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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: November 1, 2011

To: Members, Ethics Commission

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

Re: Draft legislation to delay certification of 2012 Supervisorial candidates seeking public funds

This June, in accordance with the City Charter, the Board of Supervisors convened the Redistricting Task Force to redraw the boundaries of the City's supervisorial districts based on data from the 2010 Census. The nine-member Redistricting Task Force is expected to make several changes to the existing supervisorial district lines. Under the Charter, the Redistricting Task Force must complete its task by April 15, 2012, and the new lines will be effective for the November 2012 election. The Board of Supervisors and the Mayor cannot alter the district boundaries, so the lines will not change after April 15.

Six seats on the Board of Supervisors will be up for election in November 2012. Public financing is available to candidates in all those races. Under section 1.144 of the Campaign Finance Reform Ordinance ("CFRO"), San Francisco Campaign and Governmental Conduct Code section 1.100 et seq., the Ethics Commission must begin disbursing funds to eligible candidates as early as February 6, nine months before the date of the election. But it is likely that the Redistricting Task Force will not have completed its work of redrawing the district lines by then. To avoid the disbursement of funds to candidates who may not reside in the newly-drawn districts where they are running, staff recommends amending section 1.142 of the CFRO.

Specifically, new subsection 1.142(h) provides that for the November 2012 election, the Executive Director will not certify any candidate as eligible to receive public funds until the Redistricting Task Force has completed its 2012 revision of supervisorial district boundaries. Supervisorial candidates may still submit their applications for public funds prior to the completion of the Task Force's work. Staff anticipates that it will be able to review these applications but will not make any determinations to certify candidates until the Task Force completes the new district boundaries on or around April 15.

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.

Decision Point 1:

Shall the Commission approve the proposed changes to section 1.142(e) and (h), as set forth on page 2, lines 24-25 and page 3, line 20 through page 4, line 2 of the draft amendments?

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1 [Campaign and Governmental Conduct Code – Certification of supervisorial candidates'
2 eligibility for public financing in 2012]

3 **Ordinance amending Section 1.142 of the San Francisco Campaign and Governmental**
4 **Conduct Code to delay the certification of 2012 supervisorial candidates seeking public**
5 **financing, until the Redistricting Task Force completes its revision of supervisorial**
6 **district boundaries.**

7 NOTE: Additions are *single-underline italics Times New Roman*;
8 deletions are ~~*strike-through italics Times New Roman*~~.
9 Board amendment additions are double-underlined;
Board amendment deletions are ~~striketrough normal~~.

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

11 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
12 amended by amending Section 1.142, to read as follows:

13 SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY
14 THE ETHICS COMMISSION.

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

22 (b) DECLARATION BY CANDIDATE. To become eligible to receive public
23 financing of campaign expenses under this Chapter, a candidate shall declare, under penalty
24 of perjury, that the candidate satisfies the requirements specified in Section 1.140.
25 Candidates shall be permitted to submit the declaration and any supporting material required

1 by the Ethics Commission to the Ethics Commission no earlier than nine months before the
2 date of the election, but no later than the 70th day before the election. Once the declaration
3 and supporting material are submitted, they may not be amended. The declaration and
4 supporting material may be withdrawn and refiled, provided that the refiling is made no later
5 than the 70th day before the election.

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

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

14 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
15 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter or a
16 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
17 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
18 and may review any other material.

19 (e) CERTIFICATION. If the Executive Director determines that a candidate for
20 Mayor or the Board of Supervisors has satisfied the requirements of Section 1.140, the
21 Executive Director shall notify the candidate and certify to the Controller that the candidate is
22 eligible to receive public financing under this Chapter. The Executive Director shall not certify
23 that a candidate is eligible to receive public financing if the candidate's declaration or
24 supporting material is incomplete or otherwise inadequate to establish eligibility. *Except as*
25 *provided in subsection (h),* ~~the~~ Executive Director shall determine whether to certify a

1 candidate no later than 30 days after the date the candidate submits his or her declaration
2 and supporting material, provided that the Executive Director shall make all determinations
3 regarding whether to certify a candidate no later than the 55th day before the election.

4 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
5 eligible to receive public financing under this Chapter, the Executive Director shall notify the
6 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
7 business days of the date of notification, resubmit the declaration and supporting material. If
8 the candidate does not timely resubmit, the Executive Director's determination is final.

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

15 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
16 certify that a candidate is eligible to receive public financing under this Chapter, the candidate
17 may appeal the Executive Director's final determination to the Ethics Commission. The
18 candidate must deliver the written appeal to the Ethics Commission within five days of the
19 date of notification of the Executive Director's determination.

20 (h) SUPERVISORIAL CANDIDATES SEEKING ELECTION IN NOVEMBER 2012. The
21 Executive Director shall not certify any supervisorial candidates seeking election in November 2012 as
22 eligible to receive public funds until the Redistricting Task Force, convened by the Board of
23 Supervisors in Ordinance No. 93-11, has completed its 2012 revision of supervisorial district
24 boundaries. Supervisorial candidates seeking election in November 2012 may submit their declaration
25

1 and any supporting material concerning their eligibility to the Ethics Commission prior to the
2 completion of the Redistricting Task Force's revision of supervisorial district boundaries.

3 Section 3. Effective Date. This ordinance shall become effective 30 days from the
4 date of passage.

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By: _____
8 ANDREW SHEN
9 Deputy City Attorney