staff to monitor spending caps in two contexts: (1) publicly financed races for Mayor or Board where the Commission incrementally raises individual spending caps in response to spending in the race; and (2) other races for local office where candidates may accept a voluntary expenditure ceiling that the Commission lifts when spending in the race exceeds a certain threshold. Without the disclosures required by the CFRO, the Commission could not track spending as necessary to implement these programs.

Even though the required disclosures are critically important, the requirements in current law are complex, as should be evident from the preceding paragraphs. Approximately 18 of the CFRO’s sections or sub-sections address third-party filing requirements, and the Ethics Commission’s Third Party Disclosure Form is now 11 pages long. Further, because different requirements apply depending upon the type of communication distributed, both compliance by third parties and administration by Ethics staff have become difficult and cumbersome. To ameliorate these challenges, staff proposes to consolidate the third party disclaimer and disclosure requirements into one simplified section – new section 1.160 – in the CFRO.

Proposed section 1.160, which appears in the draft amendments beginning on line 19 of page 41, would require certain disclosures and disclaimers for third-party communications about candidates in three situations:

- 1) within 90 days before an election, regardless of the race that the communication addresses;
- 2) more than 90 days before an election in races where there is at least one publicly financed candidate (which is possible in Board and Mayor races); and
- 3) more than 90 days before an election in races where at least one candidate has accepted the voluntary expenditure ceiling and the Commission has not yet lifted that ceiling (which is possible in all other local races).

Because of the different policy considerations in these three situations, the proposal sets different triggers for required filings. For example, in races involving one or more publicly financed candidates where staff must track spending in small increments to raise candidates' spending caps, the proposal requires third parties to file reports every time they spend \$5,000 or more on a communication – even if the spending occurs several months before Election Day. But in races where no candidate is subject to a spending cap and the staff does not need to monitor spending closely, the public need for disclosure of third party spending is more acute closer to the election, so staff proposes requiring no such filings until 90 days before Election Day.¹ And in non-publicly financed races where one or more candidates have accepted a voluntary spending cap, the Commission may need to track spending closely several months before the election to inform decisions about when to lift the cap, but the Commission no longer needs to monitor the spending as closely once the Commission has lifted the cap in the race.

Section 1.160 (a)(1): Expenditures made within 90 days of an election:

Under staff's proposal, any third party that spends at least \$5,000 per candidate to distribute a communication that clearly identifies the candidate within 90 days of an election must include a disclaimer statement in the communication and file a disclosure report with the Ethics Commission. The disclosure report must be filed upon reaching the \$5,000 per candidate threshold, and must be filed again each time the spending equals or exceeds an additional \$5,000 per candidate. This requirement largely duplicates the current supplemental disclosure and electioneering communication disclosure requirements, although the specific content of the disclosures and disclaimers will change, as discussed further below.

Section 1.160(a)(2): Expenditures made more than 90 days of an election in races with publicly financed candidates:

Under current law, third parties must file disclosure reports whenever they spend \$5,000 on certain types of communications that clearly identify a candidate in a race where there is at least

¹ Staff's proposal eliminates reference to recorded telephone messages, as the disclosure provisions in section 1.163 of the CFRO generally track those in California Government Code section 84310.

one publicly financed candidate, even if the communication is distributed more than 90 days before Election Day, so long as the Commission has certified that a candidate in the race is eligible to receive public funds. *See* CFRO §§ 1.152(a)(3), 1.152(b)(3), and 1.152(c). Staff’s proposal generally keeps those requirements in place, but streamlines the disclosure and disclaimer requirements by mandating the same reports and disclaimers for all such communications. By applying the reporting requirements to *all* communications that identify a candidate, no matter how far before Election Day and no matter whether the communication expressly supports or opposes a candidate, the proposal would mandate more reporting than the CFRO currently requires.

Section 1.160(a)(3): Expenditures made more than 90 days before an election in races subject to a voluntary expenditure ceiling:

Under current law, third parties must file disclosure reports whenever they spend \$5,000 on communications that clearly identify a candidate in a race where at least one candidate has accepted the voluntary expenditure ceiling and the Commission has not yet lifted the ceiling. *See* CFRO §§ 1.134(c). Again, staff’s proposal generally keeps those requirements in place while expanding some reporting obligations and streamlining the disclosure and disclaimer requirements by mandating the same reports and disclaimers for all such communications.

Section 1.160(a)(4): Calculation of costs:

Proposed section 1.160(a)(4) identifies which costs must be included in determining whether a third party has met the \$5,000 spending threshold triggering a reporting obligation. Under the proposal, the \$5,000 figure includes all costs of preparing and distributing the communication, including the costs of preparing content, design, copying, mailing and paid staff time. Like current CFRO sections 1.152(a)(3) and (b)(3), the section also provides that the cost of a communication that identifies more than one candidate or ballot measure must be apportioned among each candidate and measure in the communication.

Decision Point 1a:

Shall the Commission approve proposed new section 1.160(a), which establishes the disclaimer and disclosure requirements for communications regarding candidates that are paid for by third parties, as set forth on page 41 line 21 through page 44 line 3 of the draft amendments?

b. Section 1.160(b): Content and form of disclaimer statements:

Proposed section 1.160(b) generally tracks the “paid for by” disclaimer requirements under various provisions in the current CFRO. Specifically, the proposal would require that the communication itself include the name of the person who paid for the communication and that mass mailings by third parties also include the name on the outside of the mailing along with a “not authorized or approved by any candidate” statement. The proposal would require that disclaimers in spoken form be spoken at the same volume and speed as the rest of the communication so as to be clearly audible and understood by the listener.

Staff proposes that the font size of disclaimers in written communications should be at least 10 points. The current disclaimer requirements for mass mailings, electioneering communications and campaign ads provide for 14-point disclaimers. Staff has received many comments that the 14-point font size requirement overwhelms the reader and leaves little room for the

communication itself. State law requires disclaimers on mass mailings to be in 6-point font, which staff believes is too small. State law also requires that third party communications contain disclaimers in at least 10-point font. To simplify the law and align with state law as much as possible, staff recommends a 10-point font size requirement for all third party “paid for by” disclaimers. *See* attachment showing the different text sizes in 6-point, 10-point, and 14-point fonts.

Decision Point 1b:

Shall the Commission approve proposed section 1.160(b), which establishes the content and form of disclaimer statements on third party communications and requires them to appear in at least 10 point font on written communications, as set forth on page 44 lines 4-22 of the draft amendments?

c. Section 1.160(c): Content and form of disclosure reports:

Proposed section 1.160(c) sets forth the content and form of disclosure reports filed by third parties. These requirements generally track some of the information currently required in the Third Party Disclosure Report. However, along with the consolidation of the disclosure requirements, staff proposes to tighten some of the information required to eliminate information that does not serve a purpose for the public or the Commission.

Under the proposal, third parties that distribute written communications must provide one legible copy of the communication, including the envelope if used, in electronic format. Some sections of the CFRO currently require third parties to submit one or two paper copies of communications in certain circumstances. *See, e.g.*, CFRO § 1.161.5 (one copy of electioneering communications); § 1.161 (two copies of mass mailings). Staff’s proposal would replace those paper filings with electronic filings. This will enable staff to post the communication on the website without having to scan the document. However, the proposal would still require third parties to retain an original copy of the communication, plus the envelope, and provide them to Commission staff in the case of audits or investigations. (See proposed changes to section 1.109, as set forth on page 8, line 20 through page 9, line 2 of the draft amendments.)

Decision Point 1c:

Shall the Commission approve proposed section 1.160(c), which sets forth the content and form of disclosure reports regarding third party communications related to candidates, as set forth on page 44 line 23 through page 45 line 16 of the draft amendments?

d. Section 1.160(d): Exceptions:

Proposed section 1.160(d) identifies types of communications by third parties that would not be subject to the disclaimer and disclosure requirements. For the most part, these exceptions track some of the exceptions to the CFRO’s electioneering communications rules in current CFRO section 1.161.5(c)(3)(C). Staff proposes applying the exceptions to all third party communications under the new consolidated section 1.160. But staff’s proposal would eliminate some of the exceptions in current law (such as communications made by slate mailer organizations and communications made during a candidate debate or forum) because they are either regulated elsewhere or are simply duplicative and unnecessary.

Decision Point 1d:

Shall the Commission approve proposed section 1.160(d), which identifies exceptions to disclaimer and disclosure requirements for third parties, as set forth on page 45 line 17 through page 46 line 9 of the draft amendments?

2. Disclosure and Disclaimer Requirements for Communications by Candidate Committees

Background

Much like third parties that spend on communications regarding candidates, candidates are also subject to disclaimer and disclosure laws under the CFRO. Candidates must indicate that they paid for communications by making disclaimers on mass mailings (section 1.161), campaign advertisements (section 1.162), and recorded telephone messages (section 1.163). And candidates who pay for mass mailings must also file itemized disclosure statements with the Commission.

The CFRO includes separate filing requirements for spending by candidates in races with public financing and races where the voluntary expenditure ceiling has not yet been lifted, but those requirements are effective in their current form, so staff does not propose changing or consolidating them (other than to amend the filing schedule, as discussed below on pages 8-9.)

Proposed Changes

Proposed section 1.158 will consolidate the candidate disclaimer and disclosure requirements currently in sections 1.161 and 1.162. Proposed section 1.158 will also apply a disclaimer requirement whenever a candidate distributes: (1) a mass mailing; (2) a paid advertisement on television, radio, newspaper or periodical; (3) an internet advertisement; (4) posters, door hangers, or yard signs produced in quantities of 200 or more; or (5) a billboard. (The proposal does not cover recorded telephone messages because, as noted above in footnote 1, State law effectively regulates that topic.)

As with disclaimer requirements that apply to third parties, the proposal would require any candidate who distributes a covered communication to include a “paid for by ___” statement in 10 point font (reduced from 14 point) if the communication is written. If the communication is mailed, the disclaimer would also have to appear on the exterior of the mailing. If the communication is not in written form, the proposal would require the disclaimer to be spoken at the same volume and speed as the rest of the communication so as to be clearly audible and understood by the listener.

The proposal would require candidates who distribute mass mailings to continue to file disclosure reports. The proposal would also require candidates to file a legible copy of the mailing, including the envelope if used, in electronic format. This electronic filing requirement would replace the requirement in current section 1.161 that candidates file two paper copies of each mass mailing. As with third party communications, the proposal would require candidates

to retain an original copy of the mailing, plus the envelope, and provide them to Commission staff in the case of audits or investigations.

Decision Point 2

Shall the Commission approve proposed section 1.158, which establishes the disclaimer and disclosure requirements for candidates who distribute communications, as set forth on page 40 line 21 through page 21 line 17 of the draft amendments?

3. Disclosure Deadlines

Staff also proposes a standard timing requirement for all disclosure reports filed by candidates and third parties. Currently, the reports described above are filed on different schedules. Many of them are due within 24 hours of a candidate or committee distributing a campaign communication that meets certain spending thresholds. At the interested persons meetings earlier this year, representatives of the regulated community informed staff that it is extremely difficult for committees to track spending every 24 hours, particularly for third parties whose spending relates to multiple candidates, and to submit reports as often as every 24 hours. It is also challenging for staff to track spending with 24 hour reporting. The erratic and unpredictable reporting requires makes it difficult for staff to plan workloads in advance.

In response to these concerns, staff proposes adopting fixed reporting dates for all filers, with the frequency of the required disclosures increasing as Election Day approaches. So whenever candidates or third parties reach the spending thresholds mandating a disclosure report, their disclosures would be due on the next filing date. Those filing dates would be each Wednesday more than 21 days before Election Day; each Monday and Wednesday between 21 and seven days before Election Day; and the last Wednesday, Thursday, Friday and Monday immediately preceding Election Day.

These deadlines reflect the reality that the frequency and intensity of campaign spending increases dramatically as Election Day approaches. The need for immediate reporting is not as acute several months before the election, but the public and the Commission need information about campaign spending quickly as that spending increases close to Election Day. An analysis of third party spending that occurred in the November 2010 election revealed that

- 45 percent of third party spending occurred in the one week prior to the election;
- 21 percent occurred two weeks before;
- 19 percent in the third week before the election;
- 7.5 percent occurred in the fourth week before the election;
- 4.8 percent occurred in the fifth week before the election; and
- 2.7 percent occurred six weeks before the election.

Using these numbers, staff determined that the proposed disclosure deadlines are appropriate to enable the Commission to capture needed information regarding spending.

Staff believes that the change in deadlines for disclosures will not impair staff's ability to monitor races and implement the public financing program or the voluntary expenditure ceilings.

Instead, the change will enable staff to plan its work in advance instead of having to address reports that may come in every 24 hours during the early days of the election.

Decision Point 3:

Shall the Commission adopt a standard timing requirement for all disclosure reports to be filed by candidates and third parties who distribute communications regarding candidates for City elective office, as set forth in:

- section 1.104(l) on page 3 lines 11-14;
- section 1.134(b) on page 16, line 22 through page 17 line 4;
- section 1.152(a) on page 30 line 8 through page 31 line 7;
- section 1.152(b) on page 32 line 7 through page 33 line 6;
- section 1.160.5(c) on page 38 lines 22-25;
- section 1.158(b) on page 41 lines 14- 17; and
- section 1.160 on page 41 line 19 through page 43 line 23 the draft amendments?

4. Compliance Costs, Lifting of Voluntary Expenditure Ceilings and Adjustment of Individual Expenditure Ceilings

Background

Candidates for Mayor and the Board of Supervisors who choose to participate in the public financing program must agree to an individual expenditure ceiling (“IEC”). The IEC is a spending cap. The Commission raises the IECs for publicly financed candidates in response to spending by third parties, other publicly financed candidates, and non-publicly financed candidates in the race. The Commission increases the IEC incrementally for each candidate depending on the amount of money spent to support the candidate’s opponents and to oppose that candidate. *See* CFRO § 1.143.

Candidates for City elective offices other than Mayor or Board of Supervisors may accept the applicable voluntary expenditure ceiling (“VEC”). Like the IEC, the VEC is a spending cap. The amount of the cap varies depending upon the office. *See* CFRO §§ 1.128 and 1.130. But unlike the IEC, the Commission does not increase the VEC incrementally for each candidate in the race. Rather, under section 1.134, the Commission will lift the VEC as to all candidates in a race when candidate spending and fundraising or third party spending exceed certain levels.

Proposed Changes

Based on a suggestion made by Supervisor Scott Wiener and comments received at the interested persons’ meetings, staff proposes to exclude certain “compliance costs” when determining whether to lift the VEC or adjust the IEC. “Compliance costs” are costs that candidates incur in order to comply with the Political Reform Act and CFRO. Staff was informed that compliance costs have increased considerably in recent years as campaign finance laws have become more complicated and reporting requirements have increased. Campaign representatives report that the costs of complying with campaign finance laws now consume a much bigger portion of candidates’ expenditures than they did a decade ago. Staff understands that many candidates who are subject to a VEC or IEC choose to spend their limited campaign funds on

communicating their message instead of paying for professional assistance; thus, they tend to rely on volunteers to perform their compliance work. As a result, some candidates do not fully or consistently comply with the disclosure and disclaimer laws, leading to late filing fees as well as other fines for compliance violations. Staff appreciates that compliance with campaign finance laws can be costly, but it is also critical. To address these concerns, staff proposes to exclude certain compliance costs from the determination of whether to adjust the VEC or IEC. (Under staff's proposal, all campaign expenditures would continue to be reported as under current law, whether or not those expenditures are used for compliance costs or other goals.)

Staff proposes to accomplish the goal of excluding compliance costs from consideration of the VEC and IEC through several changes to the CFRO:

- a) Addition of the definition "Compliance Costs" in CFRO section 1.104(i) (page 2 line 21 through page 3 line 5);
- b) Amendment to the definition of "Qualified Campaign Expenditures" in section 1.104(bb)(4) (page 6 lines 13 - 20);
- c) Amendment to the definition of "Total Supportive Funds" in section 1.104(ff) (page 7 lines 18-25);
- d) Amendments to section 1.134 regarding the lifting of the VEC (page 15 line 20 through page 17 line 4);
- e) Amendments to section 1.148(a) regarding the allowable uses of public funds (page 27 lines 9-22);
- f) Amendments to section 1.152(a)(2) and (b)(2) regarding supplemental reporting by candidates in elections for the Board of Supervisors and Mayor (page 30 line 17 through page 31 line 7; and page 32 line 16 through page 33 line 6).

