

Proposed Changes to Regulations to Campaign Finance Reform Ordinance
(Additions in ***bold, underlined italic*** text; deletions in ~~strike thru~~ text)

Regulation 1.104-1: Definition of Matching Contribution; Documents Sufficient to Establish Contributor's Residency.

~~"Matching contribution" shall mean a monetary contribution, other than a loan or a qualifying contribution, that is made by an individual, other than the candidate or the candidate's immediate family, who is a resident of San Francisco from the individual's personal funds, and that complies with all requirements of the Campaign Finance Reform Ordinance, San Francisco Campaign & Governmental Conduct Code Section 1.100, et seq. ("CFRO").~~

(a) ~~_____~~ "Matching contribution" shall not include a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contributions to a new campaign. ~~"Matching contribution" shall also not include any contribution that was received more than 18 months before the date of the election.~~

(b) ~~_____~~ "Matching contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) ~~_____~~ *Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.*

Regulation 1.104-2: Definition of Qualifying Contribution; Documents Sufficient to Establish Contributor's Residency; Adjustment of Maximum Qualifying Contribution.

~~"Qualifying contribution" shall mean a monetary contribution, other than a loan, of not less than \$10 and not more than \$100 that is made by an individual, other than the candidate or the candidate's immediate family, who is a resident of San Francisco from the individual's personal funds, and that complies with all requirements of the CFRO.~~

(a) ~~_____~~ "Qualifying contribution" shall not mean a contribution made to a candidate to support the candidate's election to a different office, or to support the candidate's election to the same office in a different election year, where the contribution was unexpended and carried forward as a contribution to a new campaign. ~~"Qualifying contribution" shall not include a contribution that was received more than 18 months before the date of the election.~~

(b) ~~_____~~ "Qualifying contribution" shall not include a contribution made by a business entity. For the purposes of this regulation, "business entity" includes sole proprietorships.

(c) Refer to Regulation 1.142-3(b) for a list of the documents sufficient to establish a contributor's residency in San Francisco.

(d) When the Ethics Commission adjusts the maximum amount of a contribution that constitutes a qualifying contribution for candidates under section 1.104 to reflect changes in the California Consumer Price Index ("CPI"), such adjustments shall be rounded off to the nearest \$10. The adjustments shall be made using the following formula: the maximum qualifying contribution amount in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest ten dollars (\$10). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the maximum qualifying contribution amount in effect for all applicable elections held until the Commission next adjusts the amount.

Regulation 1.104-3: Definition of Immediate Family.

"Immediate family" means the spouse or registered domestic partner and dependent children of the candidate.

Regulation 1.104-4: Individual Expenditure Ceiling.

A candidate who is certified to receive public funds from the Election Campaign Fund is subject to an individual expenditure ceiling of \$140,000 for candidates for the Board of Supervisors or \$1,375,000 for candidates for Mayor, unless the Executive Director raises the individual expenditure ceiling of the candidate under section 1.134.5.

Regulation 1.104-54: Determination of Total Opposition Spending.

(a) To determine the total opposition spending against a candidate who has been certified eligible to receive public funding, the Executive Director shall add any amounts that (1) are reported on ***Third Party Spending*** Forms SFEC-152(a)-3 (relating to candidates for the Board of Supervisors) or SFEC-152(b)-3 (relating to candidates for Mayor) and were made or incurred for independent expenditures, member communications or electioneering communications that are intended to oppose the candidate; and (2) ***that*** the Executive Director ***and/or*** Ethics Commission has determined, pursuant to section 1.134.5(d)***1.143***, are ***intended to oppose the candidate.*** independent expenditures, electioneering communications or member communications that have the effect of opposing the candidate; and (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total opposition spending. ***The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.***

(b) For the purposes of determining total ***Total*** opposition spending, ***does not include*** spending by a candidate to support himself or herself or to oppose his or her opponents in the same election ~~does not constitute opposition spending.~~

Regulation 1.104-65: Determination of Total Supportive Funds.

(a) To determine the total supportive funds of a candidate for the Board of Supervisors or Mayor, the Executive Director shall use the aggregate amount of contributions that ~~are reported by~~ the candidate reports on Forms SFEC-152(a)-1 and SFEC-152(a)-2. The Executive Director shall then add to this ~~contribution amount~~ any amounts that reported on Third Party Spending Forms that the Executive Director and/or the Ethics Commission has determined, under section 1.143, are intended to support the candidate. The Executive Director may also consider, in his or her discretion, any other relevant information available to the Ethics Commission that reflect additional, unreported third-party spending.

- ~~(1) are reported on Form SFEC 152(a) 3 and were made for independent expenditures, electioneering communications or member communications that are intended to support the candidate; and~~
- ~~_____ (2) the Executive Director or Ethics Commission has determined, pursuant to section 1.134.5(d), are independent expenditures, electioneering communications or member communications that have the effect of supporting the candidate; and~~
- ~~_____ (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total supportive funds.~~

~~(b) To determine the total supportive funds of a candidate for Mayor, the Executive Director shall use the aggregate amount of contributions that are reported by the candidate on Forms SFEC 152(b) 1 and SFEC 152(b) 2. The Executive Director shall then add to this contribution amount any amounts that~~

- ~~_____ (1) are reported on Forms SFEC 152(b) 3 and were made or incurred for independent expenditures, electioneering communications or member communications that are intended to support the candidate; and~~
- ~~_____ (2) the Executive Director or Ethics Commission has determined, pursuant to section 1.134.5(d), are independent expenditures, electioneering communications or member communications that have the effect of supporting the candidate; and~~
- ~~_____ (3) the Executive Director or Ethics Commission has determined should be used to calculate the amount of total supportive funds.~~

~~(eb) Spending by any person intended to oppose one candidate does not constitute supportive spending to support for the candidate's opponents for the purpose of determining total supportive funds.~~

Regulation 1.104-7: Member Communication.

~~A "member communication" shall include communications to members, employees, shareholders or families of members, employees or shareholders of an organization as those terms are defined by and used in California Government Code section 85312 and Title 2 of the California Code of Regulations, section 18531.7, and any subsequent amendments to those sections.~~

Regulation 1.104-86: Trust Account Limit.

Unless the Ethics Commission has increased his or her individual expenditure ceiling is increased, the trust account limit of any candidate who is certified as eligible to receive

public funds may not exceed \$140,000 143,000 for a candidate for the Board of Supervisors or \$1,375,000 1,475,000 for a candidate for Mayor. ~~The trust account limit is reduced by the same amount as any expenditure made by the candidate. The trust account limit will be increased if the individual expenditure ceiling of the candidate is increased.~~

Example: Joan, a candidate for the Board of Supervisors, has been certified as eligible to receive public funds from the Election Campaign Fund. Joan's individual expenditure ceiling begins at \$140,000 143,000. Joan spends \$30,000. Joan's trust account limit is now \$110,000 113,000.

Example: Joan's individual expenditure ceiling has been raised to \$150,000 153,000. Joan has spent a total of \$45,000. Joan's trust account limit is now \$105,000 108,000.

Example: John, a candidate for Mayor, has been certified eligible to receive public funds from the Election Campaign Fund. John's individual expenditure ceiling begins at \$1,375,000 1,475,000. John spends \$30,000. His trust account limit is now \$1,345,000 1,445,000.

Example: John's individual expenditure ceiling has been raised to \$1,475,000 1,575,000. John has spent an additional \$170,000, for a total of \$200,000. His trust account limit is now \$1,275,000 1,375,000.

Regulation 1.107-1: Training Requirements for Candidates and Candidate Treasurers.

Each candidate for City elective office and the candidate committee's treasurer must attend a training program on the Campaign Finance Reform Ordinance conducted or sponsored by the Ethics Commission no earlier than 12 months and no later than 30 days prior to the election at which the candidate's name will appear on the ballot. *Treasurers for all non-candidate committees must attend the next training program conducted or sponsored by the Ethics Commission after the date the committee files either its original statement of organization or an amendment to a statement of organization designating a new treasurer.* An assistant treasurer who signs campaign disclosure reports is considered a treasurer for purposes of section 1.107.

Regulation 1.107-2: Training Opportunities.

The Ethics Commission shall provide a training workshop on the Campaign Finance Reform Ordinance at least once within 30 days of the last day to file nomination papers. A candidate or treasurer who is unable to attend a workshop training as required by section 1.107 may contact Ethics Commission staff to schedule one-on-one training, and staff will make all reasonable efforts to provide such training. Such a person may also receive training from the Ethics Commission website, provided that the Commission has posted such a training presentation on its website along with a statement that expressly states that watching the presentation meets the requirement of section 1.107. The online training presentation may be in the form of a video, slideshow, or any other medium that effectively conveys substantially the same information provided in the workshop. At the

Commission's discretion, the Commission may permit the online presentation to satisfy the training requirement of section 1.107 only for candidates and treasurers who have attended a live training during the prior year during which there have been no substantive amendments to the Campaign Finance Reform Ordinance.

Regulation 1.107-3: Certificate of Training.

Each candidate or treasurer who receives training must complete and submit a certification of training (Form SFEC-107) at such training. Each candidate or treasurer who receives training from the Ethics Commission website must file the same certificate indicating that he or she has completed the online training course. The certificate of training (Form SFEC-107) will be available at the training session(s) or on the Ethics Commission's website.

~~**Regulation 1.108-1: Candidate Campaign Trust Account.**~~

~~Each treasurer for a candidate must file Form SFEC-108-1 with the Ethics Commission within 10 days of establishing any account required by section 1.108.~~

~~**Regulation 1.108-2: Prohibition of Multiple Accounts.**~~ **Inaugural Expenses.**

(a) A candidate may, but is not required to, use funds in his or her campaign contribution trust account for inaugural expenses. All funds in the campaign contribution trust account are subject to the applicable contribution limit set forth in section 1.114. Funds expended from the campaign contribution trust account for inaugural expenses are not subject to the applicable expenditure ceiling in either section 1.130 or 1.140.

(b) An inaugural committee, such as a nonprofit public benefit corporation, that is not created by or under the control of an elected officeholder, is not subject to the CFRO.

~~**Regulation 1.108-3: Campaign Contingency Accounts for Candidates.**~~

~~(a) — Each candidate who is certified as eligible to receive public funds may establish a campaign contingency account, separate from his or her campaign contribution trust account, into which the candidate may deposit contributions in anticipation of an increase in the candidate's individual expenditure ceiling.~~

~~(b) —~~ (a) The campaign contingency account must be established at the same bank as the candidate's campaign contribution trust account and may be an interest-bearing savings account. The candidate must file Form SFEC-108-2 with the Ethics Commission to provide the account number within 10 days of ~~establishment~~ establishing of the campaign contingency account.

~~(c) — The candidate must report all contributions deposited into the campaign contingency account as if it were deposited into the candidate's campaign contribution trust account.~~

~~(d) — No candidate may make expenditures from his or her campaign contingency account. A candidate may transfer funds from his or her campaign contingency account~~

~~into his or her campaign contribution trust account, provided that the funds in the campaign contribution trust account do not exceed the candidate's trust account limit.~~

(~~eb~~) Within 10 days after the date of the election, each candidate must turn over all funds in his or her campaign contingency account to the Election Campaign Fund so that the balance in the candidate's campaign contingency account is zero. To turn funds over to the Election Campaign Fund, each candidate must submit a money order, cashier's check, or similar written instrument drafted by a financial institution for the amount of funds in the campaign contingency account, made payable to the City and County of San Francisco, and deliver the money order or cashier's check to the Ethics Commission no later than the 10th day after the date of the election. Any fee paid to generate the money order or cashier's check may be subtracted from the amount being turned over. Each candidate must also file a Form SFEC-108-3 with the Ethics Commission ~~certifying to~~ state that the amount being turned over is accurate.

