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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: August 3, 2009
To: Members, Ethics Commission
From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director
Re: Contribution Limits

San Francisco Campaign and Governmental Conduct Code section 1.114 imposes a \$500 per contributor limit on contributions to candidates for local office. The law has two specific limits on contributions to candidates. First, under section 1.114(a)(1), no person other than a candidate may make, and no candidate campaign treasurer may solicit or accept any contribution that will cause the total amount contributed by the person to the candidate to exceed \$500. Second, section 1.114(a)(2) also imposes a total contribution limit such that no person may make contributions that exceed \$500 multiplied by the number of City elective offices to be voted on in an election. Section 1.114(d) also provides that contributions from "affiliated entities" must be aggregated for the purposes of the \$500 contribution limit. This memo provides a brief history of the City's contribution limit for candidates and poses questions that the Commission may wish to consider in determining whether the limit should be changed.

Brief History

In 1973, the Board of Supervisors first adopted a contribution limit of \$500 to local candidates. The City subsequently increased the contribution limit to \$750 in 1981 and \$1,000 in 1983. In 1986, the voters, through Proposition F, reduced the contribution limit from \$1,000 to \$500. In addition, until the City implemented ranked-choice voting for local candidates in November 2002, a candidate's supporters could make an additional \$250 contribution to support the candidate in a run-off election.

In November 1995, the voters passed Proposition N, creating a two-tiered contribution limit. Candidates who accepted the City's expenditure limit could continue to receive \$500 per contributor, plus \$250 for a runoff election. But candidates who did not accept the expenditure limit could receive only \$150 per contributor, plus \$100 for a runoff.

In November 2000, the voters passed Proposition O, which eliminated the two-tiered system and adopted an across-the-board \$500 limit, plus \$250 for runoffs. (Proposition O also added a new limit on the total number of candidate contributions any contributor

could make: \$500 multiplied by the number of City elective offices to be voted on in any City general election.)

Ethics Commission Consideration of Contribution Limits in 2005

In 2005, the Ethics Commission considered possible amendments to the Campaign Finance Reform Ordinance (“CFRO”), including adjustments to the candidate contribution limits. At its meeting on September 12, 2005, the Commission discussed the idea of raising, maintaining or lowering the \$500 limit, or adopting regulations to provide for changes in the contribution limit according to the Consumer Price Index, but made no decisions about the matter.

The Commission revisited the issue at its meeting the following week, on September 19. In advance of that meeting, staff’s memo provided the following information about contribution limits:

* * *

A. Contribution limits

1. Section 1.114 (a) – (c): Contribution limits

Section 1.114(a) limits contributions to candidates for City elective office. A contributor may give a total of \$500 to any one candidate; a contributor may give to all candidates a maximum total of \$500 multiplied by the number of City elective offices to be voted on in an election. Section 1.114(c) restricts contributions to committees. A contributor may give a total of \$500 to any committee that makes expenditures to support or oppose a candidate for City elective office and a maximum of \$3,000 to all committees in a calendar year. The voters adopted the current limits in 2000, following extensive hearings before the Commission on the campaign finance system and the cost of campaigns.

Under section C3.699-11(8) of the Charter, the Commission has the responsibility to “annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions.” Although CFRO addresses the adjustment of spending limits, and the Commission has adopted a regulation for adjusting the spending limits, CFRO does not address the adjustment of contribution limits.

If the Commission were to adjust the limits according to changes in the CPI, using the formula already adopted for spending limits, and rounding to the nearest \$100, the limit to candidates would be adjusted to \$600, the aggregate limit to \$600 multiplied by the number of City elective offices up for election, the individual committee limit to \$600 and the aggregate committee limit to \$3600 [footnote omitted]

There may be countervailing reasons not to raise the contribution limits even if the CPI suggests an increase. Campaign finance disclosure statements filed with

the Commission demonstrate that candidates are able to raise substantial funds at the \$500 limit, and indeed often raise in excess of the voluntary spending limits. Candidates are able to mount effective campaigns, and staff does not have any evidence that the limit is too low to allow candidates to get their message out. For those candidates seeking public financing, a \$500 limit on contributions has not been prohibitive. One of the difficulties candidates have had is the opposite problem -- raising enough money to qualify. According to the Commission's Report on San Francisco's Limited Public Financing Program for the November 2, 2004 election, the average of itemized contributions received by participating candidates was \$173 in 2002 and \$212 in 2004; the average itemized contributions received by nonparticipating candidates was \$295 in 2002 and \$277 in 2004. At the same time, to many voters, contributions higher than \$500 continue to present concerns about possible corruption or the appearance of corruption. *For these reasons, staff recommends retaining the \$500 contribution limit.*

Question:

Should the Commission make changes related to the contribution limits?

1. Increase the contribution limits;
2. Adopt regulations to provide for changes according to changes in the Consumer Price Index; or
3. Maintain the \$500 contribution limit.

* * *

When the Commission discussed the matter, it decided to accept staff's recommendation and voted 4-0 to re-adopt the \$500 contribution limit as well as the contribution limits in subsections (b) (run-off elections) and (c) (contributions to committees making expenditures related to candidates) of section 1.114.

When staff held its recent interested persons meetings on recommended changes to the CFRO, staff proposed the following language under section 1.114(a)(3): "The Ethics Commission is authorized to adjust annually by regulation the contribution limits imposed by this Section to reflect changes in the Consumer Price Index." This language, now stricken from staff's proposal, sought to implement the Charter's mandate that the Commission "annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index," and that "[s]uch adjustments shall be rounded off to the nearest hundred dollars for the limitations on contributions." See Charter § 3.699-11(8). At one of the meetings, staff received comments suggesting that if the Commission were to adjust the limit, the Commission should amend CFRO to make the adjustments mandatory and automatic. That change would mirror the Political Reform Act, which requires the Fair Political Practices Commission ("FPPC") to adjust state contribution limits biennially according to changes in the Consumer Price Index, rounding to the nearest \$100. See Cal. Gov't Code § 83214; 2 C.C.R. § 18544. Because the adjustment would be automatic, officeholders and candidates could not easily influence the amount of the contribution limit.

If the Commission were to adjust the contribution limit using a formula similar to the FPPC's and using the annual Consumer Price Index for the San Francisco Bay Area in 2005, when the Commission last re-authorized the \$500 limit, the new contribution limit, rounded to the nearest \$100, would be \$600.

According to the Commission's recent reports on the 2006, 2007 and 2008 elections, the average of itemized contributions received by publicly financed candidates was \$290 in 2006 and \$224 in 2008; the average itemized contributions received by non-publicly financed candidates was \$225 in 2006, \$341 in 2007, and \$288 in 2008.

The contribution limit for City-wide offices in Los Angeles is \$1,000 for the primary and \$1,000 for the general election; for City Council races, the contribution limit is \$500 for the primary and \$500 for the general election. The contribution limit for San Diego is \$500 in the primary and \$500 in the general election.

If the Commission wishes, it may decide to: (1) keep the \$500 limit; (2) raise the limit for inflation starting in 2005; (3) raise the limit for inflation starting in 2000; (4) raise or lower the limit to another amount; (5) adopt alternative limits for different City offices.

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