In proposed section 1.104(i), staff has added a new term – "Compliance Costs" – which will mean expenses incurred by a candidate committee to pay for accounting costs and legal fees associated with the preparation, review, filing, and/or audit of campaign finance disclosure reports required by the PRA and CFRO.² For candidates in the public financing program or who have accepted a VEC, compliance costs would not count toward their spending caps. And the Commission would not consider any candidate's compliance costs in determining whether to lift a VEC or raise any other candidate's IEC. In short, compliance costs would not count in any way toward any spending limits under the CFRO.

But staff recognizes that the exception for compliance costs could be abused by candidates who spend exorbitantly on compliance costs without any consequence. As a result, staff proposes limiting the total amount of funds that any candidate can exclude under the new "compliance costs" exception. Under staff's proposal, the total excludable compliance costs could not exceed ten percent of what the Commission anticipates a viable candidate will likely spend in the race. So, for example, excludable compliance costs would be capped at \$147,500 for Mayoral candidates (ten percent of the initial IEC that applies to publicly financed candidates), \$14,300 for Board (ten percent of the initial IEC that applies to publicly financed Board candidates), and

² Under state law, expenditures made by a state candidate for preparing and filing campaign disclosure reports do not count toward the voluntary expenditure ceiling. 2 C.C.R. § 18540(d).

\$24,300 for Assessor, Public Defender, Sheriff, City Attorney, District Attorney or Treasurer (ten percent of the VEC in those races). Under the proposal, a candidate could choose to spend more than ten percent on compliance, but only ten percent would be excluded when the Commission calculates figures for the purposes of monitoring and raising the spending caps.

This ten percent figure reflects the realities of campaign spending. Staff's random sampling of committees active in 2009-2011 found that expenditures that appear to be related to compliance generally ran from six to 13 percent, with costs for a publicly-financed candidate running at about ten percent.³ This information conforms with information provided by a treasurer whom staff interviewed to gather information about compliance costs and with estimates provided at the interested persons meetings. For this reason, staff recommends that up to ten percent of the applicable VEC or starting IEC be excluded for compliance costs.

The proposal amends a number of sections – 1.104(bb)(4), 1.104(ff), 1.134, 1.148 and 1.152 – to require reporting of expenditures for compliance costs and an itemized accounting of the compliance costs during the period of each report. This information will enable staff to determine the amount of funds that should be excluded in determining the spending caps and whether to lift any IEC or VEC.

Decision Point 4:

Shall the Commission approve the changes to reflect the exclusion of “Compliance Costs” from the determination of whether to lift the Voluntary Expenditure Ceiling or to adjust the Individual Expenditure Ceiling, as set forth in the draft amendments in:

section 1.104(i) on page 2 line 21 through page 3 line 5;
section 1.104(bb)(4) on page 6 lines 13 - 20;
section 1.104(ff) on page 7 lines 18-25;
section 1.134 on page 15 line 20 through page 17 line 4;
section 1.148(a) on page 27 lines 9-22; and
section 1.152(a)(2) and (b)(2) on page 30 line 17 through page 31 line 7; and page 32 line 16 through page 33 line 6?

5. Section 1.114: Contribution Limits

Staff proposes four modifications to section 1.114, which regulates contribution limits.

a. Section 1.114(a) - \$500 contribution limit:

The current limit on contributions to candidates is \$500 per person per candidate. Staff recommends that the Commission retain the \$500 limit but add language to section 1.114(a) to clarify that, in accordance with the Charter, the Commission must adjust limits according to changes in the Consumer Price Index. Under the proposed amendment, those adjustments would be automatic – with the contribution limit rounded to the nearest hundred dollars – using a

³ Because current reports do not require committees to identify “compliance costs” as such, this sample was not precise. For instance, we did not count any committee’s legal expenses even though some of those legal expenses may have been used to pay for advice about compliance.

baseline of January 2012. The Commission would annually report the adjustment calculations on its website.

Decision Point 5a:

Shall the Commission approve the changes to section 1.114(a), which preserves the \$500 per person contribution limit to candidates, but adds language requiring the Commission to report the annual adjustment calculations as set forth in the Charter and which will round the contribution limit to the nearest hundred dollars, as set forth on page 9 lines 12-19 of the draft amendments?

b. Section 1.114(a)(2) – Cumulative contribution limit:

Section 1.114(a)(2) provides that no person may make any campaign contribution that will cause the *total* amount contributed by that person to all candidates in an election to exceed \$500 multiplied by the number of City elective offices to be voted on at that election. Staff recommends deleting this provision. This year, three City elective offices are up for election. All are City-wide offices; as of August 8, 2011, 36 candidates had declared for Mayor, five had declared for District Attorney, and seven had declared for Sheriff. Thus, at least 48 candidates were seeking City-wide elective office.⁴ But because of the limitation in section 1.114(a)(2), an individual may contribute a *total* of 3 x \$500, or \$1,500, to all candidates combined. Candidates have expressed to staff that it has been difficult for some of them to raise funds this year because of the limitation.

In contrast, for the November 2010, where five district supervisor seats and eight City-wide offices (including three on the Board of Education and three on the Community College Board) were up for election and a total of 63 candidates ran for office, an individual was able to contribute up to 13 x \$500, or \$6,500. It seems arbitrary to limit the amount of total contributions that an individual may make based only on the number of largely unconnected races on the ballot. Moreover, the current law puts candidates in a precarious position because it is unlikely candidates would know whether their donors have exceeded their personal limit. Indeed, candidates often have no way of knowing how much a contributor has already given to other candidates because campaign disclosure reports are not due until certain times of the year, generally after a contribution has already been accepted. So while it is simple for a candidate to monitor whether a donor has given the candidate more than \$500, it is not at all simple for the candidate to monitor how much money the same donor has already given to other candidates in the same election cycle. For these reasons, staff recommends deleting section 1.114(a)(2).

Decision Point 5b:

Shall the Commission approve the proposed changes to section 1.114(a) to delete the overall limit of contributions that a person may make to all candidate committees, as set forth on page 9 lines 20-22 of the draft amendments?

c. Section 1.114(c) – Independent expenditure contribution limit:

Section 1.114(c), adopted by the voters as part of Proposition O in 2000, sets limits on the amount of contributions a person may make to non-candidate committees that make expenditures to support or oppose candidates. On September 20, 2007, a federal district court issued a

⁴ As of August 12, 2011, 25 candidates had qualified to be on the ballot in November 2011.

preliminary injunction enjoining enforcement of section 1.114(c); since then, the Commission has not enforced the section. Recently, the matter settled, and the court issued a permanent injunction prohibiting the City from enforcing section 1.114(c). As a consequence of the settlement, staff recommends that section 1.114(c) be deleted.

Decision Point 5c:

Shall the Commission approve the proposed deletion of section 1.114(c), as set forth on page 10 lines 6-14 of the draft amendments?

d. Section 1.114(g) – Receipt of contribution:

Section 1.114(g) defines when an unlawful contribution is considered to have been received by a candidate. The section provides that contributions are automatically considered to have been received during the late reporting period (last 16 days of election) unless the candidate returns the contribution within 48 hours of receipt. State law provides that contributions during the late reporting period are received unless returned within 24 hours. Staff believes that a single standard would simplify the law and ease compliance. Accordingly, staff recommends deleting this section from the CFRO. If the provision is deleted, committees must still comply with the 24-hour rule under state law.

Decision Point 5d:

Shall the Commission approve the deletion of section 1.114(g) as set forth on page 11 line 22 through page 12 line 7 of the draft amendments?

6. Section 1.122 and 1.148: Use of Campaign Funds

Section 1.122(b)(1) sets forth limits on the use of campaign funds by a candidate committee. Campaign funds may be used only on behalf of the candidacy for the office specified in the candidate's declaration of intention or for expenses associated with holding that office, if such expenditures are reasonably related to a legislative, governmental or political purpose. Candidates may not expend funds to support any other candidate, to support or oppose any ballot measure, or to make charitable contributions. However, candidates may use funds to support the ranking of another candidate in ranked choice elections if the primary purpose of the expenditures is to further the candidate's own campaign.

a. Section 1.122(b): Fundraisers and VIP statements:

Staff proposes explicitly permitting a candidate to use campaign funds in two additional circumstances that advance the candidate's candidacy for office:

- Under the proposal, a candidate could use campaign funds to pay for the costs of attending a fundraiser for a charitable organization. Attendance at such events often helps to advance a candidacy by allowing the candidate to meet and greet with others; thus, paying for such costs should be permissible. However, the ban on otherwise making a donation from a candidate's campaign funds to a charitable organization would remain in effect.
- The proposal also would allow a candidate to use campaign funds to submit an argument in the Voter Information Pamphlet ("VIP") regarding a ballot measure, provided that the

candidate spends no more than \$400 on the argument. Submitting a ballot argument in the VIP is a way of informing voters about a candidate's position on an issue of public concern; thus, it often helps to advance a candidacy. The \$400 limit would allow a candidate to use campaign funds to submit a statement of 100 words (\$200 fee plus \$2 per word).

Staff's proposal would also reorganize section 1.122(b) to make it easier to follow.

Decision Point 6a:

Shall the Commission approve the proposed changes in section 1.122(b) as set forth on page 12 line 18 through page 14 line 9 of the draft amendments?

b. Section 1.122(c): Transfer of funds:

In section 1.122(c), staff proposes adding language to clarify that a candidate may transfer funds from the candidate's committee *only* before funds become surplus. Surplus funds are funds that remain in a candidate's account at the time the candidate leaves City elective office or at the end of the post-election reporting period following the candidate's defeat. *See* CFRO § 1.104(dd). Any funds in a candidate's account that become surplus must be either (a) returned to contributors, (b) donated to a charitable organization, (c) donated to the City, or (d) used to pay outstanding debts and expenses associated with terminating the committee. Surplus funds may not be transferred. *See* CFRO § 1.122(b)(4). This proposed amendment would clarify but not change that rule.

Decision Point 6b:

Shall the Commission approve the proposed changes in section 1.122(c), as set forth on page 14 lines 10-15 of the draft amendments?

c. Section 1.148(b): Use of public funds:

Section 1.148(b) separately sets out restrictions on the use of *public* funds by candidates who receive public financing. In section 1.148(b), staff proposes adding language to codify staff's advice that candidates may not use public funds for officeholder expenses after the publicly financed candidate wins the election and takes office. Public funds are designed to be used to promote a candidacy in a political campaign, not to cover office expenses after the candidate wins the election. Candidates may use other, non-public funds in their campaign trust accounts to pay for office expenses, so long as such funds are raised more than 30 days after the election or are funds remaining in the candidate's account after reimbursing the City in full for all public funds. Relatedly, staff also proposes amending section 1.150(b) to reference the allowable uses of public funds in section 1.148. (See section 7 below for discussion of other proposed changes to section 1.150.)

Decision Point 6c:

Shall the Commission approve language in section 1.148(b) to clarify that public funds may not be used for officeholder expenses, as set forth on page 27 line 23 through page 28 line 9 of the draft amendments; and in section 1.150(b) on page 29 lines 11-20 to cross-reference section 1.148?

7. Proposed Amendments to the Public Financing Program

In addition to the changes discussed above that will affect the public financing program, staff proposes the following amendments to the program.

a. Sections 1.140 and 1.142(a): Eligibility to receive public financing:

Staff recommends deleting sections 1.140(a)(1) and 1.142(a), which require all candidates who seek public financing to file a statement that they intend to participate in the public financing program under section 1.142. The filing requirement no longer serves any purpose. It is a hold-over provision from an earlier version of the CFRO that required the Executive Director to make an early funding determination based on the number of candidates who had filed statements indicating their intent to seek public financing. Eliminating this requirement will cut down on red tape without affecting the public financing program. The failure to file a statement of participation by the last day to file nomination papers has become a stumbling block for some candidates seeking public funds.

Decision Point 7a

Shall the Commission approve deleting the requirement that a candidate seeking public funds must have filed a statement that he or she intends to participate in the public financing program, as set forth in the deletion of sections 1.140(a)(1) on page 19 lines 3-4, and 1.142(a) on page 22 lines 10-15 of the draft amendments?

b. Section 1.140(a)(2)(C): Vendor contributions and payments:

Current section 1.140(a)(2)(C) requires applicants for public financing to agree (i) not to pay any campaign vendors or contractors in return for a contribution and (ii) not to make more than 50 total payments to a vendor or contractor that has made a contribution to the candidate. Staff believes that this provision is not necessary. The first rule – that a publicly financed candidate cannot hire a contractor in return for a contribution – is unnecessary in light of other campaign finance rules. And the second rule – that a candidate cannot make more than 50 payments to a vendor who has made a contribution – does not advance any policy goal.

Decision Point 7b

Shall the Commission approve deleting section 1.140(a)(2)(C) as set forth on page 19 lines 10-13 of the draft amendments?

c. Section 1.140(b)(2): Qualifying contributions for Board of Supervisors candidates:

To qualify for public financing, a candidate for the Board of Supervisors currently must raise \$5,000, in qualifying contributions from at least 75 contributors before the 70th day of the election. See CFRO § 1.140(b)(2). Staff proposes raising that threshold so that a candidate for the Board must raise at least \$10,000 in qualifying contributions from 100 contributors. One key goal of the public financing program is to ensure that candidates establish sufficient community support before they become eligible for public funds. In the November 2010 election, \$284,183 was disbursed in public funds to six candidates who received five percent or fewer votes in the first round of voting in their respective districts. One way to ensure that candidates have sufficient community support is to raise the initial qualifying threshold. By raising the threshold

from \$5,000 to \$10,000, staff believes that the goal could be advanced without imposing an unreasonable burden on grassroots candidates seeking to participate in the program.

Decision Point 7c-1

Shall the Commission approve increasing from \$5,000 to \$10,000 the amount that a candidate for the Board of Supervisors must raise initially in order to qualify for public funds, as set forth in section 1.140(b)(2) on page 20 lines 16-17 of the draft amendments?

In connection with the above change, staff proposes that the Commission also change the number in section 1.140(b)(3) so that to qualify for public financing, a supervisorial candidate must be opposed by a candidate who has received contributions or made expenditures that equal or exceed \$10,000.

Decision Point 7c-2

Shall the Commission approve increasing from \$5,000 to \$10,000 the amount of contributions received or expenditures made by an opponent of a candidate seeking to qualify for public financing, as set forth in section 1.140(b)(3) on page 20 lines 28-20 of the draft amendments?

d. Sections 1.140(b)(3) and 1.140(c)(3): Simplification of language:

Sections 1.140(b)(3) and 1.140(c)(3) provide that a candidate cannot be certified for public funds unless he or she is opposed by a candidate who has either “established eligibility to receive public financing” or received at least \$5,000 (Board) or \$50,000 (Mayor) in contributions or made \$5,000 (Board) or \$50,000 (Mayor) in expenditures. Staff proposes simplifying this provision so that a candidate for Mayor would have to be opposed by another candidate who has raised \$50,000 (whether or not that candidate is eligible for public financing) and a candidate for the Board would have to be opposed by another candidate who has raised \$10,000 (again, whether or not that candidate is eligible for public financing).

Decision Point 7d

Shall the Commission approve deleting the phrase “who has either established eligibility to receive public financing” in sections 1.140(b)(3) and 1.140(c)(3) as set forth, respectively, on page 20 lines 18-20 and page 21 lines 7-9 of the draft amendments?

e. Section 1.150(a): Audit:

Section 1.150(a) requires the Commission to audit the committees of all publicly financed candidates and separately authorizes the Executive Director to initiate targeted or randomly selected audits of other committees as well. All audits must begin within 60 days after the first post-election disclosure report, which is generally due on January 31 following a November election. So under current law, staff must initiate any audits by early April, whether or not the candidate is publicly financed. Staff proposes to amend that section to allow audits of committees that do not receive public financing to begin at any time, even outside the 60-day window. The proposal would still require the Commission to begin auditing publicly financed candidates within the 60-day period.

Decision Point 7e:

Shall the Commission approve the changes in section 1.150(a), as set forth on page 28 line 22 through page 29 line 9 of the draft amendments?

f. Section 1.150(b)(2): Qualified campaign expenditures that exceed IEC:

Under current section 1.150(b)(2), any publicly financed candidate who makes qualified campaign expenditures that exceed his or her Individual Expenditure Ceiling (IEC) by ten percent is subject to penalties and, in addition, must repay the amount of public funds he or she received. Because IECs may be and are often raised, the amount of the “ten percent” may also increase such that candidates in the same race subject to differing IECs would be subject to different thresholds before they are deemed to have violated the law. Staff recommends changing the law by establishing set amounts in section 1.150(b)(2) so that a Board candidate may not make qualified campaign expenditures that exceed his or her IEC by \$15,000 or more, and a Mayoral candidate may not make qualified campaign expenditures that exceed his or her IEC by \$150,000 or more.