Regulation 1.108-3: Immediate Transfer of Funds to Campaign Contingency Account.
Any contributions that would otherwise cause the amount of funds in a candidate's campaign contribution trust account to exceed the trust account limit do not result in a violation of section 1.108 if the candidate's committee immediately transfers excess contributions to the candidate's campaign contingency account within two business days of depositing those contributions.

Regulation 1.112-1: Electronic Campaign Disclosure – Date of Expenditures.

(a) For the purposes of disclosure under section 1.112, the “date” that any expenditure required to be reported is “incurred” is the date that the payment is made or the date that consideration, if any, is performed or received, whichever is earlier.

(b) For the purposes of disclosure under section 1.112, the “date” that an accrued expense is “incurred” is the date that the debt or obligation is contracted.

(c) For the purposes of disclosure under section 1.112, an expenditure that qualifies as a monetary or nonmonetary contribution to a candidate or committee is “incurred” by a contributor on the earlier of the following dates: (A) the date that funds are expended by the contributor for goods or services; or (B) the date that the contributor mails or delivers the funds.

Regulation 1.113-1: Disclosure Requirements During Signature Gathering Periods – Definition of Committee.

For the purposes of filing disclosure reports under section 1.113, a “committee” is

(a) a committee primarily formed pursuant to California Government Code section 82047.5 to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election; or

(b) a recipient committee that is a proponent of an initiative petition, a recall petition or a referendum petition in the City and County of San Francisco; or

(c) a committee that makes independent expenditures totaling \$1,000 or more in a calendar year, or an amount specified in California Government Code section

84203.5, to support or oppose the qualification of a measure to be voted on in a City and County of San Francisco election and that is either a general purpose recipient committee pursuant to subsection (a) of California Government Code section 82013 or an independent expenditure committee pursuant to subsection (b) of California Government Code section 82103.

Regulation 1.113-2: Disclosure Requirements During Signature Gathering Periods – Definition of Proponent.

For the purposes of these regulations, the term "proponent" shall mean

(a) for an initiative petition, the person or persons who submit a draft of a petition proposing the measure to the Department of Elections with a request that the City Attorney draft a title and summary of the chief purpose and points of the proposed measure;

(b) for a referendum petition, the person or persons who file the petition with the Clerk of the Board of Supervisors; or

(c) for a recall petition, the person or persons who have authority over or control of the circulation of, or obtaining signatures for, the petition.

Regulation 1.113-3: Disclosure Requirements During Signature Gathering Periods – Start and End Dates of Signature Gathering Period.

(a) For the purposes of filing disclosure reports under section 1.113, the signature gathering or circulation period starts on the date that the proponent begins to circulate a signature petition to qualify the measure for the ballot.

(b) For purposes of filing disclosure reports under section 1.113, the signature gathering period ends as follows:

(1) For initiative petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or 180 days from the day that the proponent receives title and summary pursuant to California Elections Code section 9208;

(2) For recall petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or by the submission date set forth in California Elections Code section 11220;

(3) For referendum petitions, on the earlier of: the date that the proponent submits the signature petitions to the Department of Elections, or the submission date under state law.

Regulation 1.113-4: Duties of Signature Gatherer and Ethics Commission.

Within ~~24 hours~~ one business day of the first date that a petition is circulated to qualify a measure for the ballot, the proponent of the petition must notify the Ethics Commission by email or facsimile to inform the Commission that the proponent has begun to circulate the petition. ~~Upon receipt of such information, the Ethics Commission will post on its website the schedule for filing reports under section 1.113 for each initiative, referendum or recall petition.~~

Regulation 1.113-5: Disclosure Requirements During Signature Gathering Periods—Forms Required to be Filed.

To comply with the filing requirements of section 1.113, a committee primarily formed to support or oppose the qualification of a measure on the ballot or a recipient committee that is the proponent of such a measure must file use the Fair Political Practices Commission (“FPPC”) Form 460 ~~during the signature gathering period~~. Any general purpose recipient or independent expenditure committee that meets the requirements of California Government Code section 84203.5 must file use FPPC Form 465. ~~reports under the same 1.113 filing schedule governing the committee supporting or opposing the initiative, referendum or recall petition.~~

Regulation 1.114-1: Limits on Contributions from Corporations.

(a) A corporation may establish, administer and solicit contributions to a separate segregated fund (“SSF”) to be utilized by the corporation for making contributions to candidates for City elective office, provided that the SSF is (i) a federal committee, or (ii) a committee that complies with the reporting requirements of state and local law and this section.

(b) References to Federal Law. All references to federal statutes and regulations in section 1.114(b) include any existing or subsequent amendments, modifications, and formal judicial or federal administrative interpretation of those statutes and regulations.

(c) Definitions.

(1) Connected Organization. For the purpose of this regulation, “connected organization” shall have the meaning set forth in 2 U.S.C. § 431(7).

(2) Corporation. For the purpose of section 1.114, “corporation” shall mean any corporation organized pursuant to the laws of the state of California, the United States, or any other state, territory, or foreign country, whether for profit or not, except as set forth in subsection (c)(2)(A) through (D).

(A) Limited Liability Companies. A limited liability company (LLC) that elects to be treated as a partnership under the Internal Revenue Code is not a “corporation” for the purposes of section 1.114(b). A limited liability company that elects to be treated as a corporation under the Internal Revenue Code is a “corporation” for the purposes of section 1.114(b).

(B) Partnerships with corporate members. A partnership whose only members are corporations is a “corporation” for the purposes of section 1.114(b). A partnership or an LLC with one or more members that are corporations and one or more members that are not corporations may contribute to a candidate for City elective officer under section 1.114(b) if the contributions are attributable exclusively to sources that are not corporations.

(C) Professional corporations. A professional corporation is a “corporation” for the purposes of section 1.114(b).

(D) Nonprofit corporations. A nonprofit corporation is a “corporation” for the purposes of section 1.114(b), provided, however, that a nonprofit corporation may make a contribution to a candidate for City elective office without violating the prohibitions set forth in section 1.114(b) if (1) it is a “qualifying nonprofit corporation” as defined in 11 C.F.R. section 114.10(c), and (2) it complies with 11 C.F.R. section 114.10(f).

(d) **SSF Name.** Every SSF must adopt a name in compliance with 2 U.S.C. section 432(e)(5) and 11 C.F.R. section 102.14(c).

(e) **Treasurer.** Each SSF must have a treasurer pursuant to California Government Code section 84100 and the CFRO. No contribution or expenditure shall be accepted or made by or on behalf of an SSF during any period in which the office of treasurer is vacant. No expenditure shall be made for or on behalf of an SSF without the authorization of the treasurer or his or her designated agent. The treasurer shall be responsible for compliance with applicable provisions in the Political Reform Act and this Chapter.

(f) **Administration of SSF.**

(1) Funds paid by a connected organization for purposes described in 11 C.F.R. section 114.1(a)(2)(i)-(iii) shall not be contributions subject to the limits set forth in section 1.114(b).

(2) **Commingling Funds.** Each SSF and connected organization must comply with 2 U.S.C. section 432(b)(3) and 11 C.F.R. section 102.15.

(3) **Soliciting and Accepting Contributions.** When soliciting or accepting contributions, the SSF must comply with 11 C.F.R. section 114.5(a)-(c), (g)(1), (h)-(k); 11 C.F.R. section 114.6(a), (c)-(e); and 11 C.F.R. section 114.7.

(4) An SSF may act as a conduit for an earmarked donation from a person to a candidate, subject to the provisions of 11 C.F.R. section 110.6(a), (b) and (d).

(5) If an SSF receives a contribution that appears to be prohibited under this Chapter, the SSF shall comply with 11 C.F.R. section 103.3(b), the Political Reform Act, and the CFRO.

(g) **Affiliation.** If two or more SSFs are “affiliated” under 11 C.F.R. section 110.3(a) or the CFRO, those SSFs shall be treated as a single affiliated committee for the purposes of section 1.114(b).

(h) **Termination.** An SSF may terminate when:

- (1) it no longer intends to receive contributions or make expenditures;
- (2) neither the committee seeking to terminate nor any affiliated committee has any outstanding debts or obligations; and
- (3) the committee is not involved in any enforcement action, audit or litigation with the Ethics Commission.

(i) Each SSF shall comply with all applicable campaign registration and reporting requirements in the Political Reform Act, the Campaign and Governmental Conduct Code and these regulations.

Regulation 1.114-2: Limits on Contributions to Committees.

[Note: On September 20, 2007, the U.S. District Court for the Northern District of California issued a preliminary injunction ordering the City not to enforce CFRO section

1.114(c)(1)-(2) and Regulation 1.114-2. At this time, the Ethics Commission is not enforcing this regulation.]

(a) Limits on Contributions to Committees.

(1) Contribution Limits. Committees that make expenditures to support or oppose candidates for City elective office are subject to the contribution limits established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.

(2) Exception. A committee may solicit and accept contributions in excess of the limits established by section 1.114(c) if the committee makes expenditures for any lawful purpose other than supporting or opposing candidates for City elective office, provided that funds received from contributions in excess of the limits set forth in section 1.114(c) are used only for lawful purposes other than supporting or opposing candidates for City elective office.

(b) Compliance Methods.

Demonstration of compliance with the contribution limits established by section 1.114(c) may be accomplished using any of the methods described below.

(1) Establish a separate committee. A separate committee may be established for the purpose of raising funds to make expenditures to support or oppose candidates for City elective office. Such a committee may not solicit or accept contributions in excess of the limits established by section 1.114(c).

(2) Use of a separate bank account. A committee may segregate funds used for expenditures to support or oppose candidates for City elective office into a separate bank account. All expenditures to support or oppose candidates for City elective office must be made with funds from this account. A committee may not deposit into this account any contributions that were solicited or accepted in excess of the limitations established by section 1.114(c).

(3) Use of "first in, first out" accounting method. A committee may demonstrate, using a first in, first out accounting method, that it has received an amount of contributions at or below the limits established by section 1.114(c) equal to the amount of expenditures to support or oppose candidates for City elective office. Such committees may attribute only the first \$500 of a contribution received in excess of the limits established by section 1.114(c), and may not attribute funds from a contributor who has already reached his or her cumulative limit set forth in section 1.114(c). In accordance with subsection (a)(2) of this regulation, a committee may not pay for an expense, bill or debt incurred to support or oppose candidates for City elective office with funds received in excess of the limits, and then attribute subsequently raised contributions of \$500 or less to such expenses, bills or debts incurred.

(4) Use of any other method. A committee may demonstrate compliance with the contribution limits set forth in section 1.114(c) by using a method that is not described above. A committee shall bear the burden of proof that any such method demonstrates compliance with the contribution limits set forth in section 1.114(c).

At the time that the committee files a Form 465 to report expenditures to support or oppose candidates for City elective office, it must file Form SFEC-114 to identify the

method that it will use to show compliance with section 1.114(c). Once filed, the Form SFEC-114 need not be filed again.

