



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

DAINA CHIU
CHAIR

Date: February 11, 2019
To: Members of the Ethics Commission

QUENTIN L. KOPP
VICE-CHAIR

From: Pat Ford, Senior Policy Analyst

YVONNE LEE
COMMISSIONER

Re: **AGENDA ITEM 8 – Discussion and possible action on draft ordinances regarding the public financing program.**

NOREEN AMBROSE
COMMISSIONER

Summary: This memorandum presents proposed ordinance language to amend the City's public financing program. Attachment 1 is based on the Commission's initial determination at the October 19, 2018 meeting to pursue recommendations stemming from Staff's review of the program's workability and effectiveness. Alternative approaches regarding how spending limits are adjusted are also provided. Additionally, this memorandum responds to Commissioners' research questions posed at the January 18, 2019 meeting.

FERN M. SMITH
COMMISSIONER

Action Requested: Staff requests that the Commission review the draft ordinances set forth in the Attachments, and recommends approval of the ordinance shown in Attachment 1. Alternatively, if the Commission does not wish to pursue the change to spending limit adjustments provided in that ordinance, Staff recommends that the Commission approve either the ordinance set forth as Attachment 2 or the ordinance set forth as Attachment 3.

LEEANN PELHAM
EXECUTIVE DIRECTOR

I. Background

Under the Commission's current Policy Prioritization Plan, adopted at the Commission's regularly scheduled June 2018 meeting, a comprehensive review of the City's public campaign finance program (the "Program") continues to be the Commission's top policy priority. The purpose of the current phase of the review is to identify ways in which the Program's effectiveness and workability can be improved to support broad candidate participation in the Program. Aside from the legislation that is the topic of this memorandum, the current phase of the review has also included development of revised regulations that are now in effect and improvements and streamlining in both the Program's administration and the written resources that are available to candidates. The second phase of the review, which Staff plans to initiate after the current phase, will explore potential changes to the Program's basic parameters with the goal of strengthening its overall impact.

At its regularly scheduled December 2018 and January 2019 meetings, the Commission continued discussion of a proposed ordinance to improve four aspects of the Program. Since

those meetings, Staff has continued to engage with stakeholders and perform research as requested by Commissioners.

II. Proposed Ordinance

In the report presented at the Commission's regularly scheduled October 2018 meeting,¹ Staff recommended four changes to the Code to improve the Program's workability and effectiveness in the nearest term possible. Those changes are contained in the draft ordinance set forth as Attachment 1, and are as follows:

- A. **Modify the Spending Limit Adjustment Mechanism.** Switch to a spending limit adjustment mechanism whereby a publicly financed candidate can be released from his or her spending limit based on opponent activity. This is different from the current system, which incrementally adjusts spending limits upwards based on opponent activity.
- B. **Modify how 'Total Supportive Funds' are Calculated.** Change the definition of *Total Supportive Funds* to count candidate expenditures, rather than contributions.
- C. **Eliminate the Trust Account Limit and the Campaign Contingency Account.** Allow candidate committees to keep all contributions in a single committee trust account.
- D. **Modify the Statement of Participation Filing Deadline.** Change the deadline for filing the Statement of Participation to three days after the deadline for filing nomination papers.

The rationales for these changes are explained more fully in the October 2018 report cited above, as well as the report presented at the Commission's January 2019 meeting.²

In order to best enable the Commission to have an effective discussion of the ordinance, Staff is including in this memorandum various alternative approaches regarding adjustment of a participating candidate's spending limit – or Individual Expenditure Ceiling (IEC) -- which has been the topic of greatest discussion and interest during the review project to date. Each approach is summarized in the table that appears at the conclusion of this memorandum.

Staff's Recommended Approach and Alternatives

The draft ordinance at Attachment 1 includes the IEC model as originally proposed by Staff. If, however, the Commission does not wish to change the IEC rules to allow for releasing a candidate from the spending limit (rather than incrementally adjusting the candidate's spending limit upwards, as is required by current law), then Staff recommends either of two other alternatives.

First, the Commission could increase the minimum increments by which spending limits must be increased. This approach appears in the ordinance shown in Attachment 2. By increasing these increments from \$10,000 to \$100,000 for supervisorial candidates and from \$100,000 to \$500,000 for

¹ Report available at <https://sfethics.org/wp-content/uploads/2018/10/2018.10.19-Agenda-Item-4-Public-Financing-Review-Project-FINAL-1.pdf>.

² Report available at <https://sfethics.org/wp-content/uploads/2019/01/2019.1.18-Agenda-Item-5-Public-Financing-Review-Project-FINAL-CONSOLIDATED-1.pdf>.

mayoral candidates, the ordinance would appreciably decrease the number and frequency of spending limit adjustments. Although spending limits would still be adjusted to the same levels over the same period of time as under current law, those changes would be done in fewer, larger increments. This change would maintain the fundamental structure of existing IEC rules, but it would reduce the compliance burden on candidates, who must track and interpret each separate spending limit increase. If larger minimum increments were adopted, Staff also recommends that a candidate's spending limit be adjusted as soon as opponent activity exceeds the candidate's spending limit, so that the candidate's adjustment is not excessively delayed.

Second, the Commission could opt to make no change to the model of IEC adjustments at this time. Aside from switching to a release-based model or increasing the minimum increments for IEC adjustments (and Staff's separate recommendation to use candidate spending, rather than candidate fundraising, for purposes of calculating IEC adjustments), Staff does not recommend that any changes be made to the way IECs are adjusted. If the Commission declines to adopt either of these approaches, Staff recommends as a third approach that the Commission retain the current incremental increase model at this time, keeping open the possibility of considering a potential change as part of the second phase of the review project. The draft ordinances that are attached to this memorandum represent these three approaches:

- Attachment 1 would switch to a release-based IEC model, whereby a candidate can be released from his or her spending limit;
- Attachment 2 would retain the incremental adjustment model, but would increase the minimum increment for adjustments and alter the timing of adjustments; and
- Attachment 3 would retain the incremental adjustment model as it exists under current law.

Additionally, each of the three draft ordinances contains identical language carrying out the other proposed changes described in the list on the preceding page (Items B, C, and D).

Public Comment

Aside from Staff's recommended approaches, the table below also contains proposals received from interested persons. The first public comment proposal (listed as number 4 on the table) would exclude certain candidates from spending limit adjustments. A candidate would not experience an IEC adjustment if the sum of the Total Supportive Funds of her opponent who has the highest level of Total Supportive Funds and the Total Opposition Spending of the candidate in question is currently below the level of the opponent's current IEC. This would be the case even if that sum were greater than the candidate's own spending limit, which under current law warrants a spending limit adjustment in order to allow the candidate to respond to opponents' activity. This proposed feature would serve as an additional condition added to current law that would preclude IEC adjustments for some candidates. In practice, in many races there would be one candidate whose spending limit is never adjusted, despite opponent and third party activity in opposition to the candidate and despite increases to opponents' spending limits. Statutory language received from Jon Golinger and Steven Hill is included here under Attachment 4.

Staff does not recommend this approach. First, it would add significant complexity to the current spending limit adjustment model, which is already difficult for candidates to understand. The purpose of the current review project is to reduce complexity where possible and thereby reduce undue candidate compliance burdens, boost participation rates, and avoid participants having to unnecessarily devote public funds to administrative costs. Secondly, the fact that some candidates would be fully barred from spending limit adjustments could well serve as a strong deterrent to participation for many candidates; the prospect of being held to a static spending limit while opponents are allowed to spend more may cause candidates to decline to participate in the Program. Both of these outcomes would be contrary to the purposes of this review and would run counter to the goal of broadening program participation.

Another recommendation received from interested persons is to increase the levels of initial spending limits. Currently, supervisorial candidates begin with a \$250,000 IEC, and mayoral candidates begin with a \$1,475,000 IEC. It has been recommended these levels be increased so that all candidates begin the race with a spending limit that better reflects the current costs of campaigning.

Although Staff is supportive of the idea of increasing initial IEC levels, Staff recommends that this potential change be considered during the next phase of the review project. Initial IEC levels are closely tied to the amount of public funds that a candidate can receive through the Program and the amount of private contributions that candidates must raise in order to receive those funds. As Staff will be reviewing these features during the next phase of the review project, initial IEC levels should be reviewed as part of that later phase.

III. Research Requests

At the Commission's January 18th meeting, Commissioner Kopp requested that Staff compile a list of California Cities that administer a public financing program and specify which cities use candidate contributions as a basis for adjusting or lifting spending limits and which cities use candidate expenditures. Currently San Francisco is the only city in California that uses candidate contributions (and ignores candidate expenditures) for purposes of spending limit changes. Los Angeles uses candidate expenditures (and ignores candidate contributions) for purposes of releasing candidates from the spending limit.³ Oakland uses contributions or expenditures, whichever is greater, for purposes of releasing candidates.⁴ Long Beach does not have a formal mechanism for releasing candidates from spending limits.⁵ Berkeley and Richmond do not impose spending limits on publicly financed candidates.⁶

IV. Proposal to Bar Certain Candidates from Receiving Public Financing

Attachment 5 is a draft ordinance that would bar certain candidates from participating in the Program. Staff recommends that the Commission not approve this ordinance, and Staff's full analysis is contained in the January report cited above.