Decision Point 7f:

Shall the Commission approve the changes to section 1.150(b)(2) as set forth on page 29 line 22 through page 30 line 2 of the draft amendments?

8. Proposed Amendments to Section 1.104: Definitions

Staff proposes to amend section 1.104, the “definitions” section of the CFRO, by adding, modifying and deleting definitions. In general, the proposed additions track definitions that currently appear in different parts of the CFRO. Some of these terms appear in several sections of the CFRO, so consolidating them will help to streamline the Ordinance and make easier for anyone to locate these definitions that are used in various sections of the Ordinance.

Proposed section 1.104(e) “Clearly identifies”: this proposed new definition generally tracks the definitions that appear currently in section 1.160.5(a)(4) relating to persuasion polls, and in section 1.161.5(c)(6) relating to electioneering communications. Similar terms also appear in sections 1.115 regarding coordination, 1.134 regarding lifting of the voluntary expenditure ceilings, 1.143 regarding adjustment of the individual expenditure ceilings, and 1.152 regarding supplemental reporting in public financing races. Staff believes that it makes sense to define the term for all purposes in section 1.104.

Proposed section 1.104(h) “Communication”: this proposed new definition generally tracks language from the definition of “electioneering communication” that currently appears in section 1.161.5(c)(3) and the definition of “campaign advertisement” that currently appears in section 1.162(b). The term “communication” appears throughout the CFRO.

Proposed section 1.104(i) “Compliance Costs”: see discussion in section 4, starting on page 9 of this memo. Staff also proposes modifying the definition of “Qualified campaign expenditure” in section 1.104(cc) to effectuate the “compliance costs” proposal.

Proposed section 1.104(l) “Disclosure Deadline”: see discussion in section 3, starting on page 8 of this memo. This proposed new definition identifies the deadlines for the disclosure of reports required of third parties and candidate committees.

Proposed section 1.104(m) “Distribute” and “Distribution”: this proposed new definition generally tracks the definition of “distributed” in current section 1.161.5(c)(2) regarding electioneering communications. The term “distributed” is used throughout the CFRO. In sections where the term “distributed” does not currently appear (e.g., in the proposed definition of “member communication” in section 1.104(z)), staff proposes using it to standardize the language in the ordinance.

Proposed section 1.104(u) “Internet Advertisement”: this proposed definition replaces the definition of “Internet Communication” that currently appears in section 1.161.5(c)(4) regarding electioneering communications and section 1.163.5(b)(2) regarding false endorsements.

Current section 1.104(x) “Recorded telephone message”: because staff is recommending deletion of section 1.163, which sets forth the disclosure requirements for recorded telephone messages, staff recommends deleting this definition as well.

Proposed amendments to section 1.104(ee) “Total Opposition Spending”: the proposed changes harmonize the definition of “Total Opposition Spending” with the proposed new third party disclosure rules discussed above in section 1 starting on page 2.

Proposed amendments to section 1.104(ff) “Total Supportive Funds”: the proposed addition of the words “and public funds” would reflect the Commission’s current practice of counting public funds when calculating a publicly financed candidate’s IEC. The other proposed changes harmonize the definition of “Total Opposition Spending” with the proposed new third party disclosure rules and the proposed “compliance costs” calculation.

Decision Point 8:

Shall the Commission approve the proposed amendments to section 1.104 definitions, as set forth beginning on page 2 line 8 through page 8 line 18 of the draft amendments?

9. Email Notice Provisions in Sections 1.128, 1.134 and 1.142

Staff proposes a series of new electronic notice provisions requiring the Commission to provide email and online notice when critical milestones are reached in races with public financing or a voluntary expenditure ceiling (VEC). The proposals would require the Commission to post a notice on its website and send email notice to all candidates in a race:

- within two business days of a filing indicating that a candidate in a race has accepted the VEC (section 1.128(c));
- within one business day of receiving a filing that the VEC has been broken in a race (section 1.134(c)); and

- within two business days of certifying a candidate for public funds (1.142(g)).

This proposal generally codifies existing practice, except that staff proposes that notices be sent via email only, not regular mail. This paperless notice requirement will accord with the Commission’s plan to eliminate paper where possible, and to save money and resources.

Decision Point 9:

Shall the Commission approve the proposed changes to sections 1.128(c), 134(c), and 1.142(g), to require the Commission to post certain information on its website and to provide written notice only by email, as set forth, respectively, on pages 15 lines 6-14, page 17 line 22 through page 18 line 2, and page 24 lines 15-18 of the draft amendments?

10. Persuasion Polls

Section 1.160.5 requires disclosure reports and “paid for by” disclaimers for persuasion polls, which are telephone calls that send political messages through in the guise of collecting data. Staff proposes deleting subsection (c)(5), which provides for late filing fines, because that subsection unnecessarily duplicates the late filing provisions in section 1.170. Staff also proposes a series of minor, technical amendments to the section, such as replacing the term “disclosure date” to avoid any confusion with the proposed “Disclosure Deadline” scheme discussed above.

Decision Point 10:

Shall the Commission approve the proposed changes to section 1.60.5, as set forth on page 34 line 19 through page 39 line 4 of the draft amendments?

11. False Endorsements

Section 1.163.5 currently prohibits falsely claiming in a campaign advertisement that someone has endorsed a candidate or measure when that person has not made such an endorsement. Staff proposes applying this prohibition on false endorsements to communications other than campaign ads. Widely distributed campaign materials containing false endorsements are equally harmful whether they appear in advertisements or other types of communications. For that reason, staff proposes applying the false endorsement ban to all communications distributed to 1,000 or more people within 90 days of Election Day.

Decision Point 11:

Shall the Commission approve the proposed changes to section 1.63.5, as set forth on page 39 line 6 through page 40 line 17 of the draft amendments?

12. Proposed Deletions to CFRO sections 1.161, 161.5, 1.162, and 1.163

Because the substantive provisions of sections 1.161 (disclosure and filing requirements for mass mailings), 1.161.5 (disclosure and filing for electioneering communications), and 1.162 (disclosure requirements – campaign advertising) would be replaced by other provisions as discussed above, staff recommends deleting these sections from the CFRO.

As noted in footnote 1, staff also recommends the deletion of section 1.163 because recorded telephone messages are covered under state law, and the language in section 1.163 duplicates the requirements of state law governing recorded telephone messages.

Decision Point 12:

Shall the Commission approve the proposed amendments to delete sections 1.161, 1.161.5, 1.162, and 1.163, as set forth on page 46 line 13 through page 53 line 16 of the draft amendments?

13. Overall approval of the draft amendments

Throughout staff's proposal, staff has proposed minor and technical changes to tighten and standardize language. This memo does not list all those minor, non-substantive changes. Staff recommends that after consideration of the decision points above, the Commission should vote to approve all the remaining changes set forth in the attached version of the draft amendments.

Decision Point 13:

Shall the Commission approve all the changes set forth in the draft amendments, subject to changes otherwise approved by the Commission at its meeting(s)?

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Appendix A: Disclosure and Disclaimer Requirements under CFRO as of March 2011

Section	Applies to:	Description:	Disclaimer	Threshold for filing disclosure	Who files	Time to file	Proposal
1.160.5 Persuasion polls	Candidates, third parties	1000 completed calls, at least one within 60 days of election	Paid for by; conducted by	Each 1000 th call	Person who authorizes, administers or pays for persuasion poll	Within 48 hours of disclosure date	Not affected
1.161 Mass mailings	Candidates; third parties	200 pieces of similar mail that support or oppose candidate for City elective office	“Paid for by” in 14 point font	No threshold for candidates; Expenditures of \$1,000 or more by third parties	Person who pays for mailing	Within 5 business days after date of mailing; within 48 hours in last 16 days before election	Merged into sections 1.158 and 1.160
1.161.5 Electioneering communication	Third parties	Distributed within 90 days prior to election	“Paid for by” in 14 point font; or clearly audible	Payments of \$1,000 or more	Person who pays at least \$1,000 per year, unless that person discloses under 1.134, 1.152 or 1.161	Within 48 hours of each disclosure date	Merged into section 1.160
1.162 Campaign Advertisements	Candidates; third parties	TV or radio programming; newspaper ads,; 200 posters, doorhangers, yard signs; billboard	“Paid for by” in 14 point font; or clearly audible	n/a	No filing requirement	No filing requirement	Merged into sections 1.158 and 1.160
1.163 Recorded Telephone Messages	Candidates; third parties	Distributed to 500 or more individuals	“Paid for by” clearly audible	n/a	No filing requirement	No filing requirement	Deleted because covered by state law

Section	Applies to:	Description:	Disclaimer	Threshold for filing disclosure	Who files	Time to file	Proposal
1.152(a)(1) & (2)** BoS candidates 1.152(b)(1) & (2)** Mayoral candidates	Board of Supervisors and Mayoral candidates	Contributions received or expenditures made	n/a	BoS: \$5,000 contributions or expenditures; then \$100,000; then \$10,000; Mayoral: \$50,000; then \$1,000,000; then \$50,000	Candidate	Within 24 hours of reaching or exceeding each threshold amount	No change
1.152(a)(3)** & (b)(3)** Third parties' disclosure	Third parties in BoS and Mayoral elections	Each \$5,000 expenditures for independent expenditures, member communications, electioneering communications	n/a	Each \$5,000 per candidate spending	Person who spends	Within 24 hours of spending \$5,000 per candidate	Merged into section 1.160
1.134(b) Candidates' disclosure*	Candidates other than BoS and Mayor	Any candidate who receives contributions, makes expenditures or has funds in CCTA that total more than 100% of VEC	n/a	>100 percent of applicable voluntary expenditure ceiling	Candidate	Within 24 hours	No change
1.134(c) Third parties' disclosure*	Third parties in non-BoS and non-Mayoral elections	Each \$5,000 expenditures for independent expenditures, member communications, electioneering communications	n/a	Each \$5,000 per candidate spending	Person who spends	Within 24 hours of spending \$5,000 per candidate	Merged into section 1.160

* Filing requirements under 1.134(b) and (c) apply only if at least one candidate in the race has accepted the voluntary expenditure ceiling.

**Filing requirements under 1.152(a)(2), (b)(2), (a)(3), and (b)(3) apply only if at least one candidate in the race has been certified to receive public funds.

Appendix B

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San Francisco, CA 94100

1 [Campaign Finance Reform Ordinance Amendments]

2

3 **Ordinance amending the Campaign Finance Reform Ordinance, Article I, Chapter 1 of**
 4 **the Campaign and Governmental Conduct Code, to modify and streamline disclaimer**
 5 **and reporting requirements for candidates and third parties raising and spending funds**
 6 **in local elections, to require the Ethics Commission to provide public notice when**
 7 **thresholds are met, to eliminate the overall contribution limit on contributions to all**
 8 **candidates on the ballot in a single election, and to make various reporting and**
 9 **disclaimer requirements parallel to requirements in State law.**

10 NOTE: Additions are *single-underline italics Times New Roman*;
 11 deletions are ~~*strike-through italics Times New Roman*~~.
 12 Board amendment additions are double-underlined;
 Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
 15 amended by amending Sections 1.104, 1.109, 1.114, 1.122, 1.128, 1.134, 1.135, 1.140,
 16 1.142, 1.143, 1.148, 1.150, 1.152, 1.160.5 and 1.163.5, to read as follows:

17 Sec. SEC. 1.104. - DEFINITIONS.

18 Whenever in this Chapter the following words or phrases are used, they shall mean:

19 (a) "Candidate" shall be defined as set forth in the California Political Reform Act,
 20 California Government Code section 81000, et seq., but shall include only candidates for City
 21 elective office.

22 (b) "Candidate committee" shall mean a committee controlled by a candidate, and
 23 primarily formed to support that candidate's election for City elective office.

24 (c) "Charitable organization" shall mean an entity exempt from taxation pursuant to
 25 Title 26, Section 501 of the United State Code.

1 (d) "City elective office" shall mean the offices of Mayor, Member of the Board of
2 Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender,
3 Member of the Board of Education of the San Francisco Unified School District and Member
4 of the Governing Board of the San Francisco Community College District. The Board of
5 Supervisors consists of eleven separate City elective offices, the San Francisco Community
6 College District consists of seven separate City elective offices, and the Board of Education of
7 the San Francisco Unified School District consists of seven separate City elective offices.

8 (e) "Clearly identifies" with respect to a candidate shall mean the communication contains the
9 candidate's name, nickname or image or makes any other unambiguous reference to the candidate such
10 as "your Supervisor" or "the incumbent," and with respect to a measure shall mean the communication
11 contains an unambiguous reference to the measure such as "Proposition A" or "the school bond
12 measure."

13 ~~(e)~~(f) "Code" shall mean the San Francisco Campaign and Governmental Conduct
14 Code.

15 ~~(f)~~(g) "Committee" shall be defined as set forth in the California Political Reform Act,
16 California Government Code section 81000, et seq.

17 (h) "Communication" shall mean any communication, including but not limited to any
18 broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing, flyer, email,
19 door hanger, pamphlet, brochure, card, poster, sign, billboard, facsimile, or printed advertisement in a
20 newspaper, magazine or other medium.

21 (i) "Compliance Costs" shall mean expenses incurred by a candidate committee to pay for
22 accounting costs and legal fees associated with the preparation, filing, review and/or audit of
23 campaign finance disclosure reports required by the California Political Reform Act and the provisions
24 of this Chapter. For the purposes of this Chapter, a candidate committee's total "compliance costs"
25 shall not exceed: \$147,500 for a candidate committee supporting a candidate for Mayor; \$24,300 for a

1 candidate committee supporting a candidate for Assessor, Public Defender, City Attorney, District
2 Attorney, Treasurer, or Sheriff; \$14,300 for a candidate committee supporting a candidate for
3 Supervisor; or \$10,400 for a candidate committee supporting a candidate for the Board of Education of
4 the San Francisco Unified School District or the Governing Board of the San Francisco Community
5 College District.

6 ~~(g)~~(j) "Contribution" shall be defined as set forth in the California Political Reform Act,
7 California Government Code section 81000, et seq.; provided, however, that "contribution"
8 shall include loans of any kind or nature.

9 ~~(h)~~(k) "Controlled committee" shall be defined as set forth in the California Political
10 Reform Act, California Government Code section 81000, et seq.

11 (l) "Disclosure Deadline" shall mean the following dates: each Wednesday more than 21 days
12 before the date of the election; each Monday and Wednesday between 21 and seven days before the
13 date of the election; and the last Wednesday, Thursday, Friday and Monday immediately preceding the
14 date of the election.

15 (m) "Distribute" or "distribution" shall mean any act that permits a communication to be
16 viewed, read or heard.

17 ~~(i)~~(n) "Election" shall mean any general, or special municipal election held in the City
18 and County of San Francisco for City elective office or for a local measure, regardless of
19 whether the election is conducted by district or Citywide.

20 ~~(j)~~(o) "Enforcement authority" shall mean the District Attorney for criminal enforcement,
21 the City Attorney for civil enforcement, and the Ethics Commission for administrative
22 enforcement. Nothing in this Chapter shall be construed as limiting the authority of any law
23 enforcement agency or prosecuting attorney to enforce the provisions of this Chapter under
24 any circumstances where such law enforcement agency or prosecuting attorney otherwise
25 has lawful authority to do so.

1 ~~(k)~~(p) "Ethics Commission" shall mean the San Francisco Ethics Commission.

2 ~~(t)~~(q) "Executive Director" shall mean the Executive Director of the Ethics Commission,
3 or the Executive Director's designee.

4 ~~(m)~~(r) "General purpose committee" shall be defined as set forth in the California
5 Political Reform Act, California Government Code section 81000 et seq.

6 ~~(n)~~(s) "Independent expenditure" shall be defined as set forth in the California Political
7 Reform Act, California Government Code section 81000 et seq. An expenditure is not
8 considered independent and shall be treated as a contribution from the person making the
9 expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if
10 the expenditure is made at the request, suggestion, or direction of, or in cooperation,
11 consultation, concert or coordination with, the candidate on whose behalf, or for whose
12 benefit, the expenditure is made.

13 ~~(o)~~(t) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
14 each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission
15 has certified as eligible to receive public funds under this Chapter.

16 (u) "Internet advertisement" shall mean paid internet advertisements such as "banner" and "pop
17 up" advertisements, paid emails or emails sent to addresses purchased from another person, and
18 similar types of internet communications as defined by the Ethics Commission by regulation, but shall
19 not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or
20 comments and similar unpaid postings on web pages.