(c) Safe Harbors.

(1) Committees. A committee that solicits or accepts a contribution which, when aggregated with contributions the same contributor has given to other committees that support or oppose candidates for City elective office, would otherwise constitute a violation of section 1.114(c), shall not be in violation of that section, provided that: (A) the committee did not know or have reason to know at the time the contribution was solicited or accepted that the contribution was in excess of the limits set forth in section 1.114(c); (B) the committee provided, within two weeks of the later of either receiving the contribution or attributing the contribution to an expenditure to support or oppose a candidate for City elective office, notice to the contributor of the amount of his or her contribution that was used to support or oppose a candidate for City elective office; and (C) the committee either returns or reattributes the contribution within 72 hours of receiving notification from the contributor that the contributor has already reached his or her cumulative limit set forth in section 1.114(c). The notice described in this subsection shall contain the following or substantially similar language:

"San Francisco law prohibits contributors from giving a cumulative amount of more than \$3,000 in a calendar year to committees that support or oppose candidates for City elective office in San Francisco. We have used [or will use] [amount of contribution attributed] of your contribution to [name of committee] to support [or oppose] a candidate for City elective office in San Francisco. Please apply this amount towards your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year. In order to avoid any possible liability, please notify us within two weeks of receipt of this letter if you have already reached your \$3,000 cumulative limit for the [year in which the contribution was received, e.g., 2002] calendar year."

Treasurers shall maintain a record of all notices sent pursuant to this section, containing the date of each notice and the name and address of the person to whom each notice is sent.

(2) Contributors. A contributor who makes a contribution which, when aggregated with other contributions the same contributor has donated to committees that make expenditures to support or oppose candidates for City elective office, would otherwise be in violation of section 1.114(c), shall not be in violation of that section, provided that: (A) the contributor did not know or have reason to know at the time the contribution was made that the contribution was in excess of the contribution limits set forth in section 1.114(c); and (B) the contributor informs a committee that the contributor has already reached his or her cumulative limit within two weeks of receiving a notification from the committee that his or her contribution will be or was used for an expenditure to support or oppose a candidate for City elective office.

(d) Campaign funds held in the bank account of a committee prior to January 1, 2001.

(1) Funds that were held in the bank account of a committee prior to January 1, 2001 are not subject to the contribution limitations established by section 1.114(c) of the San Francisco Campaign and Governmental Conduct Code.

(2) To determine whether a committee has funds that were held in its bank account prior to January 1, 2001, the committee shall subtract from the amount of funds it held in its bank account on December 31, 2000, the amount of the committee's accrued expenses that existed on December 31, 2000 and the amount of money it has spent since January 1, 2001 on expenditures. Expenditures to pay for accrued expenses that existed on December 31, 2000 shall not be included in the amount of money spent since January 1, 2001. Any funds remaining may be used for expenditures to support or oppose candidates for City elective office.

(e) Definitions.

(1) For the purposes of section 1.114(c) and this regulation, the term "expenditure" has the same meaning as in California Government Code section 82025. This includes but is not limited to: a direct monetary contribution or loan made to a candidate for City elective office; a payment made to a vendor for goods or services for a candidate for City elective office (a nonmonetary contribution); a donation to a candidate for City elective office of goods on hand, or the payment of salary or expenses for a campaign employee who spends 10 percent or more of his or her compensated time in any one month working for a candidate for City elective office; or a payment made for a communication (e.g., a mailing, billboard, or radio advertisement) that expressly advocates the election or defeat of a clearly identified candidate for City elective office, but the payment is not made to, in coordination or cooperation with, or at the behest of, the candidate or his or her agent (an independent expenditure).

(2) For the purposes of this regulation, the phrase "first in, first out" means that campaign funds being used by a committee for expenditures to support or oppose a candidate for City elective office are attributed to contributors in chronological order beginning with the earliest of the committee's contributors on or after January 1, 2001 or, if there has been a prior expenditure to support or oppose a candidate for City elective office, beginning with the earliest contributor for which unattributed contributions remain.

Regulation 1.115-1: Coordination of Expenditures.

~~An expenditure is presumed not independent of the candidate on whose behalf or for whose benefit the expenditure is made when any of the provisions of section 1.115(b) are met regardless of whether the activities of the spender or the spender's agent are voluntary or compensated.~~ **The rebuttable presumption established by section 1.115(b) applies regardless of whether the actions taken were voluntary or compensated.**

Regulation 1.116-1: Loan Limits; Adjustments.

On or before January 31 of each year, the Ethics Commission may adjust the loan limits imposed by section 1.116 to reflect changes in the California Consumer Price Index ("**CPI**"). If the Commission chooses to make an adjustment, the adjustment shall be made using the following formula: the loan limit in effect on January 1, 2004, multiplied by the current CPI, divided by the base CPI from 2003, rounded to the nearest one

thousand dollars (\$1,000). The adjustments shall be based upon the ~~September~~ **October** forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for **San Francisco-Oakland-San Jose for** the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted loan limit in effect for all City elections held until the Commission next chooses to adjust the limits.

Regulation 1.118-1: Payment of Accrued Expenses.

~~(a) — A candidate who accepts goods or services on credit must pay for such accrued expenses in full no later than 180 calendar days after receipt of a bill or invoice and in any event no later than 180 calendar days after the last calendar day of the month in which the goods were delivered or the services were rendered, unless it is clear from the circumstances that the failure to pay is reasonably based on a good faith dispute. Notwithstanding the existence of a good faith dispute, a candidate must pay for that portion of accrued expenses, if any, for which no good faith dispute exists.~~

~~(b)~~ (a) A candidate **committee** will not be deemed to have **has not** violated section 1.118 for any calendar day on which an accrued expense remains partially or wholly unpaid if (1) the **committee has been terminated** candidate's status as a candidate has terminated pursuant to 2 C.C.R. section 81404 **18404** on or before that calendar day, or (2) the creditor has forgiven the debt as permitted by law on or before that calendar day. Notwithstanding the foregoing, any amount in excess of \$500 that remains unpaid at the time of termination or that has been forgiven by the creditor as permitted by law shall be deemed **constitute** a violation of section 1.114(a) ~~by the candidate~~. Such an expense shall not be deemed a violation of section 1.114(a) by the creditor unless it is otherwise deemed a contribution under law.

~~(e)~~ (b) Section 1.118 applies to expenses that were accrued by a candidate **committee** on or after January 1, 2007.

Regulation 1.122-1: Surplus Funds Held by a Committee Other Than a Candidate's Campaign Committee.

(a) Surplus Funds Held by a Committee Primarily Formed to Support or Oppose a Measure. Funds remaining in the campaign account of a committee primarily formed to support or oppose a measure at the end of the post-election reporting period following the election at which the measure appeared on the ballot are surplus funds **and must be returned, donated, or used as prescribed in section 1.122(b)(3)**. ~~Such funds must be:~~

- ~~—— (1) — returned on a last-in, first-out basis to those persons who have made such contributions;~~
- ~~—— (2) — donated to a charitable organization; or~~
- ~~—— (3) — donated to the City and County of San Francisco.~~

(b) Funds Held by Any Other Committee.

Funds held by a committee other than a candidate-controlled committee or a committee primarily formed to support or oppose a measure are not subject to section 1.122.

Regulation 1.122-2 Transfer of Funds in a Candidate’s Campaign Account.

(a) The use and transfer of funds held in a candidate’s campaign account during an election, after the candidate’s withdrawal or when such funds become surplus, are regulated by both state and local law. Candidates and treasurers must comply with both state and local law in the handling of such funds. Under some circumstances such as when funds become surplus, state law prohibits the transfer of funds.

(b) A candidate who transfers funds from one candidate campaign account to another must file Form SFEC-122 to disclose whether “last in, first out” or “first in, first out” was used and information regarding the contributions that were transferred.

Regulation 1.126-1: Contribution Limits – Contractors Doing Business with the City: Definitions.

(a) Board on which an individual sits.

“Board on which an individual sits” means the board to which the officer was elected and any other board on which the elected officer serves.

(b) Commencement of Negotiations.

Negotiations are commenced when a prospective contractor first communicates with an officer or employee of the City, the Unified School District, the Community College District; or a state agency on whose board an appointee of a city elective officer sits about the possibility of obtaining a specific contract. This initial communication may occur in person, by telephone, or in writing, and may be initiated by the prospective contractor or the officer or employee.

Examples of communications between prospective contractors and officers and employees of the City, the Unified School District, the Community College District or a state agency on whose board an appointee of a city elective officer sits that commence negotiations include, but are not limited to, the following: A prospective contractor contacts an officer or employee to promote himself or herself for a specific contract; an officer or employee contacts a prospective contractor to propose that the contractor apply for a specific contract; a prospective contractor submits a bid, proposal or response to a Request for Qualifications to compete for a specific contract.

Examples of communications between prospective contractors and officers and employees that do not commence negotiations include, but are not limited to the following: Inquiries regarding a particular contract, and requests for information or documents relating to a Request for Proposal or Request for Qualifications, provided that the inquiry or request does not involve promotion of the prospective contractor's interest in a specific contract; distribution or receipt of Requests for Proposals; distribution or receipt of Requests for Qualifications; attendance at an interested persons meeting or a hearing that is open to the public; and requests to be placed on a mailing list.

(c) Contract.

For the purposes of section 1.126, a contract does not include the following:

- (1) a work order or purchase order submitted under an existing contract; or

(2) a modification of an existing contract where the majority of the terms of the contract remain in full force and effect and the total amount of the modification does not exceed \$50,000 in a fiscal year.

(d) Date the Contract Is Approved.

A contract is approved when it is finalized and signed by the City, a state agency on whose board an appointee of a City elective officer sits, the Unified School District or the Community College District and the contractor.

(e) Person who Contracts With.

(1) For the purposes of section 1.126, a “person who contracts with” includes any named party or prospective named party to a contract, as well as any member of that named party or prospective named party’s board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer, any person with an ownership interest of more than 20 percent in the named or prospective named party, any subcontractor listed in a bid or contract, and any committee as defined in Chapter 1 of the Campaign and Governmental Conduct Code that is sponsored or controlled by the named party or prospective named party.

(2) If a named party or prospective named party does not have a board of directors or chairperson of the board of directors, a “person who contracts with” includes any person who directs or participates in directing the affairs and activities of the named party or prospective named party.

(3) If a named party or prospective named party does not have a chief executive officer, chief financial officer, or chief operating officer, a “person who contracts with” includes any president of the named party or prospective named party or any person who directs the overall activities, financial activities, or operations of the named party or prospective named party.

(f) Personal services.

For the purposes of section 1.126(a)(2)(A), personal services means services that are provided by a person or an entity. Such services include but are not limited to tasks such as consulting, architecture, engineering, design, legal services, finance, accounting, janitorial services, medical treatment, transportation, underwriting, insurance, and security.

(g) State Agency on whose Board an Appointee of a City Elective Officer Serves.