³ Los Angeles Mun. Code § 49.7.25.

⁴ Oakland Mun. Code § 3.12.220.

⁵ Long Beach Mun. Code 2.01.410.

⁶ Berkeley Mun. Code Ch. 2.12, art. 8; Richmond Mun. Code art. II, Ch. 2.43.

TABLE 1: Individual Expenditure Ceiling (IEC) Adjustment Approaches

Note: The approaches identified in this table address only potential changes to the adjustment of individual expenditure ceilings. Other proposed changes to the public financing as part of Phase I of the public financing review are not discussed here.

	Approach	Description	Potential Impact of Approach
1 <i>(Appears in Attach. 1)</i>	Switch from current Incremental-Increase Model to a Release Model <i>(Original Staff Proposal)</i>	<ul style="list-style-type: none"> Rather than steadily adjusting a participating candidate's spending limit in multiple increments when increases are required under current law, this approach would release a participating candidate from her spending limit when those same circumstances occur. 	<p><u>Candidate Compliance Focus:</u> Would reduce time committees must now spend tracking and interpreting daily increases that may affect their campaign's spending limit; would allow increased time and focus on voter engagement and decrease need for professional assistance.</p> <p><u>Program Participation Rates:</u> By reducing undue compliance complexity for candidates, would support reduced administrative/compliance costs for campaigns and serve to encourage maximum candidate participation in public financing, particularly by less-resourced or grassroots candidates.</p> <p><u>Impact on IEC Provision:</u> Approach would retain initial spending limits: a participating candidate would continue to be held to her initial expenditure ceiling until that limit is potentially released later in the election. Approach would discontinue adjustable spending limits, which appear to have, at most, a limited impact on candidate spending.</p>

	Approach	Description	Potential Impact of Approach
2 <i>(Appears in Attach. 2)</i>	Keep Incremental-Increase Model but Switch to Larger Increments	<ul style="list-style-type: none"> Retain the current incremental-increase model, but increase participating candidate expenditure ceilings in larger increments, of \$100,000 for a Supervisorial candidate (up from \$10,000) and \$500,000 for a Mayoral candidate (up from \$100,000) Would trigger the incremental increase in a participating candidate's expenditure ceiling when an opponent's activity exceeds the participating candidate's current ceiling level by any amount. (Current law provides that an incremental adjustment occurs only after the triggering activity exceeds a participating candidate's ceiling by the amount of the increment). 	<p><u>Candidate Compliance Focus:</u> To the extent adjustments in expenditure ceilings would be fewer and further between, would reduce time committees spend tracking and interpreting increases that may affect their campaigns' spending limits. This would allow for increased time and focus on voter engagement and decrease need for professional assistance.</p> <p><u>Program Participation Rates:</u> By reducing some compliance complexity for candidates, would support reduced administrative/compliance costs for campaigns and serve to encourage maximum candidate participation in public financing, particularly by less-resourced or grassroots candidates.</p> <p><u>Impact on IEC Provision:</u> Would effectively achieve the same outcomes as the current model in terms of the overall rates and levels of spending limit increases.</p>
3 <i>(Appears in Attach. 3)</i>	Retain Current Approach to IEC Adjustment	<ul style="list-style-type: none"> Current incremental-increase model would remain in effect. No changes would be made. Proposed language to modify the provision would be removed from the draft ordinance. If modifications to current approach are desired, could continue that discussion into Phase II of the program review to incorporate it into review of potential substantive program changes. 	<p><u>Candidate Compliance Focus:</u> No change for candidates in complexity or cost of complying with current IEC adjustment approach.</p> <p><u>Program Participation Rates:</u> No impact on participation rates.</p> <p><u>Impact on IEC Provision:</u> No impact on current IEC provisions.</p>

Approaches Suggested in Public Comment			
	Approach	Description	Potential Impact of Approach
4 <i>(Appears in Attach. 4)</i>	No Expenditure Ceiling Increases for Some Candidates	<ul style="list-style-type: none"> Do not increase a candidate's spending limit if the opponent with the highest level of Total Supportive Funds is currently subject to a spending limit that is higher than the sum of that opponent's level of Total Supportive Funds and the Total Opposition Spending against the candidate in question. 	<p><u>Candidate Compliance Focus:</u> Would likely increase complexity and overall cost of candidate compliance. The mechanism for locking some candidates out of spending limit increases is complex and could increase candidate confusion and steps required for compliance.</p> <p><u>Program Participation Rates:</u> To the extent the provision increases complexity and cost of candidate compliance, it could serve to reduce candidate participation rates. Additionally, some candidates would never have a spending limit adjustment, while their opponents' spending limits would still be increased. The prospect of this restriction could disincentivize broad candidate participation in the Program.</p> <p><u>Impact on IEC Provision:</u> Would result in no spending limit increases being done for many candidates.</p>
5	Change the Dollar Amounts of the Initial Spending Limits that Apply to Participating Candidates	<ul style="list-style-type: none"> Raise the initial spending limits for Supervisorial candidates (\$250,000) and for Mayoral candidates (\$1,475,000) to higher levels. 	<p><u>Candidate Compliance Focus:</u> No impact.</p> <p><u>Program Participation Rates:</u> Unknown. Could serve as an incentive for participation to the extent candidates see higher levels as necessary or beneficial for running competitive campaigns.</p> <p><u>Impact on IEC Provision:</u> Candidates would begin with a higher initial IEC. This operates independently from how a candidate's IEC may be adjusted.</p>

			Staff supports revisiting initial spending limit levels and supports incorporating this approach in Phase II to analyze to what level the initial spending limit should be raised. Staff recommends against adopting a spending limit figure in isolation at this point that has not been considered in conjunction with other potential changes to matching ratios, funding levels, and qualification requirements.
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ATTACHMENT 1

[Campaign and Governmental Conduct Code - Public Campaign Financing]

Ordinance amending the Campaign and Governmental Conduct Code to modify the operation of individual expenditure ceilings for publicly financed candidates for Board of Supervisors and Mayor.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Chapter 1 of the Campaign and Governmental Conduct Code is hereby amended by revising Sections 1.104, 1.108, 1.140, 1.142, 1.143, and 1.152, to read as follows:

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

* * * *

"Total Supportive ~~Funds~~ Spending" shall mean the sum of all ~~contributions received~~ expenditures made or expenses incurred by a candidate committee supporting a candidate for Mayor or the Board of Supervisors, ~~other than any funds in the candidate's Campaign Contingency Account exceeding the candidate committee's Trust Account Limit~~, plus the expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications, or member communications in support of that same candidate.

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

7 * * * *

8
9 **SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST**
10 **~~ACCOUNTS AND CAMPAIGN CONTINGENCY ACCOUNTS.~~**

11 ~~(a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.~~

12 ~~(1)~~ (a) Establishment of Account. Each treasurer for a candidate committee shall
13 establish a Campaign Contribution Trust Account for the candidate committee at an office of a
14 bank located in the City and County of San Francisco. All expenditures by the candidate
15 committee for the City elective office sought shall be made from that account.

16 ~~(2)~~ (b) Prohibition on Multiple Officeholder Accounts. All funds, services, or in-kind
17 contributions received by a candidate committee for expenses incurred directly in connection
18 with carrying out the candidate's usual and necessary duties of holding office shall be
19 deposited, credited, or otherwise reported to the candidate committee's Campaign
20 Contribution Trust Account. Such contributions shall be subject to the contribution limits in
21 Section 1.114 of this Chapter 1. An elected officeholder may not establish or control any other
22 committees or accounts for the purpose of making officeholder expenses. Nothing in this
23 Section 1.108 shall prohibit an officer from spending personal funds on official activities.

24 ~~(3) Account Limits. A candidate committee controlled by a candidate for Mayor or the~~
25 ~~Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds~~

1 under this Chapter shall not, at any time before the date of the election for which the candidate has
2 been certified, have an amount of funds greater than the candidate committee's Trust Account Limit in
3 its Campaign Contribution Trust Account, unless those contributions are immediately transferred into
4 the candidate committee's Campaign Contingency Account.