21 ~~(p)~~(v) "Itemized disclosure statement" shall mean a form promulgated by the Ethics
22 Commission that provides a detailed description of the separate costs associated with a
23 communication, including but not limited to photography, design, production, printing,
24 distribution, and postage.

1 ~~(g)~~(w) "Mass mailing" shall be defined as set forth in the California Political Reform Act,
2 California Government Code section 81000 et seq., provided that the mass mailing advocates
3 for or against one or more candidates for City elective office.

4 ~~(r)~~(x) "Matching contribution" shall mean a contribution up to \$500, made by an
5 individual, other than the candidate, who is a resident of San Francisco. Matching
6 contributions shall not include loans, contributions received more than 18 months before the
7 date of the election, qualifying contributions or contributions made by the candidate's spouse,
8 registered domestic partner or dependent child. Matching contributions must also comply with
9 all requirements of this Chapter. Matching contributions under \$100 that are not made by
10 written instrument must be accompanied by written documentation sufficient to establish the
11 contributor's name and address. The Ethics Commission shall set forth, by regulation, the
12 types of documents sufficient to establish a contributor's name and address for the purpose of
13 this subsection.

14 ~~(s)~~(y) "Measure" shall mean any City, San Francisco Unified School District or San
15 Francisco Community College District referendum, recall or ballot proposition, whether or not
16 it qualifies for the ballot.

17 ~~(t)~~(z) "Member communication" shall mean a communication made by an organization
18 or its committee for ~~the publication, dissemination or communication~~ distribution to the
19 organization's members, employees or shareholders, or to the families of the organization's
20 members, employees or shareholders, by newsletter, letter, flyer, ~~e-mail~~ email or similar written
21 or spoken material, that supports or opposes a candidate or measure.

22 ~~(u)~~(aa) "Person" shall mean any individual, partnership, corporation, association, firm,
23 committee, club or other organization or group of persons, however organized.

24 ~~(v)~~(bb) "Qualified campaign expenditure" for candidates shall mean all of the following:
25

1 (1) Any expenditure made by a candidate ~~committee, or by a committee controlled by the~~
2 ~~candidate,~~ for the purpose of influencing or attempting to influence the actions of the voters for
3 the election of the candidate to City elective office.

4 (2) A nonmonetary contribution provided to the candidate ~~committee, officeholder or~~
5 ~~committee controlled by the candidate.~~

6 (3) The total cost actually paid or incurred by the candidate ~~committee or controlled~~
7 ~~committee of the candidate~~ for a slate mailing or other campaign literature produced or
8 authorized by more than one candidate.

9 ~~(4) Expenses incurred, but for which payment has not yet been made.~~

10 ~~(5) Expenses associated with complying with applicable laws, including but not limited to the~~
11 ~~California Political Reform Act, California Government Code Section 81000, et seq., and the~~
12 ~~provisions of this Chapter.~~

13 ~~(46)~~ "Qualified campaign expenditure" shall not include Compliance Costs; filing fees; ~~;~~
14 ~~expenses incurred in connection with an administrative or judicial proceeding;~~ payments for
15 administrative, civil or criminal fines, including late filing fees; ~~;~~ costs incurred after the election
16 that do not directly affect the outcome of the election, including but not limited to utility bills
17 ~~and;~~ expenses associated with an audit; ~~;~~ ~~and expenses related to preparing post-election campaign~~
18 ~~finance disclosure reports as required by the California Political Reform Act, California Government~~
19 ~~Code Section 81000, et seq., and the provisions of this Chapter,~~ or payments for inaugural activities
20 or officeholder expenses.

21 ~~(w)~~ (cc) "Qualifying contribution" shall mean a contribution of not less than \$10 and not
22 more than \$100 that is made by an individual who is a resident of San Francisco and that
23 complies with all requirements of this Chapter. Qualifying contributions shall not include
24 loans, contributions received more than 18 months before the date of the election or
25 contributions made by the candidate or the candidate's spouse, registered domestic partner or

1 dependent child. Qualifying contributions under \$100 that are not made by written instrument
2 must be accompanied by written documentation sufficient to establish the contributor's name
3 and address. The Ethics Commission shall set forth, by regulation, the types of documents
4 sufficient to establish a contributor's name and address for the purpose of this subsection.

5 ~~(x)~~ *"Recorded telephone message" shall mean a recorded audio message that expressly*
6 *supports or opposes a candidate for City elective office that is distributed by telephone.*

7 ~~(y)~~(dd) "Surplus funds" shall mean funds remaining in a candidate's campaign account
8 at the time the candidate leaves City elective office, or at the end of the post-election reporting
9 period following the defeat of the candidate for City elective office, whichever occurs last, and
10 funds remaining in the campaign account of a committee primarily formed to support or
11 oppose a measure at the end of the post-election reporting period following the election at
12 which the measure appeared on the ballot.

13 ~~(z)~~(ee) "Total Opposition Spending" shall mean the sum of any expenditures made or
14 expenses incurred by any person or persons for the purpose of making independent
15 expenditures, ~~electioneering communications or~~ member communications or other
16 communications in opposition to a ~~specific~~ clearly identified candidate for Mayor or the Board of
17 Supervisors.

18 ~~(aa)~~(ff) "Total Supportive Funds" shall mean the sum of (i) all contributions and public
19 funds received by a candidate committee supporting a candidate for Mayor or the Board of
20 Supervisors, ~~other than~~ excluding any funds used by the candidate committee to pay for Compliance
21 Costs and any funds in the candidate's Campaign Contingency Account exceeding the
22 candidate committee's Trust Account Limit, plus (ii) the expenditures made or expenses
23 incurred by any person or persons for the purpose of making independent expenditures,
24 ~~electioneering communications or~~ member communications or other communications that clearly
25 identify and ~~in~~ support of that same candidate.

1 ~~(bb)~~(gg) "Trust Account Limit" shall mean the amount of funds in the Campaign
2 Contribution Trust Account of a candidate committee supporting a candidate for Mayor or the
3 Board of Supervisors whom the Ethics Commission has certified as eligible to receive public
4 funds under this Chapter such that the expenditure of this amount would cause the candidate
5 to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account
6 Limit shall be reduced as the candidate spends money and shall be increased when his or her
7 Individual Expenditure Ceiling increases.

8 ~~(ee)~~(hh) "Unexpended public funds" shall mean all funds remaining in the candidate
9 committee's account on the 30th day after the candidate controlling the committee is either
10 elected or not elected to office, regardless of the source of the funds, but shall not exceed the
11 amount of public funds provided to the candidate. Funds raised after this date are not
12 unexpended funds.

13 ~~(dd)~~(ii) "Voter" shall mean an individual registered to vote in San Francisco.

14 ~~(ee)~~(jj) "Withdrawal" or "withdraw" shall mean, prior to an election, ending one's
15 candidacy or failing to qualify for an office for which a candidate has solicited or accepted
16 contributions.

17 ~~(ff)~~(kk) "Written instrument" shall mean a check, credit card receipt, or record of
18 electronic transfer of funds.

19

20 SEC. 1.109. RETENTION OF RECORDS.

21 (a) All candidates and committees that are required to file statements prescribed by this
22 Chapter shall maintain detailed accounts, records, bills, and receipts as necessary to prepare
23 those statements. Each candidate or committee shall retain for a period of four years detailed
24 information and original source documentation supporting those statements, including original
25 copies of all documents filed in electronic format with the Ethics Commission under section 1.158 or

1 1.160. The Ethics Commission may by regulation describe the information and documentation
2 required to be retained for each type of statement.

3 (b) Within ten business days of a request by the Ethics Commission, a committee shall
4 provide the Ethics Commission with any documents required to be retained under this Section
5 or state law, including but not limited to California Code of Regulations, Title 2, section 18401
6 and any subsequent amendments, modifications or administrative or judicial interpretations of
7 that regulation. When the Ethics Commission requests documents under this subsection, it
8 shall provide the committee with the reasons for the request in writing.

9
10 SEC. 1.114. - CONTRIBUTION LIMITS.

11 (a) LIMITS ON CONTRIBUTIONS TO CANDIDATES.

12 ~~(1) Per Candidate Limit.~~ No person other than a candidate shall make, and no campaign
13 treasurer for a candidate committee shall solicit or accept, any contribution which will cause
14 the total amount contributed by such person to such candidate committee in an election to
15 exceed \$500. The Ethics Commission shall adjust this limit to reflect changes in the California
16 Consumer Price Index beginning January 1, 2012, provided that such adjustments shall be rounded off
17 to the nearest \$100. The Ethics Commission shall annually report the adjustment calculations on its
18 website, and shall advise the City Attorney to add a notation to this Section of the published municipal
19 code whenever the limit is raised by \$100.

20 ~~(2) Overall Limit. No person shall make any contribution which will cause the total amount~~
21 ~~contributed by such person to all candidate committees in an election to exceed \$500 multiplied by the~~
22 ~~number of City elective offices to be voted on at that election.~~

23 (b) LIMITS ON CONTRIBUTIONS FROM CORPORATIONS. No corporation organized
24 pursuant to the laws of the State of California, the United States, or any other state, territory,
25 or foreign country, whether for profit or not, shall make a contribution to a candidate

1 committee, provided that nothing in this subsection shall prohibit such a corporation from
2 establishing, administering, and soliciting contributions to a separate segregated fund to be
3 utilized for political purposes by the corporation, provided that the separate segregated fund
4 complies with the requirements of Federal law including Sections 432(e) and 441b of Title 2 of
5 the United States Code and any subsequent amendments to those Sections.

6 ~~(c) LIMITS ON CONTRIBUTIONS TO COMMITTEES.~~

7 ~~(1) Per Committee Limit. No person shall make, and no committee treasurer shall solicit or~~
8 ~~accept, any contribution which will cause the total amount contributed by such person to the committee~~
9 ~~to exceed \$500 per calendar year.~~

10 ~~(2) Overall Limit. No person shall make, and no committee treasurer shall solicit or accept, any~~
11 ~~contribution which will cause the total amount contributed by such person to all committees to exceed~~
12 ~~\$3,000 per calendar year.~~

13 ~~(3) Definitions. For purposes of this Subsection, "committee" shall mean any committee making~~
14 ~~expenditures to support or oppose a candidate, but shall not include candidate committees.~~

15 ~~(cd) AGGREGATION OF AFFILIATED ENTITY CONTRIBUTIONS.~~

16 (1) General Rule. For purposes of the contribution limits imposed by this Section and
17 Section 1.120 the contributions of an entity whose contributions are directed and controlled by
18 any individual shall be aggregated with contributions made by that individual and any other
19 entity whose contributions are directed and controlled by the same individual.

20 (2) Multiple Entity Contributions Controlled by the Same Persons. If two or more
21 entities make contributions that are directed and controlled by a majority of the same persons,
22 the contributions of those entities shall be aggregated.

23 (3) Majority-Owned Entities. Contributions made by entities that are majority-owned by
24 any person shall be aggregated with the contributions of the majority owner and all other
25

1 entities majority-owned by that person, unless those entities act independently in their
2 decisions to make contributions.

3 (4) Definition. For purposes of this Section, the term "entity" means any person other
4 than an individual and "majority-owned" means a direct or indirect ownership of more than 50
5 percent.

6 (~~de~~) CONTRIBUTOR INFORMATION REQUIRED. If the cumulative amount of
7 contributions received from a contributor is \$100 or more, the committee shall not deposit any
8 contribution that causes the total amount contributed by a person to equal or exceed \$100
9 unless the committee has the following information: the contributor's full name; the
10 contributor's street address; the contributor's occupation; and the name of the contributor's
11 employer or, if the contributor is self-employed, the name of the contributor's business. A
12 committee will be deemed not to have had the required contributor information at the time the
13 contribution was deposited if the required contributor information is not reported on the first
14 campaign statement on which the contribution is required to be reported.

15 (~~ef~~) FORFEITURE OF UNLAWFUL CONTRIBUTIONS. In addition to any other penalty,
16 each committee that receives a contribution which exceeds the limits imposed by this Section
17 or which does not comply with the requirements of this Section shall pay promptly the amount
18 received or deposited in excess of the amount permitted by this Section to the City and
19 County of San Francisco and deliver the payment to the Ethics Commission for deposit in the
20 General Fund of the City and County; provided that the Ethics Commission may provide for
21 the waiver or reduction of the forfeiture.

22 (~~g~~) ~~RECEIPT OF CONTRIBUTIONS. A contribution to a candidate committee or committee~~
23 ~~making expenditures to support or oppose a candidate shall not be considered received if it is not~~
24 ~~cashed, negotiated, or deposited and in addition it is returned to the donor before the closing date of~~
25 ~~the campaign statement on which the contribution would otherwise be reported, except that a~~

1 ~~contribution to a candidate committee or committee making expenditures to support or oppose a~~
2 ~~candidate made before an election at which the candidate is to be voted on but after the closing date of~~
3 ~~the last campaign statement required to be filed before the election shall not be considered to be~~
4 ~~deemed received if it is not cashed, negotiated or deposited and is returned to the contributor within 48~~
5 ~~hours of receipt. For all committees not addressed by this Section, the determination of when~~
6 ~~contributions are considered to be received shall be made in accordance with the California Political~~
7 ~~Reform Act, California Government Code Section 81000, et seq.~~

8
9 SEC. 1.122. - SOLICITATION OR ACCEPTANCE OF CAMPAIGN
10 CONTRIBUTIONS— LIMITATIONS.

11 (a) DECLARATION OF INTENT REQUIRED. No candidate or candidate committee
12 shall solicit or accept, or cause to be solicited or accepted, any contribution unless and until
13 the candidate has filed a declaration of intention to become a candidate for a specific City
14 elective office with the Department of Elections on a form prescribed by the Director of
15 Elections.

16 No person shall file a declaration of intention to become a candidate for more than one
17 City elective office.

18 (b) USE OF CAMPAIGN FUNDS.

19 (1) GENERAL. Except as otherwise provided in this Chapter, funds in a candidate
20 committee's campaign account may be used only on behalf of the candidacy for the office
21 specified in the candidate's declaration of intention filed under Subsection (a) or for expenses
22 associated with holding that office, provided that such expenditures are reasonably related to
23 a legislative, governmental, or political purpose. ~~Contributions~~ Except as provided in Subsection
24 (2), contributions solicited or accepted under this Section for one candidate shall not be
25 expended for the candidacy of any other candidate for local, state or federal office, in support

1 of or opposition to any measure or in support of or opposition to any state ballot proposition,
2 or for donations to a charitable organization. ~~Nothing in this section shall prohibit a candidate~~
3 ~~committee for a candidate in a ranked choice election from expending funds to support the ranking of~~
4 ~~another candidate if the primary purpose of the expenditure is to further the candidate's own campaign.~~

5 (2) EXCEPTIONS. A candidate committee may expend funds in its campaign account for the
6 following purposes if the primary purpose of the expenditure is to advance the candidacy for the office
7 specified in the candidate's declaration of intention:

8 (A) Supporting the subsidiary ranking of an opposing candidate in a ranked choice election;

9 (B) Paying for the attendance of the candidate at a fundraiser for a charitable organization; or

10 (C) Paying no more than \$400 for the candidate to submit a ballot argument in the Voter

11 Information Pamphlet pursuant to Article V of the Municipal Elections Code.

12 ~~(2)~~(3) WITHDRAWAL FROM CANDIDACY. If a candidate has withdrawn his or her
13 candidacy, campaign funds held by that candidate's committee's Campaign Contribution Trust
14 Account shall be:

15 (A) returned on a "last in, first out" basis to those persons who have made said
16 contributions;

17 (B) donated to the City and County of San Francisco;

18 (C) donated to a charitable organization;

19 (D) used to pay outstanding campaign debts or accrued expenses;

20 (E) used to pay expenses associated with terminating the committee, such as
21 bookkeeping, legal fees, preparation of campaign statements, and audits; or

22 (F) used for other permissible purposes established by the Ethics Commission by
23 regulation.

24 ~~(3)~~(4) SURPLUS FUNDS. Surplus funds held by a candidate or committee shall be:

1 (A) returned on a "last in, first out" basis to those persons who have made said
2 contributions;

3 (B) donated to a charitable organization;

4 (C) donated to the City and County of San Francisco;

5 (D) used to pay outstanding campaign debts or accrued expenses;

6 (E) used to pay expenses associated with terminating the committee, such as
7 bookkeeping, legal fees, preparation of campaign statements, and audits; or

8 (F) used for other permissible purposes established by the Ethics Commission by
9 regulation.