For the purposes of section 1.126, a state agency on whose board a City elective officer or an appointee of a City elective officer serves is limited to the following: Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority, and Local Workforce Investment Board. The City elective officers who appoint members of these boards for the purposes of section 1.126 are:

- (1) Health Authority: Board of Supervisors and Mayor
- (2) Housing Authority Commission: Mayor

- (3) Industrial Development Authority Board: Mayor and Board of Supervisors
- (4) Parking Authority: Mayor and Board of Supervisors
- (5) Redevelopment Agency Commission: Mayor and Board of Supervisors
- (6) Relocation Appeals Board: Mayor and Board of Supervisors
- (7) Treasure Island Development Authority: Mayor
- (8) Local Workforce Investment Board: Mayor

(h) Submission of a Contract to an Individual Holding City Elective Office.

(1) A contract is submitted to each member of the Board of Supervisors when a resolution to approve the contract is introduced at the Board of Supervisors.

(2) A contract approved by the Board of Supervisors is submitted to the Mayor upon adoption of a resolution approving the contract by the Board of Supervisors.

(3) A contract is submitted to any other individual holding City elective office when the individual is informed that negotiations for the contract have commenced or the individual's office receives a copy of the contract for the individual's review or approval.

(i) Termination of Negotiations.

Negotiations are terminated when the City, a state agency on whose board an appointee of a city elective officer sits, the Unified School District or the Community College District and/or the prospective contractor end the negotiation process before a final decision is made to award the contract.

Examples of actions that terminate negotiations include, but are not limited to, the following: A prospective contractor formally withdraws or is disqualified from consideration for a specific contract.

Regulation 1.126-2: Party that is Subject to the Prohibition.

(a) The prohibition set forth in section 1.126(b) applies to the named party or prospective named party who contracts with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the San Francisco Community College District.

This includes:

- (1) any named party or prospective named party to the contract;
- (2) any member of that named party's board of directors, its chairperson, chief executive officer, chief financial officer, chief operating officer,
- (3) any person with an ownership interest of more than 20 percent in the named party;
- (4) any subcontractor listed in a bid or contract; and
- (5) any committee as defined in the California Government Code (commencing at section 81000) that is sponsored or controlled by the named party or prospective named party.

(b) The prohibition set forth in section 1.126(b) does not apply to any member of the board of directors, chairperson, chief executive officer, chief financial officer or chief operating officer of any person with an ownership interest of more than 20 percent in the

named party or prospective named party to a contract, or of any subcontractor listed in a bid or contract.

(c) For the purposes of section 1.126(b)(1)(C), "a committee controlled by such individual or candidate" includes either a committee formed to support or oppose a candidate for City elective office or a committee formed to support or oppose a local ballot measure.

Regulation 1.126-3: Notification.

Any prospective party to a contract with the City and County of San Francisco, a state agency on whose board an appointee of a City elective officer serves, the San Francisco Unified School District or the Community College District must inform each person described in section 1.126(a)(1) of the prohibition in section 1.126(b) by the commencement of negotiations for such contract. The notice is sufficient if it:

- (a) is provided in written form,
- (b) is sent by U.S. mail, email, facsimile transmission, or personal delivery; and
- (c) contains language similar to the following [please fill in information in brackets]:

Notice:

I [name of party] am seeking to enter into a contract with [name of agency, board or commission] that will have a value of \$50,000 or more in a fiscal year. Under section 1.126 of the San Francisco Campaign and Governmental Conduct Code, I am required to advise you that because you [check appropriate box]

- Serve as a director on the board of directors of my company;
- Serve as the chairperson, chief executive officer, chief financial officer, chief operating officer, or other person who directs the activities of my company;
- Have an ownership interest of more than 20 percent in my company;
- Are listed as a subcontractor on my bid or contract;
- Are a committee that I sponsor or control,

you are prohibited from making a contribution to the following City elective officers or candidates for City elective office: [fill in name of City elective officer or candidate for City elective office].

This prohibition will last from [date of commencement of negotiations] until the termination of negotiations or six months have elapsed from the date the contract is approved. I will advise you of the date that negotiations terminate or six months after the contract is approved. In the meantime, if you have questions, please contact me at [contact information].

Regulation 1.126-4: Filing Reports with the Ethics Commission.

(a) Every individual who holds a City elective office shall notify the Ethics Commission, within five business days of the approval of a contract by the officer, or by the board on which the officer sits, or by the board of a state agency on which an

appointee of the officer sits, of each contract so approved by filing Form SFEC-126 with the Ethics Commission.

(b) An individual who holds City elective office need not file Form SFEC-126 with the Ethics Commission if the clerk or secretary of the board on which the individual serves or the board of a state agency on which an appointee of the officer serves has filed a Form SFEC-126 on behalf of the board. The filer may attach a copy of the minutes that record the approval of a contract to the Form SFEC-126, so long as the minutes reflect the information required by the Form SFEC-126 and the filer signs the Form SFEC-126. If the board passes a resolution directing its clerk or secretary to file Form SFEC-126 and the clerk or secretary fails to do so, the City elective officer is not deemed to have violated section 1.126(c) unless the City elective officer has reason to know that Form SFEC-126 had not been filed. If the City elective officer is notified by the Ethics Commission that a Form SFEC-126 has not been filed, the City elective officer must file the form within 5 working days of such notice.

(c) The Commission will post information regarding such contracts on its website.

Regulation 1.126-5: Affiliated Entities.

Whenever a named party or prospective named party to a contract is prohibited from making a contribution under section 1.126, any affiliated entity (as defined in section 1.114(d)) of that named party or prospective name party is also prohibited from making a contribution under section 1.126.

Regulation 1.126-6: Approval as to Form.

A contract that “must be approved” by an individual does not include a contract that must be approved only as to form. If a contract must be approved as to form by the City Attorney’s Office but is not otherwise required to be approved by the City Attorney, the contract does not trigger section 1.126.

Regulation 1.128-1: Acceptance or Rejection of Voluntary Expenditure Ceilings.

(a) Time for Filing; General Deadline. *Any candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District may accept the applicable voluntary expenditure ceiling by filing the* Every candidate for City elective office must file a Form SFEC-128 with the Ethics Commission indicating whether the candidate accepts or does not accept the applicable expenditure ceiling. The form must be filed no earlier than June 1 in a year where the election is held in November, or 120 days before an election held at any other time, and no later than the deadline for filing nomination papers.

(b) ~~Candidate Who Exceeds Spending Limit Before Nomination Deadline. A candidate who has made or incurred expenses for qualified campaign expenditures in excess of 100 percent of the applicable expenditure ceiling must file a Form SFEC-128 with the Ethics Commission by one of the following deadlines:~~

~~———— (1) If the expenses are made or incurred before June 1 of the year in which an election occurs in November, the candidate must file Form SFEC 128 no later than June 1 of the election year; or~~

~~———— (2) If the expenses are made or incurred on or after June 1 of the year in which an election occurs in November but before the deadline for filing nomination papers, the candidate must file Form SFEC 128 within 24 hours of reaching such threshold.~~

~~———— (3) If the expenses are made or incurred prior to the 120th day before the election for an election that occurs at a time other than in November, the candidate must file Form SFEC 128 no later than the 120th day before the election.~~

~~———— (4) If the expenses are made or incurred after the 120th day prior to an election but before the deadline for filing nomination papers for an election that occurs at a time other than in November, the candidate must file Form SFEC 128 within 24 hours of reaching such threshold.~~

~~(**eb**)~~ A candidate may not accept the voluntary expenditure ceiling by filing Form SFEC-128 if the applicable ceiling has already been lifted under section 1.134.

~~(d) — In addition to filing Form SFEC 128, a candidate who seeks to participate in the public financing program must file a Declaration (Form SFEC 142(b) 1 for candidates for the Board of Supervisors or Form SFEC 142 (b) 2 for candidates for Mayor) with the Ethics Commission to indicate that he or she agrees to accept the individual expenditure ceiling established for that candidate by the Ethics Commission.~~

~~(e) — Notice to Department of Elections and Public Notice. Within 24 hours after the deadline for filing nomination papers, the Executive Director shall notify the Department of Elections of which candidates have accepted the voluntary expenditure ceiling and shall also post this information on its website and issue a press release.~~

~~(f) — Failure to File. Failure to file Form SFEC 128 within the time frame specified in this section shall be deemed a rejection of the voluntary expenditure ceilings for the purposes of administering the CFRO. Failure to file shall also constitute a violation of section 1.128 and subject the nonfiler to applicable penalties.~~

~~(**gc**)~~ Policy of the Commission. The Ethics Commission encourages all candidates to comply with the voluntary expenditure ceilings established in Campaign and Governmental Conduct Code Section section 1.130.

Regulation 1.130-1: Amount of Expenditure Ceilings; Adjustments.

(a) Under section 1.130(**ec**), the Commission is authorized to adjust the spending limits annually to reflect changes in the California Consumer Price Index ("**CPI**"). The spending limits under section 1.130 shall be adjusted as follows:

(1) The voluntary expenditure ceilings in section 1.130(a) and (**db**) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect in ~~October 2006~~ January 1, 2010, multiplied by the current CPI, divided by the base CPI from 2006-January 2010, rounded to the nearest one thousand dollars (\$1,000).¹ The

¹ For example, assume the California Consumer Price Index for All Urban Consumers for ~~October 2006~~ January 2010 is 211.8225.8. Assume in October ~~2007~~ 2010 the California CPI increased to 213.0227. Therefore Based on these figures, an adjusted expenditure ceiling beginning in January 1, ~~2008~~ 2010 that

resulting figure shall be the adjusted voluntary expenditure limitation in effect for all elections for City elective offices except the Mayor and the Board of Supervisors.

(2) ~~The voluntary expenditure ceilings in section 1.130(b) (shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect April 1, 2006, multiplied by the current CPI, divided by the base CPI from April 2006, rounded to the nearest five thousand dollars (\$5,000).² The resulting figure shall be the adjusted voluntary expenditure limitation in effect for elections for Mayor.~~

~~(3) The voluntary expenditure ceilings in section 1.130(c) shall be adjusted using the following formula: the voluntary expenditure ceiling amount in effect January 1, 2008, multiplied by the current CPI, divided by the base CPI from January 1, 2008, rounded to the nearest one thousand dollars (\$1,000). The resulting figure shall be the adjusted voluntary expenditure limitation in effect for elections for the Board of Supervisors.~~

(b) The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar year immediately preceding the year in which the adjustment is to take effect.

~~Regulation 1.130-2: Individual Expenditure Ceilings for Candidates.~~

~~A candidate for the Board of Supervisors or Mayor who has been certified as eligible for public funding may have his or her individual expenditure ceiling raised in accordance with section 1.134.5. Therefore, notwithstanding sections 1.130(b) and 1.130(c), any such candidate for the Board of Supervisors whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$140,000 and any such candidate for Mayor whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$1,375,000, provided that such expenditures may not exceed the candidate's individual expenditure ceiling.~~

~~Regulation 1.134-1: Reports by Candidates Who Do Not Accept Voluntary Expenditure Ceilings.~~

~~[Note: In addition to filing reports required by section 1.134, candidates for Mayor or the Board of Supervisors are required to file forms with the Ethics Commission under section 1.152 of the CFRO.]~~

~~Any candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District who declines to accept the voluntary expenditure ceiling and who receives contributions, makes qualified campaign expenditures, incurs expenses or has funds in his or her campaign contribution~~

was previously \$229,000 **243,000** would be calculated as follows: $(\$229,000 \times 213/211.8 = \$230,000)$ ~~(\$230,297 - \$243,000 x 227/225.8 = \$244,000 (\$244,291 rounded to the nearest \$1,000).~~

² For example, the California Consumer Price Index for All Urban Consumers for April 2006 is 210.5. Assume in October 2007 the California CPI increased to 213.0. Therefore an adjusted expenditure ceiling beginning in 2008 that was previously \$1,375,000 would be calculated as follows: $(\$1,375,000 \times 213/210.5 = \$1,390,000)$ ~~(\$1,291,330 rounded to the nearest \$5,000).~~

trust account that exceed 100 percent of the applicable expenditure ceiling must file Form SFEC-134(b) with the Ethics Commission within 24 hours of exceeding 100 percent of the applicable expenditure ceiling. A candidate need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling.