5 ~~(b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR~~
6 ~~MAYOR AND THE BOARD OF SUPERVISORS.~~

7 ~~(1) Notwithstanding any other section of this Code, including Subsection (a)(2), a~~
8 ~~candidate committee controlled by a candidate for Mayor or the Board of Supervisors whom the Ethics~~
9 ~~Commission has certified as eligible to receive public funds under this Chapter may maintain a~~
10 ~~Campaign Contingency Account separate from its Campaign Contribution Trust Account into which it~~
11 ~~may deposit money contributions in anticipation that the Ethics Commission will raise the candidate's~~
12 ~~Individual Expenditure Ceiling. All money contributions deposited into this account shall be reported~~
13 ~~as if it were deposited into the candidate committee's Campaign Contribution Trust Account.~~

14 ~~(2) No candidate committee may deposit any funds into its Campaign Contingency~~
15 ~~Account if the amount of funds in the candidate committee's Campaign Contribution Trust Account is~~
16 ~~less than the candidate committee's Trust Account Limit.~~

17 ~~(3) No expenditures shall be made from a Campaign Contingency Account established~~
18 ~~pursuant to this section. Funds may be transferred from the candidate committee's Campaign~~
19 ~~Contingency Account to the candidate committee's Campaign Contribution Trust Account, provided~~
20 ~~that the amount of funds in the Campaign Contribution Trust Account does not exceed the candidate~~
21 ~~committee's Trust Account Limit. All funds that qualify as matching contributions and are transferred~~
22 ~~from the Campaign Contingency Account to the Campaign Contribution Trust Account shall be eligible~~
23 ~~to be matched with public funds in accordance with the procedures set forth in this Chapter. Within ten~~
24 ~~days after the date of the election, the candidate committee shall turn over all funds in the Campaign~~
25 ~~Contingency Account to the Election Campaign Fund.~~

1 **SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.**

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

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

6 (2) Agree to the following conditions:

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

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

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

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

17 (E) The candidate shall not accept any loans to his or her campaign with
18 the exception of a candidate's loan to his or her own campaign as permitted by this Section
19 1.140; and

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

22 (3) Have paid any outstanding late fines or penalties, owed to the City by the
23 candidate or any of the candidate's previous campaign committees, which were imposed for
24 violations of this Code or the campaign finance provisions of the California Political Reform
25

1 Act (Government Code Sections 84100-85704), provided that the Ethics Commission had
2 notified the candidate of such fines or penalties by the time of certification.

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

8 (5) Have no finding by a court or by the Ethics Commission after a hearing on
9 the merits, within the prior five years, that the candidate knowingly, willfully, or intentionally
10 violated any Section of this Code or the campaign finance provisions of this California Political
11 Reform Act (Government Code Sections 84100-85704). For purposes of this Section 1.140, a
12 plea of nolo contendere constitutes a finding by a court of a willful violation.

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

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

18 (2) Have a candidate committee that has received at least \$10,000 in qualifying
19 contributions from at least 100 contributors before the 70th day before the election; or, if the
20 candidate is an incumbent member of the Board of Supervisors, have a candidate committee
21 that has received at least \$15,000 in qualifying contributions from at least 150 contributors
22 before the 70th day before the election;

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

1 (4) Agree that his or her candidate committee will not make qualified campaign
2 expenditures that total more than the candidate's Individual Expenditure Ceiling of \$250,000,
3 ~~or as adjusted~~ unless the Ethics Commission has lifted the candidate's Individual Expenditure Ceiling
4 under Section 1.143 of this Chapter.

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

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

10 (2) Have a candidate committee that has received at least \$50,000 in qualifying
11 contributions from at least 500 contributors by the 70th day before the election; or, if the
12 candidate is the incumbent Mayor, have a candidate committee that has received at least
13 \$75,000 in qualifying contributions from at least 750 contributors by the 70th day before the
14 election;

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

18 (4) Agree that his or her candidate committee will not make qualified campaign
19 expenditures that total more than the candidate's Individual Expenditure Ceiling of
20 \$1,475,000, ~~or as adjusted~~ unless the Ethics Commission has lifted the candidate's Individual
21 Expenditure Ceiling under Section 1.143 of this Chapter.

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

24 (1) The figures in ~~S~~subsections (b)(4) and (c)(4) to reflect changes in the
25 California Consumer Price Index, provided that such adjustments shall be rounded off to the

1 nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for
2 candidates for Mayor;

3 (2) The figure in ~~§~~subsection (a)(2)(D) ~~of this Section~~ to reflect changes in the
4 California Consumer Price Index, provided that such adjustments shall be rounded off to the
5 nearest \$1,000;

6 (3) The figures in ~~§~~subsections (b)(2) and (b)(3) ~~of this Section~~ to reflect changes
7 in the California Consumer Price Index, provided that such adjustments shall be rounded off
8 to the nearest \$500;

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

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

15
16 **SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY**
17 **THE ETHICS COMMISSION.**

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

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

3 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing
4 of campaign expenses under this Chapter 1, a candidate shall declare, under penalty of
5 perjury, that the candidate satisfies the requirements specified in Section 1.140. Candidates
6 shall be permitted to submit the declaration and any supporting material required by the Ethics
7 Commission to the Ethics Commission no earlier than nine months before the date of the
8 election, but no later than the 70th day before the election. Once the declaration and
9 supporting material are submitted, they may not be amended. The declaration and supporting
10 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
11 day before the election.

12 If any deadline imposed by this ~~S~~ubsection (b) falls on a Saturday, Sunday, or legal
13 holiday, the deadline shall be the next business day.

14 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
15 Commission shall review the candidate's declaration and supporting material to determine
16 whether the candidate is eligible to receive public funds under this Chapter 1. The Executive
17 Director may audit the candidate's records, interview contributors, and take whatever steps
18 the Executive Director deems necessary to determine eligibility. At the request of the
19 Executive Director, the Controller shall assist in this review process.

20 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
21 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter 1 or a
22 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
23 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
24 and may review any other material.

1 (e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor
2 or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive
3 Director shall notify the candidate and certify to the Controller that the candidate is eligible to
4 receive public financing under this Chapter 1. The Executive Director shall not certify that a
5 candidate is eligible to receive public financing if the candidate's declaration or supporting
6 material is incomplete or otherwise inadequate to establish eligibility. ~~Except as provided in~~
7 ~~subsection (h), the~~ The Executive Director shall determine whether to certify a candidate no later
8 than 30 days after the date the candidate submits his or her declaration and supporting
9 material, provided that the Executive Director shall make all determinations regarding whether
10 to certify a candidate no later than the 55th day before the election.

11 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
12 eligible to receive public financing under this Chapter 1, the Executive Director shall notify the
13 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
14 business days of the date of notification, resubmit the declaration and supporting material. If
15 the candidate does not timely resubmit, the Executive Director's determination is final.

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

22 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
23 certify that a candidate is eligible to receive public financing under this Chapter 1, the
24 candidate may appeal the Executive Director's final determination to the Ethics Commission.
25

1 The candidate must deliver the written appeal to the Ethics Commission within five days of the
2 date of notification of the Executive Director's determination.

3
4 **SEC. 1.143. ~~ADJUSTING~~ LIFTING INDIVIDUAL EXPENDITURE CEILINGS.**

5 This Section 1.143 shall apply only if the Ethics Commission has certified that at least
6 one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under
7 this Chapter I.

8 (a) The Executive Director shall ~~adjust~~ lift the Individual Expenditure Ceiling, ~~of and the~~
9 Individual Expenditure Ceiling shall no longer be binding on a candidate for Mayor, ~~to an amount~~
10 ~~equal to~~ if the sum of the Total Opposition Spending against that candidate and the highest
11 level of the Total Supportive ~~Funds~~ Spending of any other candidate for Mayor ~~if such amount~~ is
12 greater than \$1,475,000, ~~provided that the Executive Director may adjust a candidate's Individual~~
13 ~~Expenditure Ceilings only in increments of \$100,000.~~

14 (b) The Executive Director shall ~~adjust~~ lift the Individual Expenditure Ceiling, ~~of and the~~
15 Individual Expenditure Ceiling shall no longer be binding on a candidate for the Board of
16 Supervisors, ~~to an amount equal to~~ if the sum of the Total Opposition Spending against that
17 candidate and the highest level of the Total Supportive ~~Funds~~ Spending of any other candidate
18 for the same office on the Board of Supervisors ~~if such amount~~ is greater than \$250,000,
19 ~~provided the Executive Director may adjust a candidate's Individual Expenditure Ceiling only in~~
20 ~~increments of \$10,000.~~

21 (c) The Executive Director shall promptly review statements filed pursuant to state and
22 local law, including Government Code section 84204 and Sections 1.161, 1.162, and 1.163 of
23 this Chapter I, to determine whether a communication supports or opposes one or more
24 candidates.

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

- 3 (1) whether the communication clearly identifies one or more candidates;
- 4 (2) the timing of the communication;
- 5 (3) the voters targeted by the communication;
- 6 (4) whether the communication identifies any candidate's position on a public
7 policy issue and urges the reader or viewer to take action, including calling the candidate to
8 support or oppose the candidate's position;
- 9 (5) whether the position of one or more candidates on a public policy issue has
10 been raised as distinguishing these candidates from others in the campaign, either in the
11 communication itself or in other public communications;
- 12 (6) whether the communication is part of an ongoing series of substantially
13 similar advocacy communications by the organization on the same issue; and
- 14 (7) any other factors the Executive Director deems relevant.

15 (d) Within one business day of the date that the Executive Director makes a
16 determination under ~~S~~subsection (c), either the candidate(s) identified in the communication or
17 any candidate seeking the same City elective office as the candidate identified in the
18 communication may object to the Executive Director's determination. The Executive Director
19 shall respond to any objection within one business day of receiving the objection.

20 (e) Within one business day of the Executive Director's response, either the
21 candidate(s) identified in the communication or any candidate seeking the same City elective
22 office as the candidate identified in the communication may submit to the Executive Director a
23 request that the Ethics Commission review the Executive Director's determination. Within one
24 business day of receiving the request, the Executive Director shall notify each Commissioner
25 of the candidate's request.

1 If within one business day of the Executive Director's notice, two or more members of
2 the Commission inform the Executive Director that they would like to review the determination,
3 the Executive Director shall schedule a meeting of the Commission on a date that occurs
4 within one week of the Commissioners' requests. If three members of the Commission vote to
5 overrule the Executive Director's determination, the Commission shall make a final
6 determination based on the factors set forth above.