10 (c) TRANSFER OF FUNDS. Subject to the restrictions set forth in Subsection (b), at
11 any time, before funds held in a candidate committee's Campaign Contribution Trust Account
12 become surplus, the funds may be transferred to any legally constituted committee established
13 by the candidate under the California Political Reform Act, California Government Code
14 section 81000 et seq. Contributions transferred under this subsection shall be attributed to
15 specific contributors using a "first in, first out" or "last in, first out" accounting method.
16

17 SEC. 1.128. - ACCEPTANCE OR REJECTION OF VOLUNTARY EXPENDITURE
18 CEILINGS.

19 (a) Candidates for Assessor, City Attorney, District Attorney, Public Defender, Sheriff,
20 Treasurer, the Board of Education of the San Francisco Unified School District or the
21 Governing Board of the San Francisco Community College District may accept the applicable
22 voluntary expenditure ceiling. Candidates for the Board of Supervisors or Mayor may not
23 accept a voluntary expenditure ceiling.

24 (b) To accept the applicable voluntary expenditure ceiling, a candidate must file a
25 statement with the Ethics Commission accepting the applicable voluntary expenditure ceiling.

1 The candidate shall file this statement no later than the deadline for filing nomination papers
2 with the Department of Elections. A candidate may not withdraw the statement accepting the
3 voluntary expenditure ceiling after filing the statement. A candidate may not file the statement
4 accepting the applicable voluntary expenditure ceiling if the Ethics Commission has lifted the
5 voluntary expenditure ceiling under Section 1.134 of this Chapter.

6 (c) Within two business days of receiving a filed statement that at least one candidate has
7 accepted the voluntary expenditure ceiling, the Ethics Commission shall post a notice on its website
8 and send written notice by email to all other candidates running for the same City elective office and to
9 any other person who has requested such notice. Thereafter, the ~~The~~ Ethics Commission shall
10 maintain, on its website, a list of the candidates who have accepted the voluntary expenditure
11 ceiling in the race. If the Ethics Commission has lifted a voluntary expenditure ceiling for a
12 particular race under Section 1.134 of this Chapter, the Ethics Commission shall instead
13 maintain a list of the candidates who have accepted, but are no longer subject to the voluntary
14 expenditure ceiling in that race.

15 (d) A candidate who has accepted the applicable voluntary expenditure ceiling and
16 makes qualified campaign expenditures in excess of the voluntary expenditure ceiling, at a
17 time when the Ethics Commission has not lifted the applicable voluntary expenditure ceiling, is
18 subject to the penalties in Section 1.170 for violation of this Chapter.

19
20 SEC. 1.134. - LIFTING OF VOLUNTARY EXPENDITURE CEILINGS;
21 SUPPLEMENTAL REPORTING IN ELECTIONS FOR ASSESSOR, PUBLIC DEFENDER,
22 CITY ATTORNEY, DISTRICT ATTORNEY, TREASURER, SHERIFF, THE BOARD OF
23 EDUCATION OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT, OR THE
24 GOVERNING BOARD OF THE SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.

1 This Section shall apply only if at least one candidate for the City elective office has
2 accepted the applicable voluntary expenditure ceiling, and the Ethics Commission has not
3 lifted that voluntary expenditure ceiling. This Section applies only to candidates for Assessor,
4 Public Defender, City Attorney, District Attorney, Treasurer, Sheriff, the Board of Education of
5 the San Francisco Unified School District, or the Governing Board of the San Francisco
6 Community College District.

7 (a) The voluntary expenditure ceiling shall no longer be binding on a candidate:

8 (1) if a candidate committee for a candidate seeking election to the same City elective office,
9 who has declined to accept the voluntary expenditure ceiling in the same race, ~~receives~~
10 ~~contributions or~~ makes qualified campaign expenditures, or receives contributions that the
11 candidate committee has not spent to pay for Compliance Costs, in excess of 100 percent of the
12 applicable voluntary expenditure ceiling,

13 (2) If a person or persons other than a candidate committee make expenditures or
14 payments, or incur expenses for the purpose of making independent expenditures,
15 ~~electioneering communications or~~ member communications or other communications that total
16 more than 100 percent of the applicable voluntary expenditure ceiling, and those expenditures
17 or communications clearly identify a candidate seeking election to the same City elective
18 office, or

19 (3) if a candidate committee for a candidate seeking election to the same City elective office,
20 who has accepted the voluntary expenditure ceiling in the same race, makes qualified campaign
21 expenditures in excess of 100 percent of the voluntary expenditure ceiling.

22 (b) Any candidate committee that ~~receives contributions,~~ makes qualified campaign
23 expenditures or receives contributions that the candidate committee has not spent to pay for
24 Compliance Costs, ~~incurs expenses or has funds in its Campaign Contribution Trust Account~~ that total
25 more than 100 percent of the applicable voluntary expenditure ceiling shall, ~~within 24 hours of~~

1 by the next Disclosure Deadline after exceeding 100 percent of the applicable voluntary
2 expenditure ceiling, file a statement with the Ethics Commission, on forms to be provided by
3 the Ethics Commission, stating that fact and any additional information required by the Ethics
4 Commission.

5 ~~(c) Any person other than a candidate committee who makes expenditures or payments, or~~
6 ~~incurs expenses for the purpose of distributing independent expenditures, electioneering~~
7 ~~communications or member communications that clearly identify any candidate in an amount that in~~
8 ~~the aggregate equals or exceeds \$5,000 per candidate shall, within 24 hours of reaching or exceeding~~
9 ~~this threshold, file a statement with the Ethics Commission. The statement shall include a legible copy~~
10 ~~of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio~~
11 ~~or video, disclose the cost of each communication, and provide any additional information required by~~
12 ~~the Ethics Commission.~~

13 ~~Thereafter, until the Ethics Commission lifts the applicable voluntary expenditure ceiling, any~~
14 ~~such person shall file a supplemental statement with the Ethics Commission each time the person makes~~
15 ~~expenditures for the purpose of distributing independent expenditures, electioneering communications~~
16 ~~or member communications that clearly identify any candidate in an amount that in the aggregate~~
17 ~~equals or exceeds an additional \$5,000 per candidate. The supplemental statements shall be filed~~
18 ~~within 24 hours of reaching or exceeding this threshold, and shall include a legible copy of the~~
19 ~~communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or~~
20 ~~video, disclose the cost of each communication, and provide any additional information required by the~~
21 ~~Ethics Commission.~~

22 (c~~d~~) Within one business day after receiving a notice indicating that the thresholds in
23 subsection (a) have been met, the Ethics Commission shall post a notice on its website and send
24 written notice by email to all other candidates running for the same City elective office and to any other
25

1 person who has requested such notice. ~~inform every candidate in the same race that the expenditure~~
2 ~~ceiling has been lifted.~~

3
4 SEC. 1.135. - SUPPLEMENTAL PRE-ELECTION STATEMENTS.

5 (a) Supplemental Preelection Statements. In addition to the campaign disclosure
6 requirements imposed by the California Political Reform Act and other provisions of this
7 Chapter, all San Francisco general purpose committees that make contributions or independent
8 expenditures related to any candidate for City elective office or City measure that total \$500 or more
9 during the period covered by the preelection statement shall file preelection statements before any
10 election held in the City and County of San Francisco at which ~~a~~ the candidate ~~for City elective~~
11 ~~office or City measure is~~ appears on the ballot, ~~if the committee makes contributions or expenditures~~
12 ~~totaling \$500 or more during the period covered by the preelection statement.~~

13 (b) Time for Filing Supplemental Preelection Statements. In even-numbered years,
14 preelection statements required by this Section shall be filed pursuant to the preelection
15 statement filing schedule established by the Fair Political Practices Commission for county
16 general purpose recipient committees. In odd-numbered years, the filing schedule is as
17 follows:

18 (1) For the period ending 45 days before the election, the statement shall be filed no
19 later than 40 days before the election;

20 (2) For the period ending 17 days before the election, the statement shall be filed no
21 later than 12 days before the election.

22 (c) The Ethics Commission may require that these statements be filed electronically.

23
24 SEC. 1.140. - ELIGIBILITY TO RECEIVE PUBLIC FINANCING.

1 (a) REQUIREMENTS FOR ALL CANDIDATES. To be eligible to receive public funds
2 ~~financing of campaign expenses~~ under this Chapter, a candidate must:

3 ~~(1) Have filed a statement indicating that he or she intends to participate in the public financing~~
4 ~~program under Section 1.142 of this Chapter.~~

5 ~~(12)~~ Agree to the following conditions:

6 (A) The candidate bears the burden of providing that each contribution the candidate
7 relies upon to establish eligibility is a qualifying contribution;

8 (B) The candidate bears the burden of proving that expenditures made with public
9 funds provided under this Chapter comply with Section 1.148 of this Chapter;

10 ~~(C) The candidate will not make any payments to a contractor or vendor in return for the~~
11 ~~contractor or vendor making a campaign contribution to the candidate or make more than a total of 50~~
12 ~~payments, other than the return of a contribution, to contractors or vendors that have made~~
13 ~~contributions to the candidate;~~

14 ~~(CD)~~ Notwithstanding Sections 1.114 and 1.116, the candidate shall not loan or donate,
15 in total, more than \$5,000 of his or her own money to the candidate committee campaign;

16 ~~(DE)~~ The candidate committee shall not accept any loans ~~to his or her campaign~~ with the
17 exception of a candidate's loan to his or her own candidate committee campaign as permitted by
18 this Section; and

19 ~~(EF)~~ The candidate shall agree to participate in at least three debates with the
20 candidate's opponents.

21 ~~(23)~~ Have paid any outstanding late fines or penalties, owed to the City by the
22 candidate or any of the candidate's previous campaign committees, which were imposed for
23 violations of this Code or the campaign finance provisions of the California Political Reform
24 Act (Government Code Sections 84100 - 85704), provided that the Ethics Commission had
25 notified the candidate of such fines or penalties by the time of certification.

1 (34) Have filed any outstanding forms, owed to the City by the candidate or any of the
2 candidate's previous campaign committees, which were required to be filed pursuant to this
3 Code or the campaign finance provisions of the Political Reform Act (Government Code
4 Sections 84100—85704), provided that the Ethics Commission had notified the candidate of
5 such outstanding forms by the time of certification.

6 (45) Have no finding by a court or by the Ethics Commission after a hearing on the
7 merits, within the prior five years, that the candidate knowingly, willfully, or intentionally
8 violated any Section of this Code or the campaign finance provisions of this California Political
9 Reform Act (Government Code Sections 84100 - 85704). For purposes of this Section, a plea
10 of nolo contendere constitutes a finding by a court of a willful violation.

11 (b) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR THE BOARD OF
12 SUPERVISORS. To be eligible to receive public ~~financing of campaign expenses~~ under
13 this Chapter, a candidate for the Board of Supervisors must:

14 (1) Be seeking election to the Board of Supervisors and be eligible to hold the office
15 sought;

16 (2) Have a candidate committee that has received at least ~~\$5,000~~ 10,000 in qualifying
17 contributions from at least ~~75~~ 100 contributors before the 70th day before the election;

18 (3) Be opposed by another candidate ~~who has either established eligibility to receive public~~
19 ~~financing, or~~ whose candidate committee has received contributions or made expenditures
20 which in the aggregate equal or exceed ~~\$10,000~~ 5,000; and

21 (4) Agree that his or her candidate committee will not make qualified campaign
22 expenditures that total more than the candidate's Individual Expenditure Ceiling of \$143,000,
23 or as adjusted under Section 1.143 of this Chapter.

1 (c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible
2 to receive public ~~funds financing of campaign expenses~~ under this Chapter, a candidate for Mayor
3 must:

4 (1) Be seeking election to the office of Mayor and be eligible to hold the office sought;

5 (2) Have a candidate committee that has received at least \$25,000 in qualifying
6 contributions from at least 250 contributors by the 70th day before the election.

7 (3) Be opposed by another candidate ~~who has either established eligibility to receive public~~
8 ~~financing, or~~ whose candidate committee has received contributions or made expenditures that
9 in the aggregate equal or exceed \$50,000; and

10 (4) Agree that his or her candidate committee will not make qualified campaign
11 expenditures that total more than the candidate's Individual Expenditure Ceiling of
12 \$1,475,000, or as adjusted under Section 1.143 of this Chapter.

13 (d) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. The Ethics
14 Commission is authorized to adjust:

15 (1) The figures in Subsections (b)(4) and (c)(4) to reflect changes in the California
16 Consumer Price Index, provided that such adjustments shall be rounded off to the nearest
17 \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for candidates for
18 Mayor;

19 (2) The figure in Subsection (a)(~~12~~)(D) of this Section to reflect changes in the
20 California Consumer Price Index, provided that such adjustments shall be rounded off to the
21 nearest \$1,000;

22 (3) The figures in Subsections (b)(2) and (b)(3) of this Section to reflect changes in the
23 California Consumer Price Index, provided that such adjustments shall be rounded off to the
24 nearest \$500;

1 (4) The figures in Subsections (c)(2) and (c)(3) of this Section to reflect changes in the
2 California Consumer Price Index, provided that such adjustments shall be rounded off to the
3 nearest \$5,000; and

4 (5) The maximum amount of a contribution that constitutes a qualifying contribution
5 pursuant to Section 1.104 to reflect changes in the California Consumer Price Index, provided
6 that such adjustments shall be rounded off to the nearest \$10.

7
8 SEC. 1.142. - PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY
9 THE ETHICS COMMISSION.

10 ~~(a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each candidate for the~~
11 ~~Board of Supervisors or Mayor must sign and file a Statement of Participation or Non-Participation in~~
12 ~~the public financing program. The statement must be filed by the candidate with the Ethics Commission~~
13 ~~no later than the deadline for filing nomination papers. On the statement, each candidate shall indicate~~
14 ~~whether he or she intends to participate in the public financing program. A statement of participation~~
15 ~~or non-participation may not be amended after the deadline for filing nomination papers.~~

16 (ab) DECLARATION BY CANDIDATE. To become eligible to receive public funds
17 ~~financing of campaign expenses~~ under this Chapter, a candidate shall declare, under penalty of
18 perjury, that the candidate satisfies the requirements specified in Section 1.140. Candidates
19 ~~shall be permitted to~~ may submit the declaration and any supporting material required by the
20 Ethics Commission to the Ethics Commission no earlier than nine months before the date of
21 the election, but no later than the 70th day before the election. Once the declaration and
22 supporting material are submitted, they may not be amended. The declaration and supporting
23 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
24 day before the election.

1 If any deadline imposed by this Subsection falls on a Saturday, Sunday, or legal
2 holiday, the deadline shall be the next business day.

3 (~~be~~) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
4 Commission shall review the candidate's declaration and supporting material to determine
5 whether the candidate is eligible to receive public funds under this Chapter. The Executive
6 Director may audit the candidate's records, interview contributors and take whatever steps the
7 Executive Director deems necessary to determine eligibility. At the request of the Executive
8 Director, the Controller shall assist in this review process.

9 (~~cd~~) DETERMINATION OF OPPOSITION. To determine whether a candidate ~~for the~~
10 ~~Board of Supervisors~~ is opposed as required under Section 1.140(b)(3) ~~or of this Chapter or a~~
11 ~~candidate for Mayor is opposed as required under Section 1.140(c)(3)~~ of this Chapter, the Executive
12 Director shall review the material filed pursuant to Section 1.152(a)(1) and (b)(1) of this
13 Chapter, and may review any other material.

14 (~~de~~) CERTIFICATION. If the Executive Director determines that a candidate ~~for Mayor~~
15 ~~or the Board of Supervisors~~ has satisfied the requirements of Section 1.140, the Executive
16 Director shall notify the candidate and certify to the Controller that the candidate is eligible to
17 receive public ~~funds financing~~ under this Chapter. The Executive Director shall not certify that
18 a candidate is eligible to receive public ~~funds financing~~ if the candidate's declaration or
19 supporting material is incomplete or otherwise inadequate to establish eligibility. The
20 Executive Director shall determine whether to certify a candidate no later than 30 days after
21 the date the candidate submits his or her declaration and supporting material, provided that
22 the Executive Director shall make all determinations regarding whether to certify a candidate
23 no later than the 55th day before the election.

24 (~~ef~~) RESUBMISSION. If the Executive Director declines to certify that a candidate is
25 eligible to receive public ~~funds financing~~ under this Chapter, the Executive Director shall notify

1 the candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within
2 five business days of the date of notification, resubmit the declaration and supporting material.
3 If the candidate does not timely resubmit, the Executive Director's determination is final.

4 If, after viewing resubmitted material, the Executive Director declines to certify that a
5 candidate is eligible to receive public funds financing under this Chapter, the Executive Director
6 shall notify the candidate of this fact. Additional resubmissions may be permitted in the
7 Executive Director's discretion. If the candidate fails to resubmit in the time specified by the
8 Executive Director, or if no further resubmissions are permitted, the Executive Director's
9 determination is final.