Regulation 1.134-2: Reports by Committees or Persons that who Make Independent Expenditures, Electioneering Communications and Member Communications.

~~[Note: This regulation ceases to apply in elections for the Mayor or Board of Supervisors if the Ethics Commission has certified at least one candidate for Mayor or the Board of Supervisors as eligible to receive public financing. Upon such certification, persons that o make independent expenditures, electioneering communications or member communications must file the forms specified in Regulations 1.152(a) 2 and 1.152(b) 2.]~~

(a) This regulation applies only to persons who make independent expenditures, electioneering communications or member communications that clearly identify a candidate for Assessor, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, the Board of Education of the San Francisco Unified School District or the Governing Board of the San Francisco Community College District.

(b) Any person that who makes expenditures or payments or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate listed in subsection (a) for City elective office that in the aggregate equals or exceeds \$5,000 must file the Third Party Spending Form SFEC-134(e) with the Ethics Commission within 24 hours of making expenditures or payments or incurring expenses for the purposes of making independent expenditures, electioneering communications or member communications that, in the aggregate, equal or exceed \$5,000 per candidate. ~~reaching this threshold.~~ A person need not file this form if the Ethics Commission has already lifted the applicable voluntary expenditure ceiling. Thereafter, until such time as the applicable expenditure ceiling is lifted, the person shall file the Third Party Spending Form SFEC-134(e) within 24 hours of every time such person makes expenditures or payments, or incurs expenses for the purpose of making independent expenditures, electioneering communications or member communications in support of or in opposition to any candidate for City elective office in the same race that in the aggregate equals or exceeds \$5,000 per candidate. For the purposes of section 1.134 and this regulation, the phrase “in support of or in opposition to” includes any communication that refers to a clearly identified candidate for City elective office or a City elective officer who is the subject of a recall election.

Regulation 1.134-3: Lifting Voluntary Expenditure Ceilings.

An eligible candidate who has accepted a voluntary expenditure ceiling will no longer be bound by the voluntary expenditure ceiling if any of the following occurs:

(1) a competing candidate seeking election to the same office, who has not accepted a voluntary expenditure ceiling, receives contributions or makes qualified campaign expenditures that total more than applicable voluntary expenditure ceiling;

(2) any competing candidate seeking election to the same office, or the candidate who accepted the voluntary expenditure ceiling, is clearly identified in campaign materials

paid for by third parties, and the amount spent on those campaign materials total more than the applicable voluntary expenditure ceiling; or
(3) a competing candidate seeking election to the same office, who has accepted the voluntary expenditure ceiling, makes expenditures that total more than the applicable voluntary expenditure ceiling.

Example: Alice, Bob, and Chuck are running to become Assessor. Alice and Bob accept the applicable voluntary expenditure ceiling of \$243,000. Chuck does not accept the voluntary expenditure ceiling and spends \$250,000 in support of his campaign. Since Chuck's campaign has spent more than \$243,000, Alice and Bob are no longer bound by the voluntary expenditure ceiling.

Example: Dave and Eric are running to become Sheriff. Dave and Eric both accept the applicable voluntary expenditure ceiling of \$243,000. Several third parties have made expenditures, both in support and opposition, that identify Dave and comment on his candidacy – eventually these expenditures total \$260,000. Since the amount of third-party spending concerning a candidate for Sheriff has exceeded \$243,000, neither Dave nor Eric is bound by the voluntary expenditure ceiling.

Example: Frank and George are running to become members of the San Francisco School Board. Frank and George both accept the applicable voluntary expenditure ceiling of \$104,000. Despite accepting the voluntary expenditure ceiling, George spends more than \$104,000 on his campaign. Frank is no longer bound by the \$104,000 voluntary expenditure ceiling.

Regulation 1.135-1: Supplemental Reporting.

Committees that are required by section 1.112 to file electronically must also electronically file any report required by Section 1.135, provided that the Commission has prescribed the format for such report at least 60 days before the report is due.

Regulation 1.140-1: Eligibility to Receive Public Financing – “Candidate’s Previous Campaign Committee.”

For purposes of subsections 1.140(a)(3)-(4), a “candidate’s previous campaign committees” includes any campaign committee controlled by the candidate or committee for which the candidate served as treasurer or assistant treasurer.

Regulation 1.140-2: Eligibility to Receive Public Financing – Expenditure Ceiling.

A candidate who submits an application for public financing under section 1.142 but who is not yet certified as eligible to receive public financing is bound by the individual expenditure ceiling of \$140,000 143,000 for candidates for the Board of Supervisors or \$1,375,000 1,475,000 for candidates for Mayor until the earlier of the following occurs:

(a) The Executive Director certifies the candidate as eligible to receive public funds and adjusts the individual expenditure ceiling of the candidate pursuant to section ~~1.134.51.143~~ 1.143; or

(b) The Executive Director declines to certify the candidate as eligible to receive public funds and the candidate no longer wishes to participate in the public financing program; or

(c) The candidate withdraws and does not refile his or her application for public funds.

Regulation 1.140-3: Adjustments of Qualifying Limits and Thresholds—Board of Supervisors.

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(b)(2) and (b)(3) to reflect changes in the California Consumer Price Index ("**CPI**"), such adjustments will be rounded off to the nearest \$500. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2008, multiplied by the current CPI, divided by the base CPI from 2008, rounded to the nearest five hundred dollars (\$500). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers *for San Francisco-Oakland-San Jose* for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figures shall be the adjusted thresholds in effect for all applicable elections held for the Board of Supervisors until the Commission next adjusts the thresholds.

Regulation 1.140-4: Adjustments of Qualifying Limits and Thresholds--Mayor.

When the Ethics Commission adjusts the dollar thresholds in sections 1.140(c)(2) and (c)(3) to reflect changes in the California Consumer Price Index ("**CPI**"), such adjustments will be rounded off to the nearest \$5,000. The adjustments shall be made using the following formula: the threshold in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest five thousand dollars (\$5000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers *for San Francisco-Oakland-San Jose* for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted thresholds in effect for all applicable elections held for the Mayor until the Commission next adjusts the thresholds.

Regulation 1.140-5: Amount of Individual Expenditure Ceiling – Adjustments.

(a) The individual expenditure ceiling in section 1.140(b)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect on January 1, 2010, multiplied by the current California Consumer Price Index ("CPI"), divided by the base CPI from January 2010, rounded to the nearest one thousand dollars (\$1,000).³ The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the

³ For example, assume the California Consumer Price Index for All Urban Consumers for January 2010 is 225.8. Assume in October 2010 the California CPI increased to 227.0. Based on these figures, an adjusted individual expenditure ceiling beginning in 2010 that was \$143,000 would be calculated as follows: ($\$143,000 \times 227/225.8 = \$144,000$) (\$143,760 rounded to the nearest \$1,000).

adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Board of Supervisors.

(b) The individual expenditure ceiling in section 1.140(c)(4) shall be adjusted using the following formula: the individual expenditure ceiling in effect January 1, 2010, multiplied by the current California Consumer Price Index ("CPI"), divided by the base CPI from January 1, 2010, rounded to the nearest five thousand dollars (\$5,000). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics Consumer Price Index for All Urban Consumers for San Francisco-Oakland-San Jose for the calendar immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the adjusted individual expenditure ceiling in effect for elections for the Mayor.

~~Regulation 1.140-5: Adjustment of Maximum Qualifying Contribution.~~

~~When the Ethics Commission adjusts the maximum amount of a contribution that constitutes a qualifying contribution for candidates under section 1.104 to reflect changes in the California Consumer Price Index, such adjustments shall be rounded off to the nearest \$10. The adjustments shall be made using the following formula: the maximum qualifying contribution amount in effect on January 1, 2007, multiplied by the current CPI, divided by the base CPI from 2006, rounded to the nearest ten dollars (\$10). The adjustments shall be based upon the October forecast of U.S. Bureau of Labor Statistics California Consumer Price Index for All Urban Consumers for the calendar year immediately preceding the year in which the adjustment is to take effect. The resulting figure shall be the maximum qualifying contribution amount in effect for all applicable elections held until the Commission next adjusts the amount.~~

Regulation 1.142-1: Statement of Participation or Non-Participation.

Each candidate for the Board of Supervisors or Mayor must file with the Ethics Commission Form SFEC-142(a) – Statement of Participation or Non-Participation in the Public Financing Program – no later than the deadline for filing nomination papers. The Statement shall be signed and verified by the candidate under penalty of perjury.

Regulation 1.142-2: Process for Establishing Eligibility; Filing Requirements.

(a) Filing Requirement.

Every candidate for the Board of Supervisors who wishes to become eligible to receive public financing must file Form SFEC-142(b)-1 (Declaration for Public Funds), Form SFEC-142(c)-1 (Qualifying Contributions List) and supporting material with the Ethics Commission no ~~sooner~~ earlier than nine (9) months before but no later than the 70th day before the date of the election.

Every candidate for Mayor who wishes to become eligible to receive public financing must file Form SFEC-142(b)-2 (Declaration for Public Funds), Form SFEC-142(c)-2 (Qualifying Contributions List), and supporting material with the Ethics Commission no ~~sooner~~ earlier than nine (9) months before and no later than the 70th day before the date of the election.

(b) Declaration by Candidate: Forms SFEC-142(b)-1 and SFEC-142(b)-2.

The information disclosed on Forms SFEC-142(b)-1 and SFEC-142(b)-2 (Declaration by Candidate) shall include but is not limited to the following: the names, mailing and email addresses, and telephone and facsimile numbers for the candidate and treasurer; a list of authorized persons to receive payments from the Election Campaign Fund; and a declaration under penalty of perjury by the candidate that he or she understands the requirements for participation in the public financing program.

(c) Qualifying and Matching Contributions Lists. The information disclosed on Forms SFEC-142(c)-1 and SFEC-142(c)-2 (Qualifying Contributions List) and Forms SFEC-144(a)-2 and 144(b)-2 (Matching Contributions List) shall include but is not limited to: each contributor's full name, the address of each contributor's primary residence, the total amount contributed by each contributor, the amount of each contributor's qualifying contribution, the date on which the candidate received each contributor's qualifying contribution, and the deposit batch number for each qualifying contribution. When the cumulative amount of contributions from any contributor equals or exceeds \$100, the information for any qualifying contribution from such contributor must also include the contributor's occupation, the contributor's employer or, if the contributor is self-employed, the name of the contributor's business. Candidates must file this information electronically as an attachment to an email or on a compact disc or floppy disk.

Regulation 1.142-3: Supporting Material ~~of~~ Required for Qualifying and Matching Contributions.