7 (f) If no candidate objects to the Executive Director's determination, if no candidate
8 requests review by the Commission of the Executive Director's determination, if a request is
9 made and two or more members of the Commission do not request to review the
10 determination, or within one week of two members of the Commission requesting to review
11 the Executive Director's determination, at least three members of the Commission do not vote
12 to overrule the Executive Director's determination, the Executive Director's determination shall
13 become final.

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

17
18 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
19 **SUPERVISORS AND MAYOR.**

20 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

21 (1) In addition to the campaign disclosure requirements imposed by the
22 California Political Reform Act and other provisions of this Chapter 1, each candidate
23 committee supporting a candidate for the Board of Supervisors shall file a statement with the
24 Ethics Commission indicating when the committee has received contributions to be deposited
25

1 into its Campaign Contribution Trust Account or made expenditures that equal or exceed
2 ~~\$5,000~~ \$10,000 within 24 hours of reaching or exceeding that amount.

3 (2) In addition to the supplemental report in ~~§~~subsection (a)(1) ~~of this Section~~,
4 each candidate committee supporting a candidate for the Board of Supervisors shall file a
5 statement with the Ethics Commission disclosing when the committee has ~~received~~
6 ~~contributions to be deposited into its Campaign Contribution Trust Account or~~ made expenditures
7 that in the aggregate equal or exceed \$100,000. On such statement, each candidate committee
8 shall disclose the total amount of contributions it has received, the total amount of expenditures it has
9 made, and the current balance of its Campaign Contribution Trust Account. The candidate
10 committee shall file this report within 24 hours of reaching or exceeding the threshold.
11 Thereafter, the candidate committee shall file an additional supplemental report within 24
12 hours of every time the candidate committee ~~receives additional contributions to be deposited into~~
13 ~~its Campaign Contribution Trust Account or~~ makes additional expenditures that in the aggregate
14 equal or exceed \$10,000. Each additional supplemental report shall disclose the total amount of
15 contributions the candidate committee has received, the total amount of expenditures it has made, and
16 the current balance of its Campaign Contribution Trust Account.

17 (3) The Executive Director shall post the information disclosed on statements
18 required by this subsection (a) on the website of the Ethics Commission within two business
19 days of the statement's filing.

20 (b) ELECTIONS FOR MAYOR.

21 (1) In addition to the campaign disclosure requirements imposed by the
22 California Political Reform Act and other provisions of this Chapter I, each candidate
23 committee supporting a candidate for Mayor shall file a statement with the Ethics Commission
24 indicating when the candidate committee has received contributions to be deposited into its
25

1 Campaign Contribution Trust Account or made expenditures that equal or exceed \$50,000
2 within 24 hours of reaching or exceeding that amount.

3 (2) In addition to the supplemental report in ~~§~~subsection (b)(1) ~~of this Section~~,
4 each candidate committee supporting a candidate for Mayor shall file a statement with the
5 Ethics Commission disclosing when the candidate committee has ~~received contributions to be~~
6 ~~deposited into its Campaign Contribution Trust Account or~~ made expenditures that in the
7 aggregate ~~equal or exceed \$1,000,000.~~ On such statement, each candidate committee shall
8 disclose the total amount of contributions it has received, the total amount of expenditures it has made,
9 and the current balance of its Campaign Contribution Trust Account. The candidate committee
10 shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
11 candidate committee shall file an additional supplemental report within 24 hours of every time
12 the candidate committee ~~receives additional contributions or~~ makes additional expenditures that
13 in the aggregate equal or exceed \$50,000. Each additional supplemental report shall disclose the
14 total amount of contributions the candidate committee has received, the total amount of expenditures it
15 has made, and the current balance of its Campaign Contribution Trust Account.

16 (3) The Executive Director shall post the information disclosed on statements
17 required by this subsection (b) on the website of the Ethics Commission within two business
18 days of the statement's filing.

19 (c) The supplemental statements required by ~~§~~subsections (a)(2) and (b)(2) are not
20 required until the Ethics Commission has certified that at least one candidate is eligible to
21 receive public funds under this Chapter I, provided that within two business days of the date
22 that the Ethics Commission provides notice under this subsection that it has certified that a
23 candidate is eligible to receive public funds under this Chapter, any report that previously
24 would have been required under subsections (a)(2) and (b)(2) must be filed. Within two
25 business days of certifying that at least one candidate is eligible to receive public financing

1 under this Chapter, the Ethics Commission shall post a notice on its website, send out a press
2 release, and send written notice by regular or electronic mail to all other candidates running
3 for the same City elective office and to any other person who has requested such notice.

4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
15 of this ordinance, or any application thereof to any person or circumstance, is held to be
16 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
17 shall not affect the validity of the remaining portions or applications of the ordinance. The
18 Board of Supervisors hereby declares that it would have passed this ordinance and each and
19 every section, subsection, sentence, clause, phrase, and word not declared invalid or
20 unconstitutional without regard to whether any other portion of this ordinance or application
21 thereof would be subsequently declared invalid or unconstitutional.

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 ANDREW SHEN, Deputy City Attorney

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ATTACHMENT 2

[Campaign and Governmental Conduct Code - Public Campaign Financing]

Ordinance amending the Campaign and Governmental Conduct Code to modify the operation of individual expenditure ceilings for publicly financed candidates for Board of Supervisors and Mayor.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Chapter 1 of the Campaign and Governmental Conduct Code is hereby amended by revising Sections 1.104, 1.108, 1.140, 1.142, 1.143, and 1.152, to read as follows:

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

* * * *

"Total Supportive ~~Funds~~ Spending" shall mean the sum of all ~~contributions received~~ expenditures made or expenses incurred by a candidate committee supporting a candidate for Mayor or the Board of Supervisors, ~~other than any funds in the candidate's Campaign Contingency Account exceeding the candidate committee's Trust Account Limit~~, plus the expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications, or member communications in support of that same candidate.

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

7 * * * *

8
9 **SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST**
10 **~~ACCOUNTS AND CAMPAIGN CONTINGENCY ACCOUNTS.~~**

11 ~~(a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.~~

12 ~~(1)~~ (a) Establishment of Account. Each treasurer for a candidate committee shall
13 establish a Campaign Contribution Trust Account for the candidate committee at an office of a
14 bank located in the City and County of San Francisco. All expenditures by the candidate
15 committee for the City elective office sought shall be made from that account.

16 ~~(2)~~ (b) Prohibition on Multiple Officeholder Accounts. All funds, services, or in-kind
17 contributions received by a candidate committee for expenses incurred directly in connection
18 with carrying out the candidate's usual and necessary duties of holding office shall be
19 deposited, credited, or otherwise reported to the candidate committee's Campaign
20 Contribution Trust Account. Such contributions shall be subject to the contribution limits in
21 Section 1.114 of this Chapter 1. An elected officeholder may not establish or control any other
22 committees or accounts for the purpose of making officeholder expenses. Nothing in this
23 Section 1.108 shall prohibit an officer from spending personal funds on official activities.

24 ~~(3) Account Limits. A candidate committee controlled by a candidate for Mayor or the~~
25 ~~Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds~~

1 under this Chapter shall not, at any time before the date of the election for which the candidate has
2 been certified, have an amount of funds greater than the candidate committee's Trust Account Limit in
3 its Campaign Contribution Trust Account, unless those contributions are immediately transferred into
4 the candidate committee's Campaign Contingency Account.

5 ~~(b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR~~
6 ~~MAYOR AND THE BOARD OF SUPERVISORS.~~

7 ~~(1) Notwithstanding any other section of this Code, including Subsection (a)(2), a~~
8 ~~candidate committee controlled by a candidate for Mayor or the Board of Supervisors whom the Ethics~~
9 ~~Commission has certified as eligible to receive public funds under this Chapter may maintain a~~
10 ~~Campaign Contingency Account separate from its Campaign Contribution Trust Account into which it~~
11 ~~may deposit money contributions in anticipation that the Ethics Commission will raise the candidate's~~
12 ~~Individual Expenditure Ceiling. All money contributions deposited into this account shall be reported~~
13 ~~as if it were deposited into the candidate committee's Campaign Contribution Trust Account.~~

14 ~~(2) No candidate committee may deposit any funds into its Campaign Contingency~~
15 ~~Account if the amount of funds in the candidate committee's Campaign Contribution Trust Account is~~
16 ~~less than the candidate committee's Trust Account Limit.~~

17 ~~(3) No expenditures shall be made from a Campaign Contingency Account established~~
18 ~~pursuant to this section. Funds may be transferred from the candidate committee's Campaign~~
19 ~~Contingency Account to the candidate committee's Campaign Contribution Trust Account, provided~~
20 ~~that the amount of funds in the Campaign Contribution Trust Account does not exceed the candidate~~
21 ~~committee's Trust Account Limit. All funds that qualify as matching contributions and are transferred~~
22 ~~from the Campaign Contingency Account to the Campaign Contribution Trust Account shall be eligible~~
23 ~~to be matched with public funds in accordance with the procedures set forth in this Chapter. Within ten~~
24 ~~days after the date of the election, the candidate committee shall turn over all funds in the Campaign~~
25 ~~Contingency Account to the Election Campaign Fund.~~

1 **SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.**

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

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

6 (2) Agree to the following conditions:

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

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

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

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

17 (E) The candidate shall not accept any loans to his or her campaign with
18 the exception of a candidate's loan to his or her own campaign as permitted by this Section
19 1.140; and

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

22 (3) Have paid any outstanding late fines or penalties, owed to the City by the
23 candidate or any of the candidate's previous campaign committees, which were imposed for
24 violations of this Code or the campaign finance provisions of the California Political Reform
25

1 Act (Government Code Sections 84100-85704), provided that the Ethics Commission had
2 notified the candidate of such fines or penalties by the time of certification.