10 (~~f~~) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
11 certify that a candidate is eligible to receive public funds financing under this Chapter, the
12 candidate may appeal the Executive Director's final determination to the Ethics Commission.
13 The candidate must deliver the written appeal to the Ethics Commission within five days of the
14 date of notification of the Executive Director's determination.

15 (g) NOTICE. Within two business days of certifying that at least one candidate in a contest is
16 eligible to receive public funds under this Chapter, the Ethics Commission shall post a notice on its
17 website and send written notice by email to all other candidates running for the same City elective
18 office and to any other person who has requested such notice.

19
20 SEC. 1.143. - ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

21 This Section shall apply only if the Ethics Commission has certified that at least one
22 candidate for Mayor or the Board of Supervisors is eligible to receive public funds under this
23 Chapter.

24 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate
25 for Mayor to an amount equal to the sum of the Total Opposition Spending against that

1 candidate and the highest level of the Total Supportive Funds of any other candidate for
2 Mayor if such amount is greater than \$1,475,000, provided that the Executive Director may
3 adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

4 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate
5 for the Board of Supervisors to an amount equal to the sum of the Total Opposition Spending
6 against that candidate and the highest level of the Total Supportive Funds of any other
7 candidate for the same office on the Board of Supervisors if such amount is greater than
8 \$143,000, provided the Executive Director may adjust a candidate's Individual Expenditure
9 Ceiling only in increments of \$10,000.

10 (c) No later than the second business day after a statement is filed pursuant to Section
11 ~~1.152(a)(3) or (b)(3)~~ 1.160 of this Chapter *pertaining to a race for Mayor or Board of Supervisors*,
12 the Executive Director shall determine whether the communication supports or opposes one
13 or more candidates.

14 Factors the Executive Director shall use to determine whether the communication
15 supports or opposes one or more candidates include the following:

- 16 (1) whether the communication clearly identifies one or more candidates;
- 17 (2) the timing of the communication;
- 18 (3) the voters targeted by the communication;
- 19 (4) whether the communication identifies any candidate's position on a public policy
20 issue and urges the reader or viewer to take action, including calling the candidate to support
21 or oppose the candidate's position;
- 22 (5) whether the position of one or more candidates on a public policy issue has been
23 raised as distinguishing these candidates from others in the campaign, either in the
24 communication itself or in other public communications;

1 (6) whether the communication is part of an ongoing series of substantially similar
2 advocacy communications by the organization on the same issue; and

3 (7) any other factors the Executive Director deems relevant.

4 (d) Within one business day of the date that the Executive Director makes a
5 determination under Subsection (c), either the candidate(s) identified in the communication or
6 any candidate seeking the same City elective office as the candidate identified in the
7 communication may object to the Executive Director's determination. The Executive Director
8 shall respond to any objection within one business day of receiving the objection.

9 (e) Within one business day of the Executive Director's response, either the
10 candidate(s) identified in the communication or any candidate seeking the same City elective
11 office as the candidate identified in the communication may submit to the Executive Director a
12 request that the Ethics Commission review the Executive Director's determination. Within one
13 business day of receiving the request, the Executive Director shall notify each Commissioner
14 of the candidate's request.

15 If within one business day of the Executive Director's notice, two or more members of
16 the Commission inform the Executive Director that they would like to review the determination,
17 the Executive Director shall schedule a meeting of the Commission on a date that occurs
18 within one week of the Commissioners' requests. If three members of the Commission vote to
19 overrule the Executive Director's determination, the Commission shall make a final
20 determination based on the factors set forth above.

21 (f) If no candidate objects to the Executive Director's determination, if no candidate
22 requests review by the Commission of the Executive Director's determination, if a request is
23 made and two or more members of the Commission do not request to review the
24 determination, or *if* within one week of two members of the Commission requesting to review
25 the Executive Director's determination, at least three members of the Commission do not vote

1 to overrule the Executive Director's determination, then the Executive Director's determination
2 shall become final.

3 The Executive Director shall determine whether to adjust the Individual Expenditure
4 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either
5 Subsection (a) or (b) of this Section within one business day of a final determination.
6

7 SEC. 1.148. - RESTRICTIONS ON USE OF PUBLIC FUNDS; UNEXPENDED PUBLIC
8 FUNDS.

9 (a) ~~USE FOR QUALIFIED CAMPAIGN EXPENDITURES ONLY~~ ALLOWABLE USES OF
10 PUBLIC FUNDS. Candidates who receive public financing may use the public funds solely for
11 the following purposes:

12 (1) to pay for qualified campaign expenditures;

13 (2) and to repay loans used to pay for qualified campaign expenditures;

14 (3) except that public funds may be used to pay filing fees and costs incurred after the
15 election that do not directly affect the outcome of the election, including but not limited to utility
16 bills, expenses associated with an audit, and expenses related to preparing post-election
17 campaign finance disclosure reports as required by the California Political Reform Act,
18 Government Code Section 81000, et seq., and the provisions of this Chapter;

19 (4) to pay for Compliance Costs, except as provided in Subsection (b)(1); and

20 (5) to pay expenses associated with complying with applicable laws, including the California
21 Political Reform Act and this Chapter, that exceed the Compliance Costs monetary limits set forth in
22 section 1.104(i).

23 (b) PROHIBITED USES OF PUBLIC FUNDS. Candidates may not use public funds to
24 pay for:
25

1 (1) expenses incurred in connection with an administrative or judicial proceeding;

2 ~~Candidates may not use public funds~~

3 (2) ~~to pay~~ administrative, civil or criminal fines, including late filing fines; ~~or~~

4 (3) ~~to pay for~~ inaugural activities, election victory celebrations or similar post-election
5 campaign events;

6 (4) ~~or~~ officeholder expenses: incurred in connection with the office to which the candidate
7 holds after the election; or

8 (5) ~~Candidates may not use public funds to pay~~ post-election bonuses to campaign
9 employees. ~~or for election victory celebrations or similar post-election campaign events.~~

10 (b~~c~~) WITHDRAWAL OR FAILURE TO QUALIFY. Any candidate who receives public
11 financing but who withdraws or fails to qualify to have his or her name printed on the ballot in
12 the election for which the public funds were provided shall repay the Election Campaign Fund
13 the full sum received from the Fund.

14 (e~~d~~) UNEXPENDED PUBLIC FUNDS. Any candidate who receives public financing and
15 whose committee has unexpended public funds shall pay to the City and County of San
16 Francisco and deliver to the Ethics Commission those funds for deposit in the Election
17 Campaign Fund no later than 30 days after the Ethics Commission completes its audit of the
18 candidate's committee. Unexpended funds may be used to pay for expenses associated with
19 an audit such as bank fees, treasurer fees and storage fees until the Ethics Commission
20 completes its audit of the candidate's committee.

21
22 SEC. 1.150. AUDIT; REPAYMENT.

23 (a) AUDIT.

24 (1) Committees Receiving Public Financing. The Ethics Commission shall audit all
25 candidate committees whose candidates have received public financing under this Chapter.

1 Audits of candidate committees conducted under this Subsection shall begin within 60 days
2 after the date the candidate committees' first post-election campaign disclosure report is
3 required to be filed pursuant to Section 1.106 of this Chapter.

4 (2) Committees Not Receiving Public Financing. In his or her discretion, the Executive
5 Director may initiate additional targeted or randomly selected audits of any committee,
6 irrespective of whether the committee received any public funds. Such audits may begin at any
7 time.

8 (3). Assistance From Controller. At the request of the Executive Director, the Controller
9 shall assist in conducting ~~these~~ audits described in this Section.

10 (b) REPAYMENT.

11 (1) If the Ethics Commission determines that any portion of the payments made to a
12 candidate from the Election Campaign Fund exceeded the aggregate amount of payments to
13 which the candidate was entitled under this Chapter, the Commission shall notify the
14 Controller and the candidate. In addition to any other penalties, the candidate shall pay to the
15 City and County of San Francisco, ~~and deliver~~ by delivering to the Ethics Commission an
16 amount equal to the amount of the excess payments, and if the Commission determines that
17 any amount of any payment made to a candidate from the Election Campaign Fund was used
18 for something other than ~~qualified campaign expenditures~~ the uses permitted under Section 1.148 of
19 this Chapter, the candidate shall pay to the Ethics Commission an amount equal to the
20 improper expenditure.

21 (2) Any candidate who receives public funds under this Chapter and makes qualified
22 campaign expenditures exceeding ~~exceeds~~ his or her Individual Expenditure Ceiling by ~~ten percent~~
23 \$15,000 or more if the candidate is a candidate for the Board of Supervisors, or by \$150,000 or more
24 if the candidate is a candidate for Mayor, shall, in addition to any other penalties, pay to the
25

1 Ethics Commission an amount equal to the amount of public funds the candidate received
2 under this Chapter.

3 (3) All payments delivered to the Ethics Commission under this Section shall be
4 deposited in the Election Campaign Fund.

5
6 SEC. 1.152. - SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF
7 SUPERVISORS AND MAYOR.

8 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

9 (1) In addition to the campaign disclosure requirements imposed by the California
10 Political Reform Act and other provisions of this Chapter, each candidate committee
11 supporting a candidate for the Board of Supervisors shall file a statement with the Ethics
12 Commission indicating when the committee has received funds, including contributions and
13 public funds, ~~contributions to be deposited into its Campaign Contribution Trust Account~~ or made
14 expenditures, including in-kind contributions and expenses incurred but for which payment has not
15 yet been made, that equal or exceed \$5,000 ~~within 24 hours of~~ \$10,000 no later than the first
16 Disclosure Deadline after reaching or exceeding that amount.

17 (2) In addition to the supplemental report in Subsection (a)(1) of this Section, each
18 candidate committee supporting a candidate for the Board of Supervisors shall file a
19 statement with the Ethics Commission disclosing when the committee has received funds,
20 including contributions and public funds, ~~contributions to be deposited into its Campaign Contribution~~
21 Trust Account or made expenditures, including in-kind contributions and expenses incurred but for
22 which payment has not yet been made, that in the aggregate equal or exceed \$100,000. The
23 candidate committee shall file this report ~~within 24 hours of~~ no later than the first Disclosure
24 Deadline after reaching or exceeding the threshold. Thereafter, the candidate committee shall
25 file an additional supplemental report ~~within 24 hours of every~~ no later than the first Disclosure

1 Deadline after each time the candidate committee receives additional funds, including
2 contributions and public funds, contributions to be deposited into its Campaign Contribution Trust
3 Account or makes additional expenditures, including in-kind contributions and expenses incurred
4 but for which payment has not yet been made, that in the aggregate equal or exceed \$10,000.
5 Each report required by this Subsection shall also include a statement of the candidate committee's
6 total accrued expenditures for Compliance Costs and an itemized accounting of the accrued
7 expenditures for Compliance Costs during the period covered by the report.

8 ~~(3) Any person other than a candidate committee who makes expenditures for the purpose of~~
9 ~~distributing independent expenditures, electioneering communications, or member communications~~
10 ~~that clearly identify any candidate for the Board of Supervisors, and the amount of those expenditures~~
11 ~~in the aggregate equals or exceeds \$5,000 per candidate, shall, within 24 hours of reaching or~~
12 ~~exceeding this threshold, file a statement with the Ethics Commission. Such statement shall include a~~
13 ~~legible copy of the communication if it is conveyed in writing or an electronic recording if it is~~
14 ~~conveyed via audio or video, disclose the cost of each communication, and provide any additional~~
15 ~~information required by the Ethics Commission. Every person who is required to file a statement with~~
16 ~~the Ethics Commission pursuant to this Subsection shall indicate on the statement which candidate or~~
17 ~~candidates for the Board of Supervisors the independent expenditures, electioneering communications,~~
18 ~~or member communications disclosed on the statement support or oppose, or whether they are neutral.~~
19 ~~For the purposes of this Subsection, the costs of a communication that supports or opposes more than~~
20 ~~one candidate or ballot measure shall be apportioned among each candidate and measure in the~~
21 ~~communication.~~

22 ~~Thereafter, any such person shall file a supplemental statement with the Ethics Commission~~
23 ~~each time the person makes expenditures for the purpose of distributing independent expenditures,~~
24 ~~electioneering communications or member communications that clearly identify any candidate for the~~
25 ~~Board of Supervisors in an amount that in the aggregate equals or exceeds an additional \$5,000 per~~

1 ~~candidate. The supplemental statements shall be filed within 24 hours of reaching or exceeding this~~
2 ~~threshold, and shall include a legible copy of the communication if it is conveyed in writing or an~~
3 ~~electronic recording if it is conveyed via audio or video, disclose the cost of each communication, and~~
4 ~~provide any additional information required by the Ethics Commission.~~

5 ~~The Executive Director shall post the information disclosed on statements required by this~~
6 ~~subsection on the website of the Ethics Commission within two business days of the statement's filing.~~

7 (b) ELECTIONS FOR MAYOR.

8 (1) In addition to the campaign disclosure requirements imposed by the California
9 Political Reform Act and other provisions of this Chapter, each candidate committee
10 supporting a candidate for Mayor shall file a statement with the Ethics Commission indicating
11 when the candidate committee has received funds, including contributions and public funds,
12 ~~contributions to be deposited into its Campaign Contribution Trust Account~~ or made expenditures,
13 including in-kind contributions and expenses incurred but for which payment has not yet been made,
14 that equal or exceed \$50,000 ~~within 24 hours of~~ no later than the first Disclosure Deadline after
15 reaching or exceeding that amount.

16 (2) In addition to the supplemental report in Subsection (b)(1) of this Section, each
17 candidate committee supporting a candidate for Mayor shall file a statement with the Ethics
18 Commission disclosing when the candidate committee has received funds, including
19 contributions and public funds, ~~contributions to be deposited into its Campaign Contribution Trust~~
20 ~~Account~~ or made expenditures, including in-kind contributions and expenses incurred but for which
21 payment has not yet been made, that in the aggregate equal or exceed \$1,000,000. The
22 candidate committee shall file this report ~~within 24 hours of~~ no later than the first Disclosure
23 Deadline after reaching or exceeding the threshold. Thereafter, the candidate committee shall
24 file an additional supplemental report ~~within 24 hours of every~~ no later than the first Disclosure
25 Deadline after each time the candidate committee receives additional funds, including

1 ~~contributions and public funds, contributions to be deposited into its Campaign Contribution Trust~~
2 ~~Account or makes additional expenditures, including in-kind contributions and expenses incurred~~
3 ~~but for which payment has not yet been made, that in the aggregate equal or exceed \$50,000.~~
4 ~~Each report required by this Subsection shall also include a statement of the candidate committee's~~
5 ~~total accrued expenditures for Compliance Costs and an itemized accounting of the accrued~~
6 ~~expenditures for Compliance Costs during the period covered by the report.~~

7 ~~(3) Any person other than a candidate committee who makes expenditures for the purpose of~~
8 ~~distributing independent expenditures, electioneering communications, or member communications~~
9 ~~that clearly identify any candidate for Mayor, and the amount of those expenditures in the aggregate~~
10 ~~equals or exceeds \$5,000 per candidate, shall, within 24 hours of reaching or exceeding this threshold,~~
11 ~~file a statement with the Ethics Commission. Such statement shall include a legible copy of the~~
12 ~~communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or~~
13 ~~video, disclose the cost of each communication, and provide any additional information required by the~~
14 ~~Ethics Commission. Every person who is required to file a statement with the Ethics Commission~~
15 ~~pursuant to this Subsection shall indicate on the statement which candidate or candidates for Mayor~~
16 ~~the independent expenditures, electioneering communications, or member communications disclosed on~~
17 ~~the statement support or oppose, or whether they are neutral. For the purposes of this Subsection, the~~
18 ~~costs of a communication that supports or opposes more than one candidate or ballot measure shall be~~
19 ~~apportioned among each candidate and measure in the communication.~~

20 ~~Thereafter, any such person shall file a supplemental statement with the Ethics Commission~~
21 ~~each time the person makes expenditures for the purpose of distributing independent expenditures,~~
22 ~~electioneering communications or member communications that clearly identify any candidate for~~
23 ~~Mayor in an amount that in the aggregate equals or exceeds an additional \$5,000 per candidate. The~~
24 ~~supplemental statements shall be filed within 24 hours of reaching or exceeding this threshold, and~~
25 ~~shall include a legible copy of the communication if it is conveyed in writing or an electronic recording~~

1 ~~if it is conveyed via audio or video, disclose the cost of each communication, and provide any~~
2 ~~additional information required by the Ethics Commission.~~

3 ~~The Executive Director shall post the information disclosed on statements required by this~~
4 ~~subsection on the website of the Ethics Commission within two business days of the statement's filing.~~

5 (c) The supplemental statements required by Subsections (a)(2), ~~(a)(3)~~, and (b)(2) ~~and~~
6 ~~(b)(3)~~ are not required until the Ethics Commission has certified that at least one candidate is
7 eligible to receive public funds under this Chapter, provided that within two business days of
8 the date that the Ethics Commission provides notice under ~~this subsection~~ Section 1.142(g) that
9 it has certified that a candidate is eligible to receive public funds under this Chapter, any
10 report that previously would have been required under (a)(2), ~~(a)(3)~~, or (b)(2) ~~or (b)(3)~~ must be
11 filed. ~~Within two business days of certifying that at least one candidate is eligible to receive public~~
12 ~~financing under this Chapter, the Ethics Commission shall post a notice on its website, send out a press~~
13 ~~release and send written notice by regular or electronic mail to all other candidates running for the~~
14 ~~same City elective office and to any other person who has requested such notice.~~

15 (d) For each threshold reached, candidate committees are required to file only one
16 supplemental statement under this section, irrespective of whether the committee reaches the threshold
17 as a result of funds received or expenditures made.