(a) The supporting material and information required under sections 1.142(b) and 1.144(f) shall include the following:

- 1) A copy of the deposit slip and deposit receipt for each qualifying or matching contribution.
- 2) Documentation showing that ~~the~~ a contribution exists was made, such as
 - i) for contributions made by check, a copy of the check itself ~~written instrument demonstrating the contribution, such as a check~~ and a listing of all contributions in a batch of deposited checks (each batch should be numbered);
 - ii) for contributions made by credit card, documentation from the credit card merchant showing the accountholder's name, the accountholder's billing address, the date the transaction was initiated, and the amount of the contribution; or
 - iii) for cash contributions, a signed and dated contributor card that includes the committee's name, the amount of the contribution, and the contributor's name and residential address in San Francisco ~~residence address~~.

(b) In addition, the supporting material shall demonstrate ~~evidence of each contributor's primary residence. A candidate may show that the contributor is a San Francisco resident by demonstrating that~~ providing evidence of any of the following is ~~true~~:

(1) the contributor uses a San Francisco address as the address on any bank account or any account with a financial institution, through the submission of copies of recent bank statements or personal checks listing the account holder's address;

(2) the contributor uses a San Francisco address as a billing address, through the submission of copies of recent credit card or utility bills;

(3) the contributor lives at a San Francisco address, through the submission of copies of a current deed or lease;

(4) the contributor uses a San Francisco address as a mailing address, through the submission of copies of recent mail received by the contributor;

(5) the contributor is currently registered to vote in San Francisco;

(6) the contributor has represented to a government agency that he or she lives at a San Francisco address, through the submission of copies of a driver's license, passport, government-issued identification card, or tax returns; or

(7) the contributor resides at a San Francisco address on a regular, ongoing basis, through the submission of any documents created or provided by a non-interested third-party that independently confirm that the contributor lives in San Francisco.

A candidate may not submit affidavits or declarations as proof of a contributor's residency in San Francisco.

Regulation 1.142-4: Verification of Qualifying and Matching Contributions.

Each claim for public funds shall be signed and verified under penalty of perjury by the eligible candidate. The candidate shall verify that the claim and supporting documentation are true and complete to the best of his or her knowledge, information and belief.

Regulation 1.142-5: Process For Establishing Eligibility; Irrevocability of Decision to Participate or Not Participate; Withdrawal Of Declaration.

(a) ~~Irrevocability of Decision to Participate in the Public Financing Program after the Deadline for Filing Nomination Papers.~~

When a candidate submits Form SFEC-142(a), the statement of participation or non-participation pursuant to Section 1.142(a), the candidate agrees or declines to participate in the public financing program. This agreement is irrevocable ***The candidate may not withdraw or amend his or her statement*** after the deadline for filing nomination papers.

Under state law, a candidate must file his or her nomination papers no later than 88 days prior to the election. See Cal. Elec. Code § 10220.

(b) ~~Withdrawal of Candidate Declaration Permitted until the 70th Day Before the Election.~~

When a candidate submits Forms SFEC-142(b)-1, SFEC-142(b)-2, SFEC-142(c)-1, SFEC-142(c)-2 and supporting material, ~~under Section 1.142(b)~~ to establish eligibility to receive ***qualify for*** public financing, the candidate may withdraw and refile the forms up until the 70th day before the election. After the 70th day before the election has passed, candidates are no longer permitted to withdraw and refile their forms. Although certified candidates are not obligated to accept public funds, such candidates must comply fully with the requirements imposed by Section 1.140 regardless of whether they accept public funds. Similarly, eligible ***certified*** candidates may not relieve themselves of their

obligations under Section 1.140 by ~~repaying previously received~~ **returning** public funds to the Election Campaign Fund.

Regulation 1.142-6: Certification.

(a) Executive Director's Determination.

(1) The Executive Director shall determine whether to certify a candidate no later than 30 days after the candidate submits the documents required under sections 1.142(a) and 1.142(b).

(2) Any candidate who files Form SFEC-142(a) indicating an intent to participate in the public financing program but who fails to file Form SFEC-142(b)-1 or SFEC-142(b)-2 by the 70th day before the election is ineligible to participate in the public financing program and the Executive Director shall notify the candidate that he or she is ineligible.

(3) The Executive Director may take whatever steps he or she deems necessary to determine whether to certify a candidate including, but not limited to, reviewing the materials submitted by a candidate, auditing a candidate's records, and interviewing a candidate's contributors. In addition, the Executive Director may require any candidate to file Form SFEC-152(a)-1 or SFEC-152(b)-1 in order to determine whether a candidate who seeks public financing is opposed by another candidate pursuant to section 1.140(b)(3) or 1.140(c)(3).

(b) Conditional Certification.

(1) The Executive Director may conditionally certify a candidate for the Board of Supervisors in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for the Board of Supervisors has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$5,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(2) The Executive Director may conditionally certify a candidate for the Mayor in order to comply with the 30-day requirement set forth in subsection (a) of this regulation and subsection (c) of section 1.142. The Executive Director may issue a conditional certification if a candidate for Mayor has satisfied every requirement for certification except the requirement that the candidate be opposed by another candidate who has either established eligibility to receive public financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A candidate who has received a conditional certification shall be eligible to begin to receive public financing at any time after the Executive Director determines that the candidate is opposed by another candidate who has either established eligibility to receive public

financing, or has received contributions or made expenditures which in the aggregate equal or exceed \$50,000. A conditional certification, by itself, does not establish that a candidate is eligible to receive public funds.

(c) Resubmission.

Any candidate who is notified by the Executive Director that the candidate is ineligible to receive public funding may, within five business days of the date of notification, resubmit his or her declaration and supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after reviewing resubmitted materials, the Executive Director does not certify the candidate, the Executive Director shall notify the candidate of his or her final determination. Additional resubmissions may be permitted in the Executive Director's discretion, provided that no resubmissions for certification may be made later than the 60th day before the election. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(d) Appeal to Commission.

A candidate may appeal to the Ethics Commission the Executive Director's final determination not to certify or conditionally certify a candidate. Either the Ethics Commission or a member of the Commission designated by the Commission may consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within five calendar days of the Executive Director's final determination.

Regulation 1.143-1: Individual Expenditure Ceilings for Candidates.

A candidate for the Board of Supervisors or Mayor who has been certified as eligible for public funding may have his or her individual expenditure ceiling raised in accordance with section 1.143. Any such candidate for the Board of Supervisors whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$143,000 and any such candidate for Mayor whose individual expenditure ceiling has been raised may make or incur total qualified campaign expenditures that exceed \$1,475,000, provided that such expenditures may not exceed the candidate's individual expenditure ceiling.

Regulation 1.134.5-11.143-2: Lifting of Individual Expenditure Ceiling.

(a) The Executive Director will raise the individual expenditure ceiling of a candidate for the Board of Supervisors who has been certified as eligible to receive public funding when either **the sum of the highest** total supportive funds of any other candidate ~~or~~ **and** the total opposition spending against the candidate exceeds ~~\$140,000~~ **143,000**. **The Executive Director may only raise an individual expenditure ceiling,** only in increments of \$10,000. The Executive Director will review information provided on Forms SFEC-152(a)-1, SFEC-152(a)-2 and SFEC-152(a)-3, and **in his or her discretion,** any other **relevant** information to determine whether it is appropriate to raise ~~the~~ **an** individual expenditure ceiling.

(b) The Executive Director will raise the individual expenditure ceiling of a candidate for Mayor who has been certified eligible to receive public funding when either the sum of the highest total supportive funds of any other candidate ~~or~~ and the total opposition spending against the candidate exceeds ~~\$1,375,000~~ \$1,475,000. The Executive Director may only raise an individual expenditure ceiling, in increments of \$100,000. The Executive Director will review information provided on Forms SFEC-152(b)-1, SFEC-152(b)-2 and SFEC-152(b)-3, and in his or her discretion, any other relevant information to determine whether it is appropriate to raise the an individual expenditure ceiling.

Example: The Ethics Commission has certified four candidates running to represent District 1 on the Board of Supervisors as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Alvin's supportive funds total \$150,000 and Candidate Beatrice's supportive funds total \$160,000, which are higher than the total supportive funds of either Candidate Charlie or Candidate Desmond. The Executive Director will raise the individual expenditure ceilings of Alvin, Charlie and Desmond by \$10,000 to ~~\$160,000~~ \$153,000; Because Alvin's supportive funds do not exceed Beatrice's individual expenditure ceiling by at least \$10,000, the Executive Director will not raise the \$143,000 individual expenditure ceiling of Beatrice ~~to \$150,000~~.

Example: Total opposition spending against Beatrice reaches ~~\$160,000~~ \$10,000. To determine Beatrice's individual expenditure ceiling, the Executive Director first considers the highest level of supportive funding received by a competing candidate. Here, Alvin has the highest level of supportive funding received by a competing candidate - \$150,000. The Executive Director then adds the total opposition spending against Beatrice, or \$10,000, to obtain a sum of \$160,000. Based on these amounts the Executive Director will raise Beatrice's individual expenditure ceiling to \$153,000. The Executive Director cannot raise Beatrice's individual expenditure ceiling to \$160,000 because the ceiling may only be raised in \$10,000 increments. Because Beatrice's individual expenditure ceiling was already \$150,000, the Executive Director will raise her individual expenditure ceiling an additional \$10,000 to \$160,000.

Example: The Ethics Commission has certified four candidates running for Mayor as eligible to receive public funding. Reports filed at the Ethics Commission indicate that Candidate Ava's supportive funds total ~~\$1,475,000~~ \$1,575,000 and Candidate Barry's supportive funds total ~~\$1,600,000~~ \$1,700,000, which are higher than the total supportive funds of either Candidate Clare or Candidate Dave. The Executive Director will raise the individual expenditure ceilings of Ava, Clare and Dave to ~~\$1,575,000~~ \$1,675,000; the Executive Director will raise the individual expenditure ceiling of Barry to ~~\$1,475,000~~ \$1,575,000.

Example: Total opposition spending against Barry reaches \$1,600,000. Because Barry's individual expenditure ceiling was already \$1,475,000, the Executive Director will raise his individual expenditure ceiling an additional \$100,000 to \$1,575,000.

Example: The individual expenditure ceiling of James, a candidate for to represent district 2 on the Board of Supervisors who has been certified as eligible to receive public funding, is ~~\$140,000~~ 143,000. Adam, James's only opponent, reports total contributions of \$50,000; several committees also report spending a total of \$40,000 to support Adam. The Executive Director may not raise the individual expenditure ceiling of James based solely upon because Adam's total supportive funds because his total supportive funds, \$90,000, do not exceed James's individual expenditure ceiling by at least \$10,000.

Example: Adam has raised an additional \$65,000 in contributions, making his total supportive funds equal \$155,000. The Executive Director will now raise James's individual expenditure ceiling to ~~\$150,000~~ 153,000 because Adam's total supportive funds exceeds James's individual expenditure ceiling by ~~between~~ at least \$10,000, ~~and~~ \$20,000, and ~~the~~ The Executive Director may raise individual expenditure ceilings only in increments of \$10,000. cannot raise James's individual expenditure ceiling to \$155,000 because the ceiling may only be raised in \$10,000 increments.