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

8 (5) Have no finding by a court or by the Ethics Commission after a hearing on
9 the merits, within the prior five years, that the candidate knowingly, willfully, or intentionally
10 violated any Section of this Code or the campaign finance provisions of this California Political
11 Reform Act (Government Code Sections 84100-85704). For purposes of this Section 1.140, a
12 plea of nolo contendere constitutes a finding by a court of a willful violation.

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

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

18 (2) Have a candidate committee that has received at least \$10,000 in qualifying
19 contributions from at least 100 contributors before the 70th day before the election; or, if the
20 candidate is an incumbent member of the Board of Supervisors, have a candidate committee
21 that has received at least \$15,000 in qualifying contributions from at least 150 contributors
22 before the 70th day before the election;

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

1 (4) Agree that his or her candidate committee will not make qualified campaign
2 expenditures that total more than the candidate's Individual Expenditure Ceiling of \$250,000,
3 or as adjusted under Section 1.143 of this Chapter.

4 (c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible
5 to receive public financing of campaign expenses under this Chapter I, a candidate for Mayor
6 must:

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

9 (2) Have a candidate committee that has received at least \$50,000 in qualifying
10 contributions from at least 500 contributors by the 70th day before the election; or, if the
11 candidate is the incumbent Mayor, have a candidate committee that has received at least
12 \$75,000 in qualifying contributions from at least 750 contributors by the 70th day before the
13 election;

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

17 (4) Agree that his or her candidate committee will not make qualified campaign
18 expenditures that total more than the candidate's Individual Expenditure Ceiling of
19 \$1,475,000, or as adjusted under Section 1.143 of this Chapter.

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

22 (1) The figures in ~~S~~subsections (b)(4) and (c)(4) to reflect changes in the
23 California Consumer Price Index, provided that such adjustments shall be rounded off to the
24 nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for
25 candidates for Mayor;

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

4 (3) The figures in ~~§~~subsections (b)(2) and (b)(3) ~~of this Section~~ to reflect changes
5 in the California Consumer Price Index, provided that such adjustments shall be rounded off
6 to the nearest \$500;

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

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

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

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

24 If any deadline imposed by this subsection (a) falls on a Saturday, Sunday, or legal holiday, the
25 deadline shall be the next business day.

1 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing
2 of campaign expenses under this Chapter 1, a candidate shall declare, under penalty of
3 perjury, that the candidate satisfies the requirements specified in Section 1.140. Candidates
4 shall be permitted to submit the declaration and any supporting material required by the Ethics
5 Commission to the Ethics Commission no earlier than nine months before the date of the
6 election, but no later than the 70th day before the election. Once the declaration and
7 supporting material are submitted, they may not be amended. The declaration and supporting
8 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
9 day before the election.

10 If any deadline imposed by this ~~S~~subsection (b) falls on a Saturday, Sunday, or legal
11 holiday, the deadline shall be the next business day.

12 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
13 Commission shall review the candidate's declaration and supporting material to determine
14 whether the candidate is eligible to receive public funds under this Chapter 1. The Executive
15 Director may audit the candidate's records, interview contributors, and take whatever steps
16 the Executive Director deems necessary to determine eligibility. At the request of the
17 Executive Director, the Controller shall assist in this review process.

18 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
19 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter 1 or a
20 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
21 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
22 and may review any other material.

23 (e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor
24 or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive
25 Director shall notify the candidate and certify to the Controller that the candidate is eligible to

1 receive public financing under this Chapter 1. The Executive Director shall not certify that a
2 candidate is eligible to receive public financing if the candidate's declaration or supporting
3 material is incomplete or otherwise inadequate to establish eligibility. ~~Except as provided in~~
4 ~~subsection (h), the~~ The Executive Director shall determine whether to certify a candidate no later
5 than 30 days after the date the candidate submits his or her declaration and supporting
6 material, provided that the Executive Director shall make all determinations regarding whether
7 to certify a candidate no later than the 55th day before the election.

8 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
9 eligible to receive public financing under this Chapter 1, the Executive Director shall notify the
10 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
11 business days of the date of notification, resubmit the declaration and supporting material. If
12 the candidate does not timely resubmit, the Executive Director's determination is final.

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

19 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
20 certify that a candidate is eligible to receive public financing under this Chapter 1, the
21 candidate may appeal the Executive Director's final determination to the Ethics Commission.
22 The candidate must deliver the written appeal to the Ethics Commission within five days of the
23 date of notification of the Executive Director's determination.

24 25 **SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.**

1 This Section 1.143 shall apply only if the Ethics Commission has certified that at least
2 one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under
3 this Chapter 1.

4 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a
5 candidate for Mayor ~~to an amount equal to~~ by \$500,000 when the sum of the Total Opposition
6 Spending against that candidate and the highest level of the Total Supportive ~~Spending Funds~~
7 of any other candidate for Mayor ~~if such amount~~ is greater than \$1,475,000 by any amount;
8 ~~provided that the Executive Director may adjust a candidate's Individual Expenditure Ceilings only in~~
9 ~~increments of \$100,000. Thereafter, the Executive Director shall further adjust a candidate's~~
10 ~~Individual Expenditure Ceiling in increments of \$500,000, whenever the sum of the Total Opposition~~
11 ~~Spending against that candidate and the highest level of the Total Supportive Spending of any other~~
12 ~~candidate for Mayor is greater than the candidate's current Individual Expenditure Ceiling by any~~
13 ~~amount.~~

14 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a
15 candidate for the Board of Supervisors ~~to an amount equal to~~ by \$100,000 when the sum of the
16 Total Opposition Spending against that candidate and the highest level of the Total Supportive
17 ~~Spending Funds~~ of any other candidate for the same office on the Board of Supervisors ~~if such~~
18 ~~amount~~ is greater than \$250,000 by any amount; ~~provided the Executive Director may adjust a~~
19 ~~candidate's Individual Expenditure Ceiling only in increments of \$10,000. Thereafter, the Executive~~
20 ~~Director shall further adjust a candidate's Individual Expenditure Ceiling in increments of \$100,000,~~
21 ~~whenever the sum of the Total Opposition Spending against that candidate and the highest level of the~~
22 ~~Total Supportive Spending of any other candidate for the same office is greater than the candidate's~~
23 ~~current Individual Expenditure Ceiling by any amount.~~

24 (c) The Executive Director shall promptly review statements filed pursuant to state and
25 local law, including Government Code section 84204 and Sections 1.161, 1.162, and 1.163 of

1 this Chapter I, to determine whether a communication supports or opposes one or more
2 candidates.

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

- 5 (1) whether the communication clearly identifies one or more candidates;
- 6 (2) the timing of the communication;
- 7 (3) the voters targeted by the communication;
- 8 (4) whether the communication identifies any candidate's position on a public
9 policy issue and urges the reader or viewer to take action, including calling the candidate to
10 support or oppose the candidate's position;
- 11 (5) whether the position of one or more candidates on a public policy issue has
12 been raised as distinguishing these candidates from others in the campaign, either in the
13 communication itself or in other public communications;
- 14 (6) whether the communication is part of an ongoing series of substantially
15 similar advocacy communications by the organization on the same issue; and
- 16 (7) any other factors the Executive Director deems relevant.

17 (d) Within one business day of the date that the Executive Director makes a
18 determination under ~~S~~subsection (c), either the candidate(s) identified in the communication or
19 any candidate seeking the same City elective office as the candidate identified in the
20 communication may object to the Executive Director's determination. The Executive Director
21 shall respond to any objection within one business day of receiving the objection.

22 (e) Within one business day of the Executive Director's response, either the
23 candidate(s) identified in the communication or any candidate seeking the same City elective
24 office as the candidate identified in the communication may submit to the Executive Director a
25 request that the Ethics Commission review the Executive Director's determination. Within one

1 business day of receiving the request, the Executive Director shall notify each Commissioner
2 of the candidate's request.

3 If within one business day of the Executive Director's notice, two or more members of
4 the Commission inform the Executive Director that they would like to review the determination,
5 the Executive Director shall schedule a meeting of the Commission on a date that occurs
6 within one week of the Commissioners' requests. If three members of the Commission vote to
7 overrule the Executive Director's determination, the Commission shall make a final
8 determination based on the factors set forth above.

9 (f) If no candidate objects to the Executive Director's determination, if no candidate
10 requests review by the Commission of the Executive Director's determination, if a request is
11 made and two or more members of the Commission do not request to review the
12 determination, or within one week of two members of the Commission requesting to review
13 the Executive Director's determination, at least three members of the Commission do not vote
14 to overrule the Executive Director's determination, the Executive Director's determination shall
15 become final.

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

19
20 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
21 **SUPERVISORS AND MAYOR.**

22 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

23 (1) In addition to the campaign disclosure requirements imposed by the
24 California Political Reform Act and other provisions of this Chapter I, each candidate
25 committee supporting a candidate for the Board of Supervisors shall file a statement with the

1 Ethics Commission indicating when the committee has received contributions to be deposited
2 into its Campaign Contribution Trust Account or made expenditures that equal or exceed
3 ~~\$5,000~~ \$10,000 within 24 hours of reaching or exceeding that amount.

4 (2) In addition to the supplemental report in ~~§~~subsection (a)(1) ~~of this Section~~,
5 each candidate committee supporting a candidate for the Board of Supervisors shall file a
6 statement with the Ethics Commission disclosing when the committee has ~~received~~
7 ~~contributions to be deposited into its Campaign Contribution Trust Account or~~ made expenditures
8 that in the aggregate equal or exceed \$100,000. On such statement, each candidate committee
9 shall disclose the total amount of contributions it has received, the total amount of expenditures it has
10 made, and the current balance of its Campaign Contribution Trust Account. The candidate
11 committee shall file this report within 24 hours of reaching or exceeding the threshold.
12 Thereafter, the candidate committee shall file an additional supplemental report within 24
13 hours of every time the candidate committee ~~receives additional contributions to be deposited into~~
14 ~~its Campaign Contribution Trust Account or~~ makes additional expenditures that in the aggregate
15 equal or exceed \$10,000. Each additional supplemental report shall disclose the total amount of
16 contributions the candidate committee has received, the total amount of expenditures it has made, and
17 the current balance of its Campaign Contribution Trust Account.

18 (3) The Executive Director shall post the information disclosed on statements
19 required by this subsection (a) on the website of the Ethics Commission within two business
20 days of the statement's filing.

21 (b) ELECTIONS FOR MAYOR.

22 (1) In addition to the campaign disclosure requirements imposed by the
23 California Political Reform Act and other provisions of this Chapter I, each candidate
24 committee supporting a candidate for Mayor shall file a statement with the Ethics Commission
25 indicating when the candidate committee has received contributions to be deposited into its

1 Campaign Contribution Trust Account or made expenditures that equal or exceed \$50,000
2 within 24 hours of reaching or exceeding that amount.

3 (2) In addition to the supplemental report in ~~§~~subsection (b)(1) ~~of this Section~~,
4 each candidate committee supporting a candidate for Mayor shall file a statement with the
5 Ethics Commission disclosing when the candidate committee has ~~received contributions to be~~
6 ~~deposited into its Campaign Contribution Trust Account or~~ made expenditures that in the
7 aggregate equal or exceed \$1,000,000. On such statement, each candidate committee shall
8 disclose the total amount of contributions it has received, the total amount of expenditures it has made,
9 and the current balance of its Campaign Contribution Trust Account. The candidate committee
10 shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
11 candidate committee shall file an additional supplemental report within 24 hours of every time
12 the candidate committee ~~receives additional contributions or~~ makes additional expenditures that
13 in the aggregate equal or exceed \$50,000. Each additional supplemental report shall disclose the
14 total amount of contributions the candidate committee has received, the total amount of expenditures it
15 has made, and the current balance of its Campaign Contribution Trust Account.

16 (3) The Executive Director shall post the information disclosed on statements
17 required by this subsection (b) on the website of the Ethics Commission within two business
18 days of the statement's filing.

19 (c) The supplemental statements required by ~~§~~subsections (a)(2) and (b)(2) are not
20 required until the Ethics Commission has certified that at least one candidate is eligible to
21 receive public funds under this Chapter I, provided that within two business days of the date
22 that the Ethics Commission provides notice under this subsection that it has certified that a
23 candidate is eligible to receive public funds under this Chapter, any report that previously
24 would have been required under subsections (a)(2) and (b)(2) must be filed. Within two
25 business days of certifying that at least one candidate is eligible to receive public financing

1 under this Chapter, the Ethics Commission shall post a notice on its website, send out a press
2 release, and send written notice by regular or electronic mail to all other candidates running
3 for the same City elective office and to any other person who has requested such notice.

4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
9 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
10 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
11 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
12 additions, and Board amendment deletions in accordance with the "Note" that appears under
13 the official title of the ordinance.

14 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
15 of this ordinance, or any application thereof to any person or circumstance, is held to be
16 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
17 shall not affect the validity of the remaining portions or applications of the ordinance. The
18 Board of Supervisors hereby declares that it would have passed this ordinance and each and
19 every section, subsection, sentence, clause, phrase, and word not declared invalid or
20 unconstitutional without regard to whether any other portion of this ordinance or application
21 thereof would be subsequently declared invalid or unconstitutional.

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 ANDREW SHEN, Deputy City Attorney

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ATTACHMENT 3

[Campaign and Governmental Conduct Code - Public Campaign Financing]

Ordinance amending the Campaign and Governmental Conduct Code to modify the operation of individual expenditure ceilings for publicly financed candidates for Board of Supervisors and Mayor.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~strikethrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. Chapter 1 of the Campaign and Governmental Conduct Code is hereby amended by revising Sections 1.104, 1.108, 1.140, 1.142, 1.143, and 1.152, to read as follows:

SEC. 1.104. DEFINITIONS.

Whenever in this Chapter 1 the following words or phrases are used, they shall mean:

* * * *

"Total Supportive ~~Funds~~ Spending" shall mean the sum of all ~~contributions received~~ expenditures made or expenses incurred by a candidate committee supporting a candidate for Mayor or the Board of Supervisors, ~~other than any funds in the candidate's Campaign Contingency Account exceeding the candidate committee's Trust Account Limit~~, plus the expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications, or member communications in support of that same candidate.

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

7 * * * *

8
9 **SEC. 1.108. CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST**
10 **ACCOUNTS ~~AND CAMPAIGN CONTINGENCY ACCOUNTS.~~**

11 ~~(a) CANDIDATE COMMITTEE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.~~

12 ~~(1)~~ (a) Establishment of Account. Each treasurer for a candidate committee shall
13 establish a Campaign Contribution Trust Account for the candidate committee at an office of a
14 bank located in the City and County of San Francisco. All expenditures by the candidate
15 committee for the City elective office sought shall be made from that account.

16 ~~(2)~~ (b) Prohibition on Multiple Officeholder Accounts. All funds, services, or in-kind
17 contributions received by a candidate committee for expenses incurred directly in connection
18 with carrying out the candidate's usual and necessary duties of holding office shall be
19 deposited, credited, or otherwise reported to the candidate committee's Campaign
20 Contribution Trust Account. Such contributions shall be subject to the contribution limits in
21 Section 1.114 of this Chapter 1. An elected officeholder may not establish or control any other
22 committees or accounts for the purpose of making officeholder expenses. Nothing in this
23 Section 1.108 shall prohibit an officer from spending personal funds on official activities.

24 ~~(3) Account Limits. A candidate committee controlled by a candidate for Mayor or the~~
25 ~~Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds~~

1 under this Chapter shall not, at any time before the date of the election for which the candidate has
2 been certified, have an amount of funds greater than the candidate committee's Trust Account Limit in
3 its Campaign Contribution Trust Account, unless those contributions are immediately transferred into
4 the candidate committee's Campaign Contingency Account.

5 ~~(b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATE COMMITTEES FOR~~
6 ~~MAYOR AND THE BOARD OF SUPERVISORS.~~

7 ~~(1) Notwithstanding any other section of this Code, including Subsection (a)(2), a~~
8 ~~candidate committee controlled by a candidate for Mayor or the Board of Supervisors whom the Ethics~~
9 ~~Commission has certified as eligible to receive public funds under this Chapter may maintain a~~
10 ~~Campaign Contingency Account separate from its Campaign Contribution Trust Account into which it~~
11 ~~may deposit money contributions in anticipation that the Ethics Commission will raise the candidate's~~
12 ~~Individual Expenditure Ceiling. All money contributions deposited into this account shall be reported~~
13 ~~as if it were deposited into the candidate committee's Campaign Contribution Trust Account.~~

14 ~~(2) No candidate committee may deposit any funds into its Campaign Contingency~~
15 ~~Account if the amount of funds in the candidate committee's Campaign Contribution Trust Account is~~
16 ~~less than the candidate committee's Trust Account Limit.~~

17 ~~(3) No expenditures shall be made from a Campaign Contingency Account established~~
18 ~~pursuant to this section. Funds may be transferred from the candidate committee's Campaign~~
19 ~~Contingency Account to the candidate committee's Campaign Contribution Trust Account, provided~~
20 ~~that the amount of funds in the Campaign Contribution Trust Account does not exceed the candidate~~
21 ~~committee's Trust Account Limit. All funds that qualify as matching contributions and are transferred~~
22 ~~from the Campaign Contingency Account to the Campaign Contribution Trust Account shall be eligible~~
23 ~~to be matched with public funds in accordance with the procedures set forth in this Chapter. Within ten~~
24 ~~days after the date of the election, the candidate committee shall turn over all funds in the Campaign~~
25 ~~Contingency Account to the Election Campaign Fund.~~

1 **SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.**

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

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

6 (2) Agree to the following conditions:

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

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

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

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

17 (E) The candidate shall not accept any loans to his or her campaign with
18 the exception of a candidate's loan to his or her own campaign as permitted by this Section
19 1.140; and

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

22 (3) Have paid any outstanding late fines or penalties, owed to the City by the
23 candidate or any of the candidate's previous campaign committees, which were imposed for
24 violations of this Code or the campaign finance provisions of the California Political Reform
25

1 Act (Government Code Sections 84100-85704), provided that the Ethics Commission had
2 notified the candidate of such fines or penalties by the time of certification.

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

8 (5) Have no finding by a court or by the Ethics Commission after a hearing on
9 the merits, within the prior five years, that the candidate knowingly, willfully, or intentionally
10 violated any Section of this Code or the campaign finance provisions of this California Political
11 Reform Act (Government Code Sections 84100-85704). For purposes of this Section 1.140, a
12 plea of nolo contendere constitutes a finding by a court of a willful violation.

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

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

18 (2) Have a candidate committee that has received at least \$10,000 in qualifying
19 contributions from at least 100 contributors before the 70th day before the election; or, if the
20 candidate is an incumbent member of the Board of Supervisors, have a candidate committee
21 that has received at least \$15,000 in qualifying contributions from at least 150 contributors
22 before the 70th day before the election;

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

1 (4) Agree that his or her candidate committee will not make qualified campaign
2 expenditures that total more than the candidate's Individual Expenditure Ceiling of \$250,000,
3 or as adjusted under Section 1.143 of this Chapter.

4 (c) ADDITIONAL REQUIREMENTS FOR CANDIDATES FOR MAYOR. To be eligible
5 to receive public financing of campaign expenses under this Chapter I, a candidate for Mayor
6 must:

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

9 (2) Have a candidate committee that has received at least \$50,000 in qualifying
10 contributions from at least 500 contributors by the 70th day before the election; or, if the
11 candidate is the incumbent Mayor, have a candidate committee that has received at least
12 \$75,000 in qualifying contributions from at least 750 contributors by the 70th day before the
13 election;

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

17 (4) Agree that his or her candidate committee will not make qualified campaign
18 expenditures that total more than the candidate's Individual Expenditure Ceiling of
19 \$1,475,000, or as adjusted under Section 1.143 of this Chapter.

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

22 (1) The figures in ~~S~~subsections (b)(4) and (c)(4) to reflect changes in the
23 California Consumer Price Index, provided that such adjustments shall be rounded off to the
24 nearest \$1,000 for candidates for the Board of Supervisors and the nearest \$5,000 for
25 candidates for Mayor;

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

4 (3) The figures in ~~§~~subsections (b)(2) and (b)(3) ~~of this Section~~ to reflect changes
5 in the California Consumer Price Index, provided that such adjustments shall be rounded off
6 to the nearest \$500;

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

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

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

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

24 If any deadline imposed by this subsection (a) falls on a Saturday, Sunday, or legal holiday, the
25 deadline shall be the next business day.

1 (b) DECLARATION BY CANDIDATE. To become eligible to receive public financing
2 of campaign expenses under this Chapter 1, a candidate shall declare, under penalty of
3 perjury, that the candidate satisfies the requirements specified in Section 1.140. Candidates
4 shall be permitted to submit the declaration and any supporting material required by the Ethics
5 Commission to the Ethics Commission no earlier than nine months before the date of the
6 election, but no later than the 70th day before the election. Once the declaration and
7 supporting material are submitted, they may not be amended. The declaration and supporting
8 material may be withdrawn and refiled, provided that the refiling is made no later than the 70th
9 day before the election.

10 If any deadline imposed by this ~~S~~subsection (b) falls on a Saturday, Sunday, or legal
11 holiday, the deadline shall be the next business day.

12 (c) DETERMINATION OF ELIGIBILITY. The Executive Director of the Ethics
13 Commission shall review the candidate's declaration and supporting material to determine
14 whether the candidate is eligible to receive public funds under this Chapter 1. The Executive
15 Director may audit the candidate's records, interview contributors, and take whatever steps
16 the Executive Director deems necessary to determine eligibility. At the request of the
17 Executive Director, the Controller shall assist in this review process.

18 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
19 Board of Supervisors is opposed as required under Section 1.140(b)(3) of this Chapter 1 or a
20 candidate for Mayor is opposed as required under Section 1.140(c)(3) of this Chapter, the
21 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
22 and may review any other material.

23 (e) CERTIFICATION. If the Executive Director determines that a candidate for Mayor
24 or the Board of Supervisors has satisfied the requirements of Section 1.140, the Executive
25 Director shall notify the candidate and certify to the Controller that the candidate is eligible to

1 receive public financing under this Chapter 1. The Executive Director shall not certify that a
2 candidate is eligible to receive public financing if the candidate's declaration or supporting
3 material is incomplete or otherwise inadequate to establish eligibility. ~~Except as provided in~~
4 ~~subsection (h), the~~ The Executive Director shall determine whether to certify a candidate no later
5 than 30 days after the date the candidate submits his or her declaration and supporting
6 material, provided that the Executive Director shall make all determinations regarding whether
7 to certify a candidate no later than the 55th day before the election.

8 (f) RESUBMISSION. If the Executive Director declines to certify that a candidate is
9 eligible to receive public financing under this Chapter 1, the Executive Director shall notify the
10 candidate. Notwithstanding Section 1.142(b) of this Chapter, the candidate may, within five
11 business days of the date of notification, resubmit the declaration and supporting material. If
12 the candidate does not timely resubmit, the Executive Director's determination is final.

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

19 (g) APPEAL TO THE ETHICS COMMISSION. If the Executive Director declines to
20 certify that a candidate is eligible to receive public financing under this Chapter 1, the
21 candidate may appeal the Executive Director's final determination to the Ethics Commission.
22 The candidate must deliver the written appeal to the Ethics Commission within five days of the
23 date of notification of the Executive Director's determination.

24 25 **SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.**

1 This Section 1.143 shall apply only if the Ethics Commission has certified that at least
2 one candidate for Mayor or the Board of Supervisors is eligible to receive public funds under
3 this Chapter I.

4 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a
5 candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against
6 that candidate and the highest level of the Total Supportive Spending Funds of any other
7 candidate for Mayor if such amount is greater than \$1,475,000, provided that the Executive
8 Director may adjust a candidate's Individual Expenditure Ceilings only in increments of
9 \$100,000.

10 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a
11 candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition
12 Spending against that candidate and the highest level of the Total Supportive Spending Funds
13 of any other candidate for the same office on the Board of Supervisors if such amount is
14 greater than \$250,000, provided the Executive Director may adjust a candidate's Individual
15 Expenditure Ceiling only in increments of \$10,000.

16 (c) The Executive Director shall promptly review statements filed pursuant to state and
17 local law, including Government Code section 84204 and Sections 1.161, 1.162, and 1.163 of
18 this Chapter I, to determine whether a communication supports or opposes one or more
19 candidates.

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

- 22 (1) whether the communication clearly identifies one or more candidates;
- 23 (2) the timing of the communication;
- 24 (3) the voters targeted by the communication;

1 (4) whether the communication identifies any candidate's position on a public
2 policy issue and urges the reader or viewer to take action, including calling the candidate to
3 support or oppose the candidate's position;

4 (5) whether the position of one or more candidates on a public policy issue has
5 been raised as distinguishing these candidates from others in the campaign, either in the
6 communication itself or in other public communications;

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

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

10 (d) Within one business day of the date that the Executive Director makes a
11 determination under ~~S~~subsection (c), either the candidate(s) identified in the communication or
12 any candidate seeking the same City elective office as the candidate identified in the
13 communication may object to the Executive Director's determination. The Executive Director
14 shall respond to any objection within one business day of receiving the objection.

15 (e) Within one business day of the Executive Director's response, either the
16 candidate(s) identified in the communication or any candidate seeking the same City elective
17 office as the candidate identified in the communication may submit to the Executive Director a
18 request that the Ethics Commission review the Executive Director's determination. Within one
19 business day of receiving the request, the Executive Director shall notify each Commissioner
20 of the candidate's request.

21 If within one business day of the Executive Director's notice, two or more members of
22 the Commission inform the Executive Director that they would like to review the determination,
23 the Executive Director shall schedule a meeting of the Commission on a date that occurs
24 within one week of the Commissioners' requests. If three members of the Commission vote to
25

1 overrule the Executive Director's determination, the Commission shall make a final
2 determination based on the factors set forth above.

3 (f) If no candidate objects to the Executive Director's determination, if no candidate
4 requests review by the Commission of the Executive Director's determination, if a request is
5 made and two or more members of the Commission do not request to review the
6 determination, or within one week of two members of the Commission requesting to review
7 the Executive Director's determination, at least three members of the Commission do not vote
8 to overrule the Executive Director's determination, the Executive Director's determination shall
9 become final.

10 The Executive Director shall determine whether to adjust the Individual Expenditure
11 Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to either
12 ~~§~~subsection (a) or (b) ~~of this Section~~ within one business day of a final determination.

13
14 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
15 **SUPERVISORS AND MAYOR.**

16 (a) ELECTIONS FOR THE BOARD OF SUPERVISORS.