18
19 SEC. 1.160.5. - DISCLOSURE AND FILING FOR PERSUASION POLLS

20 (a) Definitions. Whenever in this Section the following words or phrases are used, they
21 shall mean:

22 (1) "Persuasion poll" shall mean any telephone survey, or series of telephone surveys
23 that are substantially similar or identical, that

24 (A) refers to a clearly identified candidate for City elective office or a City elective
25 officer, other than in a basic preference question;

1 (B) includes at least one call made within 60 days prior to an election for the City
2 elective office sought by the candidate named in the survey or a recall election regarding the
3 City elective officer named in the survey;

4 (C) includes at least 1,000 completed calls, such as person-to-person discussions
5 following the survey script; and

6 (D) for which at least two of the following are true:

7 (i) Each phone conversation in the survey takes less than four minutes on average to
8 complete, excluding any sponsorship identification;

9 (ii) The survey includes fewer than three demographic inquiries regarding factors such
10 as age, educational level, or marital status, sufficient to allow for the tabulation of results
11 based on relevant subset(s) of the population consistent with standard polling industry
12 practices;

13 (iii) The persons conducting the survey do not collect or tabulate survey results for all
14 the phone conversations;

15 (iv) The survey includes an untrue statement about the candidate or officer described in
16 section (a)(1)(A); or

17 (v) The survey is designed or intentionally conducted in a manner calculated to
18 influence the vote of the respondent in the election described in Subsection (a)(1)(B).

19 (2) "Basic preference question" shall mean:

20 (A) a question which provides a respondent with a list of names of candidates for City
21 elective office without providing or implying any information regarding any candidate and asks
22 which candidate the respondent supports in a particular race, or

23 (B) a question which names a City elective officer without providing or implying any
24 information regarding the officer and asks whether the respondent supports or opposes the
25 recall of that officer.

1 (3) "Payment" shall be defined as set forth in Government Code of the State of
2 California (commencing at Section 81000); provided, however, that "payment" shall also
3 include any enforceable promise to make a payment.

4 ~~(4) "Refers to a clearly identified candidate for City elective office or a City elective officer"~~
5 ~~shall mean any communication that contains the candidate's or officer's name or nickname or makes~~
6 ~~any other unambiguous reference to the candidate or officer such as "your Supervisor" or "the~~
7 ~~incumbent."~~

8 ~~(5)~~ (4) "Triggering event~~Disclosure date~~" shall mean:

9 (A) The date that a written formal agreement regarding the persuasion poll is made
10 between the person making the calls and the poll sponsor(s) or the sponsor(s) agent;

11 (B) The date of the 1,000th call in the poll; and

12 (C) After a person has met the threshold under Subsection (B), the date of each
13 1,000th additional call in the poll.

14 (b) Telephonic disclosure. No person shall authorize, administer or make payment for a
15 persuasion poll unless, at the beginning of each call, the person making the call identifies the
16 person(s) making payments for or authorizing the call by stating "This is a paid political
17 advertisement by [Name of person(s)]," and, identifies the person making the call, if different
18 from the sponsor, by stating "This call is conducted by [Name of person]." These disclosures
19 shall be spoken at the same volume and speed as the rest of the communication so as to be
20 clearly audible by the call recipient and otherwise appropriately conveyed for the hearing
21 impaired. These disclosures shall be repeated upon request of the call recipient.

22 (c) Filing.

23 (1) Any person who authorizes, administers or makes payment for a persuasion poll
24 shall, ~~within 48 hours of each disclosure date~~ by no later than the next Disclosure Deadline following
25 each triggering event, file an itemized statement with the San Francisco Ethics Commission. A

1 person authorizing, administering or making payment for a persuasion poll is not required to
2 file an itemized statement under this Section if the person is aware that another person
3 authorizing, administering or making payment for the same persuasion poll has filed an
4 authorized statement for the persuasion poll as required by this Section.

5 (2) Each itemized statement required to be filed under this Section shall be filed on a
6 form promulgated by the San Francisco Ethics Commission and shall contain the following
7 information:

8 (A) the full name, street address, city, state and zip code of each person who
9 authorizes, administers or makes payment for the persuasion poll;

10 (B) the full name, street address, city, state and zip code of each person sharing or
11 exercising direction and control over the person authorizing, administering or making
12 payments for the survey;

13 (C) the dates during which the persuasion poll was conducted;

14 (D) for each day, the number of calls attempted to households in the City and County of
15 San Francisco if the election described in Subsection (a)(1)(B) is a City-wide election, or the
16 number of calls to households in the district if the election described in Subsection (a)(1)(B) is
17 a district election;

18 (E) for each day, the number of individuals contacted and the number of messages left
19 in households in the City and County of San Francisco if the election described in Subsection
20 (a)(1)(B) is a City-wide election, or the number of individuals contacted and the number of
21 messages left in households in the district if the election described in Subsection (a)(1)(B) is a
22 district election;

23 (F) a detailed accounting of any payments of \$100.00 or more that the person has
24 received from another person, which were used for conducting or administering the
25 persuasion poll; such detailed accounting shall include the dollar amount or value of each

1 payment; the date of the payment's receipt; the name, street address, city, state, and zip code
2 of the person who made such payment; the occupation and employer of the person who made
3 such payment, if any, or, if the person is self-employed, the name of the person's business;
4 and the cumulative amount of payments received for the purpose of conducting or
5 administering persuasion polls from that person during the calendar year;

6 (G) a copy of the script used in conducting the persuasion poll, if any, and a copy of
7 every question asked in the survey and every statement made to respondents in the survey;
8 and

9 (H) any other information required by the Ethics Commission consistent with the
10 purposes of this Section.

11 (3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the
12 information provided in the itemized statement, and shall retain for a period of five years all
13 books, papers and documents necessary to substantiate the itemized statements required by
14 this Section.

15 (4) The Ethics Commission may require any itemized statement to be filed
16 electronically and may permit any required statement to be filed by facsimile. The Ethics
17 Commission shall promulgate regulations to implement this subsection before any person
18 shall be required to file an itemized statement electronically or permitted to file a statement by
19 facsimile.

20 ~~(5) If any person files an itemized statement after any deadline imposed by this Section, the~~
21 ~~Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter,~~
22 ~~fine the person \$10 per day after the deadline until the statement is received by the Ethics Commission.~~
23 ~~The Ethics Commission may reduce or waive a fine if the Commission determines that the late filing~~
24 ~~was not willful and that enforcement will not further the purposes of this Chapter. The Ethics~~

1 ~~Commission shall deposit funds collected under this Section in the General Fund of the City and~~
2 ~~County of San Francisco.~~

3 (d) The Ethics Commission may adopt regulations exempting additional types of polls
4 from the provisions of this Section to effectuate the purpose of this Section.

5
6 SEC. 1.163.5. DISTRIBUTION OF ~~CAMPAIGN ADVERTISEMENTS~~
7 COMMUNICATIONS CONTAINING FALSE ENDORSEMENTS.

8 (a) PROHIBITION.

9 No person may ~~sponsor any campaign advertisement that~~ pay for, direct, supervise, authorize
10 or distribute any communication that (1) clearly identifies a candidate or measure, (2) is distributed to
11 more than 1,000 people within 90 days prior to an election for that candidate or measure, and ~~that~~
12 (3) contains a false endorsement, where the person acts with knowledge of the falsity of the
13 endorsement or with reckless disregard for the truth or falsity of the endorsement. A false
14 endorsement is a statement, signature, photograph, or image representing that a person
15 expressly endorses or conveys support for or opposition to a candidate or measure when in
16 fact the person does not expressly endorse or convey support for or opposition to the
17 candidate or measure as stated or implied in the campaign communication.

18 ~~(b) DEFINITIONS. Whenever in this section the following words or phrases are used, they~~
19 ~~shall mean:~~

20 ~~(1) "Campaign advertisement" is any mailing, flyer, door hanger, pamphlet, brochure, card,~~
21 ~~sign, billboard, facsimile, printed advertisement, broadcast, cable, satellite, radio, internet, or recorded~~
22 ~~telephone advertisement that refers to one or more clearly identified candidates or ballot measures.~~

23 ~~The term "campaign advertisement" does not include:~~

24 ~~(A) bumper stickers, pins, stickers, hat bands, badges, ribbons and other similar campaign~~
25 ~~memorabilia;~~

1 ~~(B) news stories, commentaries or editorials distributed through any newspaper, radio, station,~~
2 ~~television station or other recognized news medium unless such news medium is owned or controlled by~~
3 ~~any political party, political committee or candidate; or~~

4 ~~(C) material distributed to all members, employees and shareholders of an organization, other~~
5 ~~than a political party.~~

6 ~~(2) "Internet advertisement" includes paid internet advertisements such as "banner" and "pop-~~
7 ~~up" advertisements, paid emails, or emails sent to addresses purchased from another person, and~~
8 ~~similar types of internet advertisements as defined by the Ethics Commission by regulation, but shall~~
9 ~~not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or~~
10 ~~general postings on web pages.~~

11 ~~(3) "Sponsor" means to pay for, direct, supervise or authorize the production of campaign~~
12 ~~advertisement.~~

13 **(be) ENFORCEMENT PENALTIES.** The penalties under section 1.170(a) of this
14 Chapter do not apply to violations of this section. Notwithstanding the 60-day waiting period
15 in section 1.168 of this Chapter, a voter may bring an action to enjoin a violation of this section
16 immediately upon providing written notice to the City Attorney. A court may enjoin a violation
17 of this section only upon a showing of clear and convincing evidence of a violation.

18
19 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
20 amended by adding Sections 1.158 and 1.160, to read as follows:

21 1.158. DISCLOSURE AND DISCLAIMER REQUIREMENTS FOR COMMUNICATIONS BY
22 CANDIDATE COMMITTEES.

23 (a) Disclaimer Statements. A communication distributed by a candidate committee shall
24 include the words "paid for by _____ (insert candidate committee's name)" in the form
25 provided in this Section if the communication is distributed to 200 or more individuals and is any of the

1 following: a mass mailing; an email communication; a paid advertisement on television, radio,
2 newspaper or periodical; an internet advertisement; or posters, door hangers, yard signs or billboards.

3 (1) Written communications. If the communication is distributed in writing, the disclaimer
4 required by this Section shall appear in legible typeface no smaller than 10 point and in a color or
5 print that contrasts with the background so as to be easily legible. If the written communication is
6 mailed through the United States Postal Service, the disclaimer shall appear on the exterior of the
7 mailing and shall also include the candidate committee's street address or, if the candidate committee's
8 address is a matter of public record with the Ethics Commission, the disclaimer may include a post
9 office box.

10 (2) Non-written communications. If the communication is a non-written communication, the
11 disclaimer required by this Section shall be spoken at the same volume and speed as the rest of the
12 communication so as to be clearly audible and understood by the listener and otherwise appropriately
13 conveyed for the hearing impaired.

14 (b) Disclosure of Mass Mailings. Each candidate committee that pays for a mass mailing shall
15 file with the Ethics Commission an itemized disclosure statement for the mailing and a clearly legible
16 copy of the mailing, including the envelope used, in electronic format. The candidate committee shall
17 submit the filing no later than the first Disclosure Deadline after distributing the mailing.

18
19 SECTION 1.160. DISCLOSURE AND DISCLAIMER REQUIREMENTS FOR
20 COMMUNICATIONS BY THIRD PARTIES.

21 (a) Disclosure And Disclaimer Requirements.

22 (1) Third Party Expenditures Made Within 90 Days Of An Election. Any person other than a
23 candidate committee shall provide a disclaimer statement under Subsection (b) and file a disclosure
24 report under Subsection (c) when:

1 (A) the person distributes one or more communications that clearly identify a candidate within
2 90 days prior to an election for the City elective office sought by the candidate or a recall election
3 regarding the candidate, and

4 (B) the aggregate cost of the communications is \$5,000 or more per candidate.

5 The person shall file a disclosure report with the Ethics Commission under Subsection (c) no
6 later than the first Disclosure Deadline after distributing the communications that reach or exceed this
7 threshold, and thereafter shall file a supplemental report no later than the first Disclosure Deadline
8 after each time the person distributes additional communications with an aggregate cost that equals or
9 exceeds an additional \$5,000 per candidate.

10 (2) Third Party Expenditures Made More Than 90 Days Before An Election In Races With
11 Publicly-Financed Candidates. More than 90 days prior to the election, any person other than a
12 candidate committee shall provide a disclaimer statement under Subsection (b) and file a disclosure
13 report under Subsection (c) when:

14 (A) the person distributes one or more communications that clearly identify a candidate for
15 Mayor or the Board of Supervisors,

16 (B) the aggregate cost of the communications is \$5,000 or more per candidate, and

17 (C) the Ethics Commission has certified under Section 1.142 that at least one candidate for the
18 office is eligible to receive public funds under this Chapter.

19 The person shall file a disclosure report with the Ethics Commission under Subsection (c) no
20 later than the first Disclosure Deadline after distributing the communications that reach or exceed the
21 \$5,000 threshold, and thereafter shall file a supplemental report no later than the first Disclosure
22 Deadline after each time the person distributes additional communications with an aggregate cost that
23 equals or exceeds an additional \$5,000 per candidate. Within two business days of the date that the
24 Ethics Commission provides notice under Section 1.142(g) that it has certified that a candidate is
25

1 eligible to receive public funds under this Chapter, any report that previously would have been
2 required under this Subsection must be filed.

3 (3) Third Party Expenditures Made More Than 90 Days Before An Election In Races Subject
4 To Voluntary Expenditure Ceilings. More than 90 days prior to the election, any person other than a
5 candidate committee shall provide a disclaimer statement under Subsection (b) and file a disclosure
6 report under Subsection (c) when:

7 (A) the person distributes one or more communications that clearly identify a candidate for
8 Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education
9 of the San Francisco Unified School District or the Governing Board of the San Francisco Community
10 College District,

11 (B) the aggregate cost of the communications is \$5,000 or more per candidate,

12 (C) at least one candidate for the office has accepted the applicable voluntary expenditure
13 ceiling, and

14 (D) the Ethics Commission has not lifted the voluntary expenditure ceiling under Section 1.134.

15 The person shall file a disclosure report with the Ethics Commission under Subsection (c) no
16 later than the first Disclosure Deadline after distributing the communications that reach or exceed the
17 \$5,000 threshold, and thereafter shall file a supplemental report no later than the first Disclosure
18 Deadline after each time the person distributes additional communications with an aggregate cost that
19 equals or exceeds an additional \$5,000 per candidate, until the Ethics Commission lifts the applicable
20 voluntary expenditure ceiling. Within two business days of the date that the Ethics Commission
21 provides notice under Section 1.128 that at least one candidate in the race has accepted the voluntary
22 expenditure ceiling, any report that previously would have been required under this Subsection must be
23 filed.

24 (4) Calculation of costs. For the purpose of this section, the cost of a communication includes
25 the total amount paid or incurred in the preparation and distribution of the communication, including

1 the cost of preparing content, design, copying, mailing, and paid staff time. The cost of a
2 communication that identifies more than one candidate or measure shall be apportioned among each
3 candidate and measure in the communication.

4 (b) Content and Form of Disclaimer Statements.

5 (1) Content of disclaimer. Any communication described in Subsection (a) shall include a
6 disclaimer statement identifying the person who paid for the communication. The disclaimer statement
7 shall, at a minimum, contain the words, "paid for by _____ (insert the name of the person who
8 paid for the communication and committee identification number)."