Example: Several committees make independent expenditures to oppose James; by September ~~2008~~ 2010, their reported expenditures total ~~\$185,000~~ \$20,000. Because James's individual expenditure ceiling was \$150,000, the Executive Director will now raise it to \$180,000 because the total opposition spending to James exceeds James's individual expenditure ceiling by ~~between~~ \$10,000 and \$40,000, and the Executive Director may raise the individual expenditure ceiling only in increments of \$10,000. To determine James's individual expenditure ceiling, the Executive Director adds Adam's total supportive funding, \$155,000, to the total opposition spending against James, \$20,000, to obtain a sum of \$175,000. The Executive Director will raise James's individual expenditure ceiling to \$173,000. The Executive Director cannot raise James's individual expenditure ceiling to \$175,000 because the ceiling may only be raised in \$10,000 increments.

Example: The individual expenditure ceiling of Jane, a candidate for Mayor who has been certified as eligible to receive public funding, is ~~\$1,375,000~~ 1,475,000. Ann, an opponent of Jane, reports total contributions of \$1,000,000; several committees also report spending a total of ~~\$400,000~~ 500,000 to support Ann. The Executive Director may not raise the Jane's individual expenditure ceiling ~~of Jane~~ because Ann's total supportive funds, ~~\$1,400,000~~ 1,500,000, do not exceed Jane's individual expenditure ceiling by at least \$100,000.

Example: Ann has raised an additional \$100,000 in contributions, making her total supportive funds ~~\$1,500,000~~ 1,600,000. The Executive Director will now raise Jane's individual expenditure ceiling to ~~\$1,475,000~~ 1,575,000 because Ann's total supportive funds exceeds Jane's individual expenditure ceiling by ~~between~~ at least \$100,000 and \$200,000, and the Executive Director may raise individual expenditure ceilings only in increments of \$100,000. The Executive Director cannot increase Jane's individual expenditure ceiling to \$1,600,000 because the ceiling may only be raised in \$100,000 increments.

Example: Several committees make independent expenditures to oppose Jane; by September 2011, their reported expenditures total \$1,700,000-~~\$300,000~~. Because Jane's individual expenditure ceiling was \$1,475,000, the Executive Director will now raise it to \$1,675,000 because the total opposition spending to Jane exceeds her individual expenditure ceiling by between \$100,000 and \$300,000, and the Executive Director may raise the individual expenditure ceiling only in increments of \$100,000. To determine Jane's individual expenditure ceiling, the Executive Director adds Ann's total supportive funding, \$1,600,000 to the total opposition spending against Jane, \$300,000, to obtain a sum of \$1,900,000. The Executive Director will raise Jane's individual expending ceiling to \$1,875,000. The Executive Director cannot raise Jane's individual expenditure ceiling to \$1,900,000 because the ceiling may only be raised in \$100,000 increments.

Regulation ~~1.134.5~~ 21.143-3: Lifting of Individual Expenditure Ceiling: Requests for Independent Determination- Objection to Executive Director's Determination Whether a Communication Supports or Opposes a Candidate.

Any candidate for the Board of Supervisors or Mayor may request that the Executive Director make an independent determination whether a communication filed pursuant to section 1.152(a)(3) or 1.152(b)(3) actually supports or opposes a candidate or is neutral. Such requests must be filed within three business days from the date that the communication is filed with the Ethics Commission. Such requests must be filed on Form SFEC 134.5, identify the communication in question, and set forth reasons why the candidate believes that the communication supports or opposes a candidate or is neutral. Any objections to the Executive Director's initial determination of whether a communication supports or opposes a candidate must be filed on Form SFEC-143, identify the communication in question, and set forth reasons why the candidate disagrees with the Executive Director's determination.

Regulation 1.144(c)-1: Disbursement of Public Funds for Mayoral Candidates; Payments for Election Expenses for Candidates for Mayor Claims Submitted Before Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

Until the per candidate available disbursement limit has been determined, candidates for Mayor who have been certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund on a first come, first served basis based on the date and time that each claim is received by the Ethics Commission. For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed mayoral candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are "first" for these purposes based upon the time that it receives claims, along with all of the required documentation.

Regulation 1.144(c)-2: Disbursement of Public Funds; Payments for Election Expenses for Candidates for Mayor Public Funds Available to Mayoral Candidates

After Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

(a) If the Executive Director determines that the per candidate available disbursement limit in a mayoral election year is ~~determined to be~~ less than or equal to \$850,000900,000, each participating publicly financed mayoral candidate shall have access to funds from the Election Campaign Fund on a first-come, first-served basis, based on the date and time that each claim is received by the Ethics Commission, up to a maximum per candidate of \$850,000900,000. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

(b) If the Executive Director determines that the per candidate available disbursement limit is ~~determined to be~~ greater than \$850,000900,000, each participating publicly financed mayoral candidate shall have access to the amount of the per candidate disbursement limit up to the candidate’s individual expenditure ceiling trust account limit. A candidate who has already received at least \$850,000900,000 may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.

Regulation 1.144(c)-3: Submission of Claims for Public Funds Based on Matching Contributions – Candidates for Mayor.

After the initial payment made pursuant to section 1.144(c)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely claim submitted by the candidate to the Executive Director on Forms SFEC-144(c)-1 and SFEC-144(c)-2.

Regulation 1.144(d)-1: Disbursement of Public Funds for Supervisorial Candidates; Claims Submitted ~~Payments for Election Expenses for Candidates for Board of Supervisors Before~~ Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

Until the per candidate available disbursement limit has been determined, candidates for the Board of Supervisors who have been certified as eligible to receive public financing for their election campaigns shall have access to funds from the Election Campaign Fund on a first-come, first-served basis based on the date and time that each claim is received by the Ethics Commission. For claims submitted before the 59th day prior to the election, i.e., the date on which the Executive Director determines the per candidate available disbursement limit, publicly financed supervisorial candidates shall have access to funds from the Election Campaign Fund on a first-come, first-served basis. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

Regulation 1.144(d)-2: Disbursement of Public Funds; ~~Payments for Election Expenses for Candidates for the Board of Supervisors~~ Public Funds Available to Supervisorial Candidates After Executive Director Determines Per Candidate Available Disbursement Limit is Determined.

(a) _____ If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is ~~determined to be~~ less than or equal to ~~\$87,500~~89,000, each participating publicly financed supervisorial candidate shall have access to funds from the Election Campaign Fund on a first-come, first-served basis up to a maximum per candidate of ~~\$87,500~~89,000. The Ethics Commission will determine which claims are “first” for these purposes based upon the time that it receives claims, along with all of the required documentation.

(b) _____ If the Executive Director determines that the per candidate available disbursement limit in a supervisorial election year is ~~determined to be~~ greater than ~~\$87,500~~89,000, each participating publicly financed candidate shall have access to the amount of the per candidate disbursement limit up to the candidate’s ~~individual expenditure ceiling~~ trust account limit. A candidate who has already received at least ~~\$87,500~~89,000 may continue to receive public funds at the rate of one dollar for each dollar of a matching contribution raised up to the per candidate available disbursement limit, provided that no funds will be disbursed if the disbursement of funds will result in the candidate exceeding his or her trust account limit.

Regulation 1.144(d)-3: Submission of Claims for Public Funds Based on Matching Contributions – Candidates for the Board of Supervisors.

After the initial payment made pursuant to section 1.144(d)(3)(A), the amount of additional public funds received by an eligible candidate depends on the amount of matching contributions raised by the candidate and documented in a timely claim submitted by the candidate to the Executive Director on Forms SFEC-144(d)-1 and SFEC-144(d)-2.

Regulation 1.144(f)-1: Schedule for Submission of Claims from Election Campaign Fund.

(a) Monetary Thresholds for Submission of Claims.

(1) Following certification, any submission of a claim for public funds by a candidate for the Board of Supervisors may be made on a rolling basis and must include a minimum of ~~\$500~~1,000 in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of ~~\$100~~200 in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(2) Following certification, any submission of a claim for public funds by a candidate for Mayor may be made on a rolling basis and must include a minimum of \$5,000 in matching contributions, except that in the last 14 calendar days preceding an election, a claim must include a minimum of \$1,000 in matching contributions. No candidate may submit a claim for public funds if the candidate has any such claim pending at the Ethics Commission.

(b) Process for Review of Claims

(1) Facial Review; Determination of Claims.

The Executive Director shall facially review each claim to determine whether the eligible candidate is entitled to payment of public funds. For purposes of this Regulation, "facial review" means review of the claim and supporting documentation submitted by the candidate. At the Executive Director's discretion, the Executive Director may conduct a further investigation into the accuracy and veracity of the candidate's claim and supporting documentation, including, but not limited to, interviews with contributors and review of additional supporting documentation.

The Executive Director shall not approve payment of public funds if he or she determines that the candidate's claim or supporting material is incomplete or otherwise inadequate. The Executive Director may, however, approve payment for less than the full amount claimed by the candidate if the candidate's claim and supporting documentation for a portion of the claim is complete and adequate.

The Executive Director's determination based upon facial review of a claim for public funds does not preclude the Ethics Commission from auditing the claimant, or demanding repayment of funds, pursuant to Section 1.150.

(2) Resubmission; Final Determination by the Executive Director.

If the Executive Director rejects a claim for public funds in whole or in part, the Executive Director shall notify the candidate and state the reasons for the rejection. The candidate may, within 24 hours of the date of notification, resubmit the rejected claim and supporting documentation. If the candidate does not timely resubmit, the Executive Director's determination is final. If, after viewing resubmitted material, the Executive Director rejects a claim for public funds, the Executive Director shall notify the candidate of this fact. Additional resubmissions may be permitted in the Executive Director's discretion. If the candidate fails to resubmit in the time specified by the Executive Director, or if no further resubmissions are permitted, the Executive Director's determination is final.

(3) Appeal to the Ethics Commission.

If the Executive Director rejects a claim for public funds in whole or in part, the candidate may appeal the Executive Director's final determination to the Ethics Commission, or a member of the Commission designated by the Commission to consider and decide such appeals. The candidate must deliver the written appeal to the Ethics Commission within three days of the date of the Executive Director's final determination.

(c) Payment by Controller; Payment Checks Available at Ethics Commission Office.

Following a final determination, by either the Executive Director or the Ethics Commission, to approve a payment of public funds, the Executive Director shall immediately certify this fact to the Controller. Within ~~48 hours~~ **two business days** of notification from the Ethics Commission, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission, except that within

the last ~~60~~ 15 calendar days preceding the election, the Controller shall issue checks for the approved payments and deliver the checks to the Ethics Commission within ~~24 hours~~ one business day of notification. Eligible candidates, or their officially authorized designees, may pick up payment checks at the Ethics Commission office during regular business hours.

(d) Post-Election; General Rule.

Following the election, and continuing through the 30th day following the date of the election, eligible candidates may continue to submit claims for public funds. Eligible candidates may submit these post-election claims on a rolling basis.

Regulation 1.148-1: Restrictions on Use of Public Funds; Purchase of Equipment.