17 (1) In addition to the campaign disclosure requirements imposed by the
18 California Political Reform Act and other provisions of this Chapter 1, each candidate
19 committee supporting a candidate for the Board of Supervisors shall file a statement with the
20 Ethics Commission indicating when the committee has received contributions to be deposited
21 into its Campaign Contribution Trust Account or made expenditures that equal or exceed
22 ~~\$5,000~~ \$10,000 within 24 hours of reaching or exceeding that amount.

23 (2) In addition to the supplemental report in ~~§~~subsection (a)(1) ~~of this Section~~,
24 each candidate committee supporting a candidate for the Board of Supervisors shall file a
25 statement with the Ethics Commission disclosing when the committee has ~~received~~

1 ~~contributions to be deposited into its Campaign Contribution Trust Account or~~ made expenditures
2 that in the aggregate equal or exceed \$100,000. On such statement, each candidate committee
3 shall disclose the total amount of contributions it has received, the total amount of expenditures it has
4 made, and the current balance of its Campaign Contribution Trust Account. The candidate
5 committee shall file this report within 24 hours of reaching or exceeding the threshold.
6 Thereafter, the candidate committee shall file an additional supplemental report within 24
7 hours of every time the candidate committee ~~receives additional contributions to be deposited into~~
8 ~~its Campaign Contribution Trust Account or~~ makes additional expenditures that in the aggregate
9 equal or exceed \$10,000. Each additional supplemental report shall disclose the total amount of
10 contributions the candidate committee has received, the total amount of expenditures it has made, and
11 the current balance of its Campaign Contribution Trust Account.

12 (3) The Executive Director shall post the information disclosed on statements
13 required by this subsection (a) on the website of the Ethics Commission within two business
14 days of the statement's filing.

15 (b) ELECTIONS FOR MAYOR.

16 (1) In addition to the campaign disclosure requirements imposed by the
17 California Political Reform Act and other provisions of this Chapter I, each candidate
18 committee supporting a candidate for Mayor shall file a statement with the Ethics Commission
19 indicating when the candidate committee has received contributions to be deposited into its
20 Campaign Contribution Trust Account or made expenditures that equal or exceed \$50,000
21 within 24 hours of reaching or exceeding that amount.

22 (2) In addition to the supplemental report in ~~§~~subsection (b)(1) ~~of this Section,~~
23 each candidate committee supporting a candidate for Mayor shall file a statement with the
24 Ethics Commission disclosing when the candidate committee has ~~received contributions to be~~
25 ~~deposited into its Campaign Contribution Trust Account or~~ made expenditures that in the

1 aggregate—equal or exceed \$1,000,000. On such statement, each candidate committee shall
2 disclose the total amount of contributions it has received, the total amount of expenditures it has made,
3 and the current balance of its Campaign Contribution Trust Account. The candidate committee
4 shall file this report within 24 hours of reaching or exceeding the threshold. Thereafter, the
5 candidate committee shall file an additional supplemental report within 24 hours of every time
6 the candidate committee ~~receives additional contributions or~~ makes additional expenditures that
7 in the aggregate equal or exceed \$50,000. Each additional supplemental report shall disclose the
8 total amount of contributions the candidate committee has received, the total amount of expenditures it
9 has made, and the current balance of its Campaign Contribution Trust Account.

10 (3) The Executive Director shall post the information disclosed on statements
11 required by this subsection (b) on the website of the Ethics Commission within two business
12 days of the statement's filing.

13 (c) The supplemental statements required by ~~§~~subsections (a)(2) and (b)(2) are not
14 required until the Ethics Commission has certified that at least one candidate is eligible to
15 receive public funds under this Chapter I, provided that within two business days of the date
16 that the Ethics Commission provides notice under this subsection that it has certified that a
17 candidate is eligible to receive public funds under this Chapter, any report that previously
18 would have been required under subsections (a)(2) and (b)(2) must be filed. Within two
19 business days of certifying that at least one candidate is eligible to receive public financing
20 under this Chapter, the Ethics Commission shall post a notice on its website, send out a press
21 release, and send written notice by regular or electronic mail to all other candidates running
22 for the same City elective office and to any other person who has requested such notice.

23 Section 2. Effective Date. This ordinance shall become effective 30 days after
24 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
25

1 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
2 of Supervisors overrides the Mayor's veto of the ordinance.

3 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
4 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
5 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
6 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
7 additions, and Board amendment deletions in accordance with the "Note" that appears under
8 the official title of the ordinance.

9 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
10 of this ordinance, or any application thereof to any person or circumstance, is held to be
11 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
12 shall not affect the validity of the remaining portions or applications of the ordinance. The
13 Board of Supervisors hereby declares that it would have passed this ordinance and each and
14 every section, subsection, sentence, clause, phrase, and word not declared invalid or
15 unconstitutional without regard to whether any other portion of this ordinance or application
16 thereof would be subsequently declared invalid or unconstitutional.

17
18 APPROVED AS TO FORM:
19 DENNIS J. HERRERA, City Attorney

20 By: _____
21 ANDREW SHEN
22 Deputy City Attorney

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ATTACHMENT 4

From: [Jon Golinger](#)
To: [Ford, Patrick \(ETH\)](#)
Subject: revised draft language
Date: Tuesday, February 5, 2019 5:42:33 PM

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Pat -- Steve and I came up with a slightly different language for what you and I discussed, see below.

Best,
Jon

SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.

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

(a) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for Mayor to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for Mayor if such amount is greater than their Individual Expenditure Ceiling or, if that candidate has not qualified for the Public Financing System then \$1,475,000, provided that the Executive Director may adjust a candidate's Individual Expenditure Ceilings only in increments of \$100,000.

(b) The Executive Director shall adjust the Individual Expenditure Ceiling of a candidate for the Board of Supervisors to an amount equal to the sum of the Total Opposition Spending against that candidate and the highest level of the Total Supportive Funds of any other candidate for the same office on the Board of Supervisors if such amount is greater than their Individual Expenditure Ceiling or, if that candidate has not qualified for the Public Financing System then \$250,000, provided the Executive Director may adjust a candidate's Individual Expenditure Ceiling only in increments of \$10,000.

ATTACHMENT 5

[Campaign and Governmental Conduct Code - Eligibility for Public Financing]

Ordinance amending the Campaign and Governmental Conduct Code to modify eligibility requirements for candidates to receive public financing.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in single-underline italics Times New Roman font.
Deletions to Codes are in ~~striketrough italics Times New Roman font~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~striketrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

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

Section 1. The Campaign and Governmental Conduct Code is hereby amended by revising Section 1.140, to read as follows:

SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING.

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

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

(2) Agree to the following conditions:

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

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

(C) The candidate will not make any payments to a contractor or vendor in return for the contractor or vendor making a campaign contribution to the candidate or

1 make more than a total of 50 payments, other than the return of a contribution, to contractors
2 or vendor that have made contributions to the candidate;

3 (D) Notwithstanding Sections 1.114 and 1.116, the candidate shall not
4 loan or donate, in total, more than \$5,000 of his or her own money to the campaign;

5 (E) The candidate shall not accept any loans to his or her campaign with
6 the exception of a candidate's loan to his or her own campaign as permitted by this Section;
7 and

8 (F) The candidate shall agree to participate in at least three debates with
9 the candidate's opponents.

10 (3) Have paid any outstanding late fines or penalties, owed to the City by the
11 candidate or any of the candidate's previous campaign committees, which were imposed for
12 violations of this Code or the campaign finance provisions of the California Political Reform
13 Act (Government Code Sections 84100-85704), *provided within two years of the date* that the
14 Ethics Commission had notified the candidate of such fines or penalties ~~by the time of~~
15 ~~certification~~.

16 (4) Have filed any outstanding forms, owed to the City by the candidate or any
17 of the candidate's previous campaign committees, which were required to be filed pursuant to
18 this Code or the campaign finance provisions of the Political Reform Act (Government Code
19 Sections 84100-85704), *provided within two years of the date* that the Ethics Commission had
20 notified the candidate of such outstanding forms ~~by the time of certification~~.

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

1 (6) For a candidate that received public financing in connection with a previous
2 campaign under this Chapter 1, have no Ethics Commission audit finding that the candidate's prior
3 publicly financed campaign failed to maintain complete campaign records for expenditures, in
4 violation of Sections 1.106 and 1.109, and Government Code Section 84104, where the amount of
5 expenditures for which there was incomplete records totaled \$10,000 or more.

6 * * * *

7
8 Section 2. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12
13 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
17 additions, and Board amendment deletions in accordance with the "Note" that appears under
18 the official title of the ordinance.

19
20 Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word
21 of this ordinance, or any application thereof to any person or circumstance, is held to be
22 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
23 shall not affect the validity of the remaining portions or applications of the ordinance. The
24 Board of Supervisors hereby declares that it would have passed this ordinance and each and
25 every section, subsection, sentence, clause, phrase, and word not declared invalid or

1 unconstitutional without regard to whether any other portion of this ordinance or application
2 thereof would be subsequently declared invalid or unconstitutional.

3
4 Section 5. Undertaking for the General Welfare. In enacting and implementing this
5 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
6 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
7 is liable in money damages to any person who claims that such breach proximately caused
8 injury.

9
10 APPROVED AS TO FORM:
11 DENNIS J. HERRERA, City Attorney

12 By:


13 ANDREW SHEN
Deputy City Attorney

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