9 (2) Form of Disclaimer.

10 (A) Written communications.

11 (i) Any disclaimer required by this Section on a written communication shall appear in legible
12 typeface no smaller than 10 point and in a color or print that contrasts with the background so as to be
13 easily legible.

14 (ii) If the written communication is mailed through the United States Postal Service, the
15 disclaimer statement shall appear on at least one of the inserts of each piece of mail, as provided in
16 Subsection (i), and shall also appear on the exterior of the mailing with the additional words: "Notice
17 to Voters (Required by City and County of San Francisco): This mailing is not authorized or approved
18 by any candidate for City and County office or by any election official."

19 (B) Non-written communications. Any disclaimer required by this Section in a non-written
20 communication shall be spoken at the same volume and speed as the rest of the communication so as to
21 be clearly audible and understood by the listener and otherwise appropriately conveyed for the hearing
22 impaired.

23 (c) Content and Form Of Disclosure Reports.

24 (1) Content of Disclosure Reports. Any report required under Subsection (a) shall contain the
25 following information:

1 (A) the full name, address, city and state, email address and telephone number of the person
2 making the expenditures;

3 (B) the total cost of each communication;

4 (C) the names of all candidates identified in each communication;

5 (D) which candidate or candidates each communication supports or opposes or whether the
6 communication is neutral;

7 (E) the cost of support or opposition allocated to each candidate identified in the
8 communication;

9 (F) a legible copy of each communication if the communication was conveyed in writing,
10 including the envelope used;

11 (G) an electronic recording of each communication if the communication was conveyed via
12 audio or video; and

13 (H) any other information required by the Ethics Commission.

14 (2) Form of Disclosure Reports. The Ethics Commission shall specify the format of the
15 disclosure reports, and may permit any required information to be filed by facsimile, email or other
16 electronic media.

17 (d) Exceptions. The following communications shall not be subject to this Section:

18 (1) communications paid for by the City or any other local, state or federal government agency;

19 (2) non-recorded communications between two or more individuals in direct conversation
20 unless such communications are made by telephone and at least one of the individuals is compensated
21 for the purposes of making the telephone communication;

22 (3) communications that appear on bumper stickers, pins, stickers, hat bands, badges, ribbons
23 and other similar memorabilia;

1 (4) news stories, commentaries or editorials distributed through any newspaper, radio station,
2 television station, or other recognized news medium unless such news medium is owned or controlled
3 by any political party, political committee or candidate;

4 (5) communications made solely to promote a candidate debate or forum made by or on behalf
5 of the person sponsoring the debate or forum, provided that such communications do not otherwise
6 discuss the positions or experience of a candidate;

7 (6) unpaid internet communications such as web blogs, listserves sent to persons who have
8 contacted the sender, discussion forums, or comments and similar unpaid postings on web pages,
9 provided that internet advertisements shall be subject to this Section.

10
11 Section 3. The San Francisco Campaign and Governmental Conduct Code is hereby
12 amended by deleting Sections 1.161, 1.161.5, 1.162, and 1.163, to read as follows:

13 ~~SEC. 1.161. DISCLOSURE AND FILING REQUIREMENTS FOR MASS MAILINGS.~~

14 ~~(a) MASS MAILINGS BY CANDIDATES.~~

15 ~~(1) Disclosure. In addition to the requirements set forth in California Government Code~~
16 ~~Section 84305, each mass mailing paid for by a candidate committee shall include on the outside of~~
17 ~~each piece of mail in the mass mailing the following statement in not less than 14 point type and in a~~
18 ~~color or print which contrasts with the background so as to be easily legible: "paid for by _____~~
19 ~~(insert candidate committee's name and street address)." A post office box may be stated in lieu of a~~
20 ~~street address if the candidate committee's address is a matter of public record with the Ethics~~
21 ~~Commission.~~

22 ~~(2) Filing.~~

23 ~~(i) Each candidate committee that pays for a mass mailing shall, within five working days after~~
24 ~~the date of the mailing, file two pieces of the mailing with the Ethics Commission.~~

1 (ii) ~~Each candidate committee that pays for a mass mailing shall, within five business days~~
2 ~~after the date of the mailing, file an itemized disclosure statement with the Ethics Commission for that~~
3 ~~mailing.~~

4 (iii) ~~Each candidate committee that pays for a mass mailing shall file two pieces of mail and~~
5 ~~the itemized disclosure statement required by Subsections (a)(2)(i) and (a)(2)(ii) within 48 hours of the~~
6 ~~date of the mailing if the date of the mailing occurs within the final 16 days before the election.~~

7 (iv) ~~Every mass mailing filed pursuant to this subsection shall be clearly legible.~~

8 (b) ~~MASS MAILINGS BY PERSONS OTHER THAN CANDIDATES.~~

9 (1) ~~Disclosure. Any person who makes independent expenditures for a mass mailing which~~
10 ~~supports or opposes any candidate for City elective office shall place the following statement on the~~
11 ~~mailing in typeface no smaller than 14 points:~~

12 ~~Notice to Voters (Required by City and County of San Francisco) This mailing is not authorized~~
13 ~~or approved by any candidate for City and County office or by any election official. It is paid for by~~
14 ~~{name and committee identification number}. {address, city, state}. Total Cost of this mailing is~~
15 ~~{amount}.~~

16 (2) ~~Filing.~~

17 (i) ~~Each person who makes independent expenditures of \$1,000 or more for a mass mailing~~
18 ~~which supports or opposes any candidate for City elective office shall, file two pieces of the mailing~~
19 ~~and an itemized disclosure statement for the mailing with the Ethics Commission, unless that person is~~
20 ~~otherwise required to file disclosures regarding the communication under Section 1.134, 1.152, or~~
21 ~~1.161.5 of this Code.~~

22 (ii) ~~Any filing required by this Section shall be submitted within five business days after the~~
23 ~~date of the mailing if the date of the mailing is more than 16 days before the election, and within 48~~
24 ~~hours after the mailing if the date of the mailing occurs within the final 16 days before the election.~~

25 (iii) ~~Every piece of mail filed pursuant to this Section shall be clearly legible.~~

1 ~~(iv) The Ethics Commission may permit any required statement or mailing to be filed by~~
2 ~~facsimile.~~

3
4 ~~SEC. 1.161.5. -- DISCLOSURE AND FILING FOR ELECTIONEERING COMMUNICATIONS.~~

5 ~~(a) DISCLOSURE STATEMENTS.~~

6 ~~(1) Every electioneering communication shall include a disclosure statement identifying the~~
7 ~~person who paid for the communication. Such disclosure statement shall, at a minimum, contain the~~
8 ~~following words, "paid for by _____ (insert the name of the person who paid for the~~
9 ~~communication)."~~

10 ~~(2) Any disclosure statement required by this section to be in printed form shall be printed in a~~
11 ~~type and color so as to be easily legible to the intended public. Such disclosure statement shall be~~
12 ~~printed in at least 14 point type and in a color or print that contrasts with the background so as to be~~
13 ~~easily legible to the intended public.~~

14 ~~(3) Any disclosure statement required by this Section to be in spoken form shall be spoken at the~~
15 ~~same volume and speed as the rest of the communication so as to be clearly audible and understood by~~
16 ~~the intended public and otherwise appropriately conveyed for the hearing impaired.~~

17 ~~(b) REPORTING OBLIGATIONS.~~

18 ~~(1) Every person who makes payments for electioneering communications in an aggregate~~
19 ~~amount of \$1,000 during any calendar year shall, within 48 hours of each disclosure date, file an~~
20 ~~itemized disclosure statement with the Ethics Commission, unless that person is otherwise required to~~
21 ~~file disclosures regarding the communication under Section 1.134, 1.152, or 1.161 of this Code.~~

22 ~~(2) Each itemized disclosure statement required to be filed under this Section shall contain the~~
23 ~~following information:~~

24 ~~(A) the full name, street address, city, state and zip code of the person making payments for~~
25 ~~electioneering communications;~~

1 ~~(B) the name of any individual sharing or exercising direction and control over the person~~
2 ~~making payments for electioneering communications;~~

3 ~~(C) the total amount of payments made by the person for electioneering communications during~~
4 ~~the calendar year;~~

5 ~~(D) a detailed description of each payment made by the person for electioneering~~
6 ~~communications during the calendar year, provided that the person has not already reported such~~
7 ~~payments on an itemized disclosure statement filed under this Section; such detailed description shall~~
8 ~~include the date the payment was made, the full name and address of the person to whom the payment~~
9 ~~was made; the amount of the payment, and a brief description of the consideration for which each~~
10 ~~payment was made;~~

11 ~~(E) a detailed accounting of any payments of \$100 or more that the person has received from~~
12 ~~another person, which were used for making electioneering communications, provided that the person~~
13 ~~has not already reported such payments received on an itemized disclosure statement filed under this~~
14 ~~Section; such detailed accounting shall include the dollar amount or value of each payment, the date of~~
15 ~~the payment's receipt, the name, street address, city, state, and zip code of the person who made such~~
16 ~~payment, the occupation and employer of the person who made such payment, if any, or, if the person is~~
17 ~~self-employed, the name of the person's business, and the cumulative amount of payments received for~~
18 ~~the purpose of making electioneering communications from that person during the calendar year;~~

19 ~~(F) the total amount of all payments reported under Subsection (E) during the calendar year;~~

20 ~~(G) a legible copy of the electioneering communication if in printed form, or a transcript of the~~
21 ~~electioneering communication if in spoken form; and~~

22 ~~(H) any other information required by the Ethics Commission consistent with the purposes of~~
23 ~~this Section.~~

24 ~~(3) The filer shall verify, under penalty of perjury, the accuracy and completeness of the~~
25 ~~information provided in the itemized disclosure statement, and shall retain for a period of five years all~~

1 ~~books, papers and documents necessary to substantiate the itemized statements required by this~~
2 ~~Section.~~

3 ~~(4) The Ethics Commission may permit any required statement or mailing to be filed by~~
4 ~~faesimile.~~

5 ~~(c) DEFINITIONS. Whenever in this Section the following words or phrases are used, they shall~~
6 ~~mean:~~

7 ~~(1) "Disclosure Date" shall mean:~~

8 ~~(A) the first date during any calendar year when an electioneering communication is distributed~~
9 ~~after a person has made payments aggregating \$1,000.00 for electioneering communications; and~~

10 ~~(B) after a person has met the threshold under Subsection (A), any date during that same~~
11 ~~calendar year when an electioneering communication is distributed, if that same person made any~~
12 ~~payments for such electioneering communication.~~

13 ~~(2) "Distributed" shall mean any act that permits an electioneering communication to be~~
14 ~~viewed, read or heard.~~

15 ~~(3) "Electioneering Communication" shall mean any communication, including but not limited~~
16 ~~to any broadcast, cable, satellite, radio, internet, or telephone communication, and any mailing, flyer,~~
17 ~~doorhanger, pamphlet, brochure, card, sign, billboard, faesimile, or printed advertisement, that:~~

18 ~~(A) refers to a clearly identified candidate for City elective office or a City elective officer who~~
19 ~~is the subject of a recall election; and~~

20 ~~(B) is distributed within 90 days prior to an election for the City elective office sought by the~~
21 ~~candidate or a recall election regarding the City elective officer to 500 or more individuals who are~~
22 ~~registered to vote or eligible to register to vote in the election or recall election. There shall be a~~
23 ~~rebuttable presumption that any that any broadcast, cable, satellite, or radio communication and any~~
24 ~~sign, billboard or printed advertisement is distributed to 500 or more individuals who are eligible to~~
25 ~~vote for or against the candidate clearly identified in the communication.~~

1 ~~(C) The term "Electioneering Communication" shall not include:~~

2 ~~(i) communications that constitute independent expenditures under this Chapter;~~

3 ~~(ii) communications made by a slate mailer organization if such communications are required~~
4 ~~to be disclosed under the California Political Reform Act, California Government Code Section 81000,~~
5 ~~et seq.;~~

6 ~~(iii) communications paid for by the City or any other local, State or Federal government~~
7 ~~agency;~~

8 ~~(iv) non-recorded communications between two or more individuals in direct conversation~~
9 ~~unless such communications are made by telephone and at least one of the individuals is compensated~~
10 ~~for the purposes of making the telephone communication;~~

11 ~~(v) communications that appear on bumper stickers, pins, stickers, hat bands, badges, ribbons~~
12 ~~and other similar memorabilia;~~

13 ~~(vi) news stories, commentaries or editorials distributed through any newspaper, radio station,~~
14 ~~television station, or other recognized news medium unless such news medium is owned or controlled~~
15 ~~by any political party, political committee or candidate;~~

16 ~~(vii) communications to all members, employees and shareholders of an organization, other~~
17 ~~than a political party, provided that such communications do not constitute general public advertising~~
18 ~~such as, but not limited to, broadcasting, billboards, and newspaper advertisements;~~

19 ~~(viii) communications that occur during a candidate debate or forum; and~~

20 ~~(ix) communications made solely to promote a candidate debate or forum made by or on behalf~~
21 ~~of the person sponsoring the debate or forum, provided that such communications do not otherwise~~
22 ~~discuss the positions or experience of a candidate for City elective office or a City elective officer who~~
23 ~~is the subject of a recall election.~~

24 ~~(4) "Internet Communication" shall include paid internet advertisements such as "banner" and~~
25 ~~"pop up" advertisements, paid emails or emails sent to addresses purchased from another person, and~~

1 ~~similar types of internet communications as defined by the Ethics Commission by regulation, but shall~~
2 ~~not include web blogs, listserves sent to persons who have contacted the sender, discussion forums, or~~
3 ~~general postings on web pages.~~

4 ~~(5) "Payment" shall be defined as set forth in Government Code of the State of California~~
5 ~~(commencing at Section 81000); provided, however, that "payment" shall also include any enforceable~~
6 ~~promise to make a payment.~~

7 ~~(6) "Refers to a clearly identified candidate for City elective office or a City elective officer who~~
8 ~~is the subject of a recall election" shall mean any communication that contains the candidate's or~~
9 ~~officer's name, nickname or image or makes any other unambiguous reference to the candidate or~~
10 ~~officer such as "your Supervisor" or "the incumbent."~~

11 ~~(D) REGULATIONS. The Ethics Commission shall issue regulations implementing this Section,~~
12 ~~including regulations defining all members, employees and shareholders of an organization.~~

13
14 ~~SEC. 1.162. DISCLOSURE REQUIREMENTS—CAMPAIGN ADVERTISEMENTS.~~

15 ~~(a) Disclosure. Any campaign advertisement that urges support for or opposition to one or more~~
16 ~~candidates for City elective office shall include a disclosure statement identifying the person who paid~~
17 ~~for the advertisement. Such disclosure statement shall, at a minimum, contain the following words,~~
18 ~~"paid for by _____ (insert the name of the person who paid for the communication)" and~~
19 ~~appear at least once on the advertisement.~~

20 ~~(1) Any disclosure statement required by this section to be in printed form shall be printed in a~~
21 ~~type and color so as to be easily legible to the intended public. Such disclosure statement shall be~~
22 ~~printed in at least 14 point type and in a color or print that contrasts with the background so as to be~~
23 ~~easily legible to the intended public.~~

1 ~~(2) Any disclosure statement required by this section to be in spoken form shall be spoken at the~~
2 ~~same volume and speed as the rest of the communication so as to be clearly audible and understood by~~
3 ~~the intended public and otherwise appropriately conveyed for the hearing impaired.~~

4 ~~(b) Definitions. For the purposes of this Section, the term "campaign advertisement" means:~~

5 ~~(1) Programming received by a television or radio;~~

6 ~~(2) A communication placed in a newspaper, periodical or magazine of general circulation;~~

7 ~~(3) Posters, door hangers, and yard signs produced in quantities of 200 or more; and~~

8 ~~(4) A billboard.~~

9
10 ~~SEC. 1.163. DISCLOSURE REQUIREMENTS—RECORDED TELEPHONE MESSAGES.~~

11 ~~Any recorded telephone message distributed to 500 or more individuals or households must~~
12 ~~include the following statement: "paid for by _____ (insert name of person who paid for the~~
13 ~~recorded telephone message)." Statements required pursuant to this Section shall be audible and~~
14 ~~played at the same volume and speed as the rest of the recorded telephone message. Any person paying~~
15 ~~for a recorded telephone message must maintain a transcript of the message and a record of the~~
16 ~~number of distributed calls for each message.~~

17
18 Section 4. The operative date of this ordinance shall be January 1, 2012.

19
20
21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 JON GIVNER
25 Deputy City Attorney

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Name of Supervisor/Committee/Department
BOARD OF SUPERVISORS