~~(a) — Ownership of Equipment.~~

~~Any equipment purchased by a candidate with public funds that has a useful life beyond the election campaign for which the funds were provided, and a fair market value exceeding \$100, becomes City and County property on the day following the date the candidate is elected, defeated, withdraws, or fails to qualify as a candidate.~~

~~(b) — Disclosure of Purchased Equipment.~~

~~Within 30 days of the date the candidate is elected, defeated, withdraws, or fails to qualify as a candidate, the candidate shall file Form SFEC 148(b) with the Ethics Commission, which shall contain a complete list of all equipment purchased by the candidate. The list shall include a good faith estimate of the fair market value of each piece of equipment, and state whether the candidate used public funds to purchase the equipment.~~

~~(c) — Surrender of Purchased Equipment.~~

~~—— (1) — The Executive Director may permit candidates to retain equipment purchased with public funds until the deadline for filing the first semi-annual campaign disclosure statement for the calendar year immediately following the election, or the date the candidate files the first semi-annual campaign disclosure statement for the calendar year immediately following the election, whichever is sooner.~~

~~—— (2) — The Executive Director shall advise candidates regarding how and to whom to surrender property purchased with public funds.~~

Regulation 1.148-2: Restrictions on Use of Public Funds; Expenses that Do Not Affect the Outcome of the Election.

Candidates who receive public funds may only use such funds to pay for qualified campaign expenditures, as defined in section 1.104, except that such candidates may use public funds to pay for a limited range of expenses incurred after the election that do not directly affect the outcome of the election. This limited range of post-election expenses includes any pro-rata costs of post-election rent and utility bills that accrue until the campaign office is closed or 30 days after the election, whichever is sooner; expenses associated with the Ethics Commission's audit of the campaign committee; and expenses related to preparing and filing post-election campaign finance disclosure reports as required by the California Political Reform Act and the San Francisco Campaign Finance Reform Ordinance. Public funds may not be used to hold celebrations or events to

celebrate a victory or to thank campaign volunteers. Public funds may also not be used for any post-election advertising, announcements or notices.

Regulation 1.152(a)-1: Supplemental Reporting in Elections for the Board of Supervisors – Candidates.

(a) Each candidate for the Board of Supervisors must file Form SFEC-152(a)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$5,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for the Board of Supervisors must file a Form SFEC-152(a)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$100,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Board of Supervisors must file Form SFEC-152(a)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$10,000, within 24 hours or reaching or exceeding that threshold.

Regulation 1.152(a)-2: Supplemental Reporting for Elections for the Board of Supervisors – Persons Other than Candidates.

(a) Any person ~~that~~ **who** makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors and that in the aggregate equal or exceed \$5,000 ***per candidate***, must, within 24 hours of reaching or exceeding the threshold, file ~~an original~~ ***a legible*** copy of the communication ***if it is conveyed in writing or an electronic recording if it is conveyed via audio or video*** and the ~~Form SFEC-152(a)-3~~ ***Third Party Spending Form*** with the Ethics Commission.

(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more ***per candidate*** for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for the Board of Supervisors, the person must file the ***Third Party Spending Form*** ~~SFEC-152(a)-3~~ and ~~an original~~ ***a legible*** copy of the communication ***if it is conveyed in writing or an electronic recording if it is conveyed via audio or video*** with the Ethics Commission within 24 hours of reaching or exceeding the threshold.

(c) On the ***Third Party Spending Form*** ~~SFEC-152(a)-3~~, the person must state the costs of the communication, list the candidate or candidates for the Board of Supervisors who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.

Regulation 1.152(b)-1: Supplemental Reporting in Elections for Mayor – Candidates.

(a) Each candidate for Mayor must file Form SFEC-152(b)-1 to indicate when the candidate has received contributions, made expenditures or has funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000 within 24 hours of reaching or exceeding that limit.

(b) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate when the candidate has received contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed \$1,000,000, within 24 hours of reaching or exceeding the threshold.

(c) Thereafter, each candidate for Mayor must file Form SFEC-152(b)-2 to indicate every time that the candidate has received additional contributions, has made additional expenditures or has additional funds in his or her campaign contribution trust account that in the aggregate equal or exceed \$50,000, within 24 hours of reaching or exceeding that threshold.

Regulation 1.152(b)-2: Supplemental Reporting for Elections for Mayor – Persons Other than Candidates.

(a) Any person ~~that~~ who makes independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor and that in the aggregate equal or exceed \$5,000 per candidate, must, within 24 hours of reaching or exceeding the threshold, file ~~an original~~ a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video and the Third Party Spending Form SFEC-152(b)-3 with the Ethics Commission.

(b) Thereafter, any time that the person makes or incurs expenses of \$5,000 or more per candidate for the purpose of making independent expenditures, electioneering communications or member communications that clearly identify a candidate for Mayor, the person must file the Third Party Spending Form SFEC-152(b)-3 and ~~an original~~ a legible copy of the communication if it is conveyed in writing or an electronic recording if it is conveyed via audio or video with the Ethics Commission within 24 hours of reaching or exceeding the threshold.

(c) On the Third Party Spending Form SFEC-152(b)-3, the person must state the costs of the communication, list the candidate or candidates for Mayor who are identified in the communication, and indicate whether the communication is intended to support or oppose the candidate or candidates, or whether the communication is intended to be neutral. No independent expenditure may be deemed neutral.

Regulation 1.161(a)-1: Filing Requirements for Mass Mailings by Candidates.

(a) To comply with the filing requirements set forth in section 1.161, candidates must use Filing Requirement. Except during the final 16 days before an election, each candidate for City elective office who pays for a mass mailing with campaign funds shall, within five working days after the date of the mailing, file with the Ethics Commission

~~two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(a)).~~

~~(b) During the final 16 days before an election, each candidate for City elective office who pays for a mass mailing with campaign funds shall, within 48 hours of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(a)).~~ **For the purposes of section 1.161, “working day” shall mean “business day.”**

(c) Estimated Costs of Mass Mailings. Candidates who do not know actual costs associated with a mass mailing when they file Form SFEC-161(a) may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more information about the actual costs of the mass mailing.

(d) Date of the Mailing. For the purposes of Section 1.161(a), the phrase, “date of the mailing” shall mean the date on which the candidate or the candidate's agent delivers the mass mailing to the United States Postal Service for delivery.

Regulation 1.161(b)-1: Filing Requirements for Mass Mailings by Persons Other than Candidates.

(a) **To comply with the filing requirements set forth in section 1.161(b), non-candidates must use the Third Party Spending Form.** Filing Requirement. ~~Except during the final 16 days before an election, each person who makes independent expenditures of \$1,000 or more to pay for a mass mailing that supports or opposes any candidate for City elective office shall, within five working days after the date of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(b)).~~

~~(b) — During the final 16 days before an election, each person who makes an independent expenditure of \$1,000 or more to pay for a mass mailing that supports or opposes any candidate for City elective office shall, within 48 hours of the mailing, file with the Ethics Commission two of the original pieces of the mailing and an itemized disclosure statement (Form SFEC-161(b)).~~

~~(e**b**)~~ Estimated Costs of Mass Mailings. Persons who do not know the actual costs associated with a mass mailing when they file **the Third Party Spending Form SFEC-161(b)** may provide a good faith estimate, provided that they amend the statement within 48 hours of receiving more accurate information about the actual costs of the mass mailing.

~~(e**c**)~~ Date of the Mailing. For the purposes of Section 1.161(b), the phrase, "date of the mailing" shall mean the date on which the person or person's agent delivers one or more pieces of the mass mailing to the United States Postal Service.

Regulation 1.161.5-1. Electioneering Communications.

(a) **To comply with the filing requirements set forth in section 1.161.5, persons must use the Third Party Spending Form.** Filing requirement. Every person who makes payments, including any enforceable promises to make payments, for electioneering communications in an aggregate amount of \$1,000 or more during any calendar year shall, within 48 hours of each disclosure date, file an itemized statement on Form SFEC-161.5 with the Ethics Commission.

~~(b)~~ Persons who do not know the actual payments made, including enforceable promises to make a payment, for *costs of* an electioneering communication when they file *the Third Party Spending* Form SFEC 161.5 may provide a good faith estimates of the amount of any such payments, provided that they amend the statement within 48 hours of receiving more accurate information about the costs of the electioneering communication.

~~(bc)~~ Every person who files *the Third Party Spending* Form SFEC 161.5 with the Ethics Commission must submit at the time of the filing a legible copy of the electioneering communication if in printed form, a full transcript of the electioneering communication if in spoken form, and a legible paper or electronic photograph of the electioneering communication if in billboard form.

~~(c)~~ Filing Form SFEC 161.5 electronically.
Filing itemized statements electronically. Any person who has made payments for electioneering communications in an amount of \$5,000 or more in a calendar year shall electronically file Form SFEC 161.5, provided that the Commission has prescribed the format for such report at least 60 days before the report is due.

~~(de)~~ Definitions. For the purposes of Section 1.161.5, the following terms and phrases shall mean:

(1) "Candidate debate or forum" shall mean an event at which a candidate for City elective office makes a speech or participates in a panel discussion.

(2) "Communications to all members, employees and shareholders of an organization" shall include communications such as newsletters, letters, fliers, e-mails or similar material distributed to all members, employees or shareholders of an organization, but shall not include communications that constitute general public advertising such as broadcast, cable, satellite or radio communications, billboards, signs, or newspaper and magazine and Internet advertisements.

(A) An "organization," other than a political party, means a sole proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, limited liability partnership, association, labor union and any other organization or group of persons acting in concert, including a committee as defined by California Government Code section 82013, but excluding a candidate or individual.

(B) "Member" means any person who, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote directly or indirectly for the election of a director or directors or an officer or officers, or on a disposition of all or substantially all of the assets of the organization, or on a merger or on a dissolution. "Member" also means any person who is designated in the articles or bylaws as a member and, pursuant to a specific provision of an organization's articles or bylaws, has the right to vote on changes to the articles or bylaws, or pays or has paid membership dues in an amount predetermined by the organization so long as the organization is tax exempt under 26 U.S.C. 501, subdivision (c). Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated.

(C) A person is not a "member" of an organization if the person is only on a mailing, contact, or e-mail distribution list of the organization without meeting the definition provided in subdivision (2)(B) of this regulation.

(D) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(3) "Internet Communication" shall include communications made via the internet, such as internet advertisements, websites, or e-mail messages, provided that an

“internet communication” shall not include communications designed, posted, or sent without compensation. Internet communications shall not include any communications made in a web blog, e-mail messages sent to persons who have voluntarily provided their e-mail addresses to the sender, a discussion forum, or a general posting on a web page.

(4) "Sharing or exercising direction and control" shall mean the officers, directors, executive directors or their equivalent, partners, and, in the case of unincorporated organizations, owners of the entity or individuals making or authorizing the disbursement for the electioneering communication.

Regulation 1.172-1. Extension of Deadlines that Fall on Weekends and Holidays.

(a) Except as otherwise provided in Regulation 1.172-1(b) ~~and (e)~~, when a filing deadline under Chapter 1 of the Campaign and Governmental Conduct Code falls on a weekend day or holiday, the deadline will be extended until the next business day during which the Ethics Commission is open. For purposes of this regulation, the term “weekend” means Saturday and Sunday and the term “holiday” means any holiday on which the Ethics Commission is authorized by law to close.

(b) The deadline will not be extended for campaign reports that are due during the late reporting period or the last sixty (60) days before an election.

Regulation 1.174-1: Notification to Director of Elections, the Board of Supervisors and the Public.

The Executive Director shall notify the Director of Elections, the Board of Supervisors and the public via a posting on the Commission website and a press release, within 24 hours of the date the Director of Elections submits a certified statement of the results of the election to the Board of Supervisors, whether each candidate who according to the certified statement of results has been elected to a City elective office has filed all required campaign declarations, statements or reports.

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