



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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Date: May 23, 2019

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy Analyst  
Brian Cox, Policy Analyst  
Tyler Field, Information Systems Analyst

Re: **AGENDA ITEM 4 – Public Financing Program Review - Phase II Legislative Recommendations and Draft Ordinance for Possible Action**

**Summary** This report provides additional information regarding Staff's legislative recommendations for the second phase of the Commission's review of the City's public campaign financing program. A draft ordinance that contains Staff's recommendations is attached as Attachment 1.

**Action Requested** That the Commission discuss Staff's recommendations and approve the ordinance attached to this report as Attachment 1.

This report presents additional information to assist the Commission in the second phase of its review of the City's public campaign financing program (the "program"). It also contains a draft ordinance representing Staff's legislative proposals (Attachment 1). Section I provides a general overview of the Commission's program review process. Section II provides information in response to Commission inquiries about the legislative recommendations made at the Commission's April 12, 2019 meeting. Section III summarizes Staff's legislative recommendations.

### I. Overview of the Ethics Commission's Program Review

Staff approached the review process in two phases. The first phase of the review addressed procedural aspects of the program and sought to identify ways to increase participation rates and improve program outcomes without changing the program's basic features. In October 2018, Staff presented the Commission with its findings and recommendations following this first phase of the review.<sup>1</sup> At the Commission's regularly scheduled November 2018 meeting, Staff presented a set of draft regulations to implement certain of these recommendations. The Commission approved the regulations, which are now in effect.<sup>2</sup>

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

<sup>2</sup> Regulations available at <https://sfethics.org/ethics/2011/06/-regulations-to-campaign-finance-reform-ordinance-san-francisco-campaign-and-governmental-conduct-co.html>.

At the Commission's regularly scheduled December 2018 meeting, Staff presented a draft ordinance to implement additional Staff recommendations. The Commission approved an amended version of this ordinance at its regularly scheduled February 2019 meeting. This ordinance was sponsored by Supervisor Gordon Mar and was approved by the Board of Supervisors on May 7<sup>th</sup> and the Mayor on May 10<sup>th</sup>.<sup>3</sup> The provisions of this ordinance will become effective on June 9<sup>th</sup>.

Additionally, as part of the first phase of the review, Staff reviewed the written materials made available to candidates to help them understand the program's requirements. Staff made updates and improvements to the supplemental guides for candidates seeking public financing and published the updated versions to the Commission's website for use by candidates in the November 2019 election.

The second phase of the review, which is the subject of this report, also aims to strengthen the program by analyzing how well the program is accomplishing its goals and recommending improvements. At the April meeting, Staff presented findings and recommendations as to how the Commission could strengthen the program through legislation. After hearing feedback from the Commission and the public at the April meeting and continuing to meet with stakeholders during the month of May, Staff drafted an ordinance to carry out the legislative recommendations discussed at the April meeting. This ordinance is attached to this report as Attachment 1.

## **II. Staff Responses to Commission Inquiries from April 12, 2019 Commission Meeting**

This section provides information in response to questions posed by the Commission at its April meeting. This information is intended to help the Commission and the public to better understand and evaluate the proposed legislative recommendations.

### **A. Potential Increase to the Annual Per-Resident Appropriation**

The Commission asked Staff to assess the possibility of increasing the annual per-resident appropriation that currently funds the Election Campaign Fund ("ECF"). Under Code section 1.138, the annual appropriation is currently set at \$2.75 per resident each fiscal year.<sup>4</sup> Staff recommends that this number not be changed at this time. Rather, Staff recommends that the Commission monitor the effects of any changes to the amount of funding that candidates may receive under the program and, if those changes result in the fund being insufficient to cover program costs, explore a higher annual appropriation at that time. Currently, the program does not use all of the money that is appropriated to the fund. Thus, there is a consistent surplus that is likely sufficient to cover the increases in candidate funding recommended in Attachment 1.

### **B. Distribution of Public Funds in Instances of ECF Depletion**

At the April meeting, the Commission inquired about what happens if the Election Campaign Fund is depleted because of distributions to candidates. Public funds available under the program are distributed on a first-come-first-served basis. This means that candidates may apply for funds pursuant to the program's rules and may receive distributions on a rolling basis when their requests are

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<sup>3</sup> File No. 190287, available at <https://sfgov.legistar.com/Legislation.aspx>.

<sup>4</sup> Campaign & Gov't. Conduct Code § 1.138(b).

approved. If the Election Campaign Fund is exhausted during an election period, then no further distributions may be made to candidates.

There is, however, a provision in the Code that required the Executive Director to report to the Board of Supervisors on August 1<sup>st</sup> before an election as to whether the Election Campaign Fund contains a certain minimum level of funding. If that level does not exist in the fund, the Commission may request that the Board and the Mayor approve a supplemental appropriation to bring the fund up to that minimum level. The funding levels are approximately \$6.6 million for a mayoral election and \$1.3 million for a supervisorial election.<sup>5</sup>

Until 2012, the Code contained a “Per Candidate Available Disbursement Limit” that lowered the maximum amount of public funds that a candidate could receive if the Election Campaign Fund’s balance was below a certain level.<sup>6</sup> This limitation mechanism was repealed, and Staff does not recommend reinstating it at this time. As discussed above, the Election Campaign Fund currently contains a surplus, and its annual appropriation is likely sufficient to cover the increases in candidate distributions recommended by Staff. Staff recommends that, should the Election Campaign Fund ever drop below the levels stated in Code section 1.154, the Commission seek a supplemental appropriation from the Board and the Mayor.

C. Process and Reasoning for Recommending \$210,000 & \$270,000 as Public Funding Maximums for Supervisorial Candidates; New Recommendation of \$255,000

Staff’s recommendations included two alternatives for increasing the maximum amount of public funds that supervisorial candidates could receive under the program. As a more conservative, affordable option, Staff recommended \$210,000. As a larger, but potentially more cost-sensitive, option, Staff recommended \$270,000. The Commission asked for additional information on how Staff arrived at these figures.

In short, Staff established these values based on the recommended six-to-one matching ratio and by seeking numbers designed to provide consistent, round numbers in order to ease candidate understanding of and compliance with the program. In order to receive the full \$210,000, a candidate would need to have received \$35,000 in qualifying and matching contributions (which is equivalent to 350 maximum contributions, assuming that \$100 is the most that could be matched from any one contributor). If \$270,000 were the maximum funding level, a candidate would need to receive \$45,000 (which is equivalent to 450 maximum contributions, assuming that \$100 is the most that could be matched from any one contributor). Although other numbers could be used, these numbers have the added utility of simplicity, which is always helpful for purposes of candidate education and compliance.

After listening to further comment from stakeholders, including Supervisor Gordon Mar’s office, Staff is now recommending a funding maximum that falls between the two alternatives initially recommended. Staff recommends that \$255,000 be the maximum funding level for supervisorial candidates. This number is intended to serve both purposes of the original alternatives: it would give candidates a much

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<sup>5</sup> See *id.* at § 1.154. The funding levels are set at \$7.50 per resident for mayoral elections and \$1.50 per resident for supervisorial elections. The approximate dollar figures provided are based on an estimated City population of 880,000.

<sup>6</sup> File No. 111082 §1.144 (2012), available at <https://www.sfbos.org/ftp/uploadedfiles/bdsupvrs/ordinances12/o0064-12.pdf>.

stronger base of financial support than the current model, and it would likely be within the capacity of the program's current funding. This number also harmonizes with Staff's recommended increase to the individual expenditure ceiling (IEC); Staff recommends increasing the initial IEC from \$250,000 to \$250,000, an increase of \$100,000. If the maximum funding level were raised to \$255,000, this would also be an increase of \$100,000.

#### D. Effects of Moving Up the Earliest Disbursal Date for the Initial Grant

The draft ordinance attached as Attachment 1 allows candidates to receive the initial grant 284 days before the election. Under current law, candidates must wait until after the nomination period closes, 142 days before the election, in order to receive any funds under the program. Based on comments by stakeholders and former program participants, Staff recommending allowing candidates to receive the initial grant alone at an earlier time; candidates would still have to wait until the 142<sup>nd</sup> day before the election to receive matching funds.

Some stakeholders have expressed concern that allowing for earlier disbursement of the initial grant would create a risk that candidates who have already received public funds would stop running a competitive campaign once other more competitive candidates enter the race. This would occur, according to these stakeholders, because the deadline to qualify to appear on the ballot would be different from the date a candidate could receive public funds. The concern is that this results in public funds being wasted and some stakeholders stated that this occurred in the 2011 Mayoral election and two previous Board races. The Commission asked Staff for more information about this concern.

On balance, Staff does not believe these concerns outweigh the value of allowing candidates to access a limited portion of public funds at an earlier time. Allowing the initial grant, but not the full amount of matching funds, to be disbursed earlier is a moderated approach that balances the need for earlier money with the concerns expressed by other stakeholders who favor later disbursement. Importantly, current law already prohibits candidates from misusing public funds received through the program. Funds can only be used for Qualified Campaign Expenditures, which must be in furtherance of seeking elective office.<sup>7</sup> If a candidate withdraws from the race, the Controller may terminate all payments to the candidate and he or she must return all public funds received under the program.<sup>8</sup> Additionally, if a candidate who received public financing has money left over after the election, he or she must repay the money up to the full amount of public financing received.<sup>9</sup>

At the request of the Commission, Staff researched the earliest dates on which candidates may receive public financing in other jurisdictions. Table 1 provides the dates used in certain other jurisdictions with public financing programs. San Francisco already allows for distributions at an earlier time than most of the other jurisdictions shown below. However, Staff believes that allowing the initial grant alone to be distributed earlier would constitute an improvement over current law.

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<sup>7</sup> *Id.* at §§ 1.104, 1.148(a).

<sup>8</sup> *Id.* at §§ 1.146(a), 1.148(b).

<sup>9</sup> *Id.* at § 1.148(c).

**Table 1 – Summary of Public Financing Disbursal Dates**

Jurisdiction	Type of Program	Disbursal Date (Days before Election)	Disbursal Type
<b>San Francisco (Current)</b>	Matching Funds: 2-1	142 days	Initial Grant and Matching Funds
<b>San Francisco (Proposed)</b>	Matching Funds: 6-1	284 days 142 days	Initial Grant Matching Funds
<b>Seattle</b>	Democracy Vouchers	266 days <sup>10</sup>	Four \$25 vouchers (to voters)
<b>New York City</b>	Matching Funds: 6:1 & 8-1 <sup>11</sup>	141 days	Matching Funds
<b>Los Angeles</b>	Matching Funds: 6-1	80 days <sup>12</sup>	Matching Funds
<b>Long Beach</b>	Matching Funds: 2-1	88 days <sup>13</sup>	Matching Funds

**E. Analysis of Providing Public Financing to Unopposed Candidates**

The Commission asked Staff at the April meeting to explore the possibility of allowing unopposed candidates to participate in the program. Currently, candidates seeking public financing must be opposed by another candidate who has raised a certain minimum amount of campaign contributions.

Staff surveyed other jurisdictions and identified three separate approaches to whether a candidate must be “opposed” in order to qualify for public financing. The first approach places no opposition requirements on candidates to receive public funds. In other words, a candidate can receive public funds even if there is no other candidate running in the race. Berkeley and Portland, Oregon use this approach.<sup>14</sup>

The second approach requires candidates to be opposed by at least one other candidate qualified to appear on the ballot in order to receive public funds. However, this approach ignores whether the

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<sup>10</sup> *Democracy Voucher Program*, CITY OF SEATTLE, <https://www.seattle.gov/democracyvoucher/about-the-program> (last visited May 17, 2019).

<sup>11</sup> Contributions received through January 11, 2019 for the 2021 elections are subject to the 6-1 matching ratio. See *Campaign Finance Handbook: 2021 Election Cycle*, NEW YORK CITY CAMPAIGN FINANCE BOARD (June 2018), <https://www.nycfb.info/candidate-services/handbook/>.

<sup>12</sup> Official candidate list finalized 80 days before election. See *Candidate Filing Guide: Beginner’s Guide to Becoming an Elected Official*, CITY OF LOS ANGELES, <https://clerk.lacity.org/sites/g/files/wph606/f/Candidate%20Filing%20Guide.pdf>.

<sup>13</sup> *Candidate Handbook*, OFFICE OF THE LONG BEACH CITY CLERK (December 18, 2017), <http://www.longbeach.gov/globalassets/city-clerk/media-library/documents/elections/2018/candidate-handbook-v-3-updated-12-6-17>; *Beginner’s Guide for Prospective Candidates*, OFFICE OF THE LONG BEACH CITY CLERK, <http://www.longbeach.gov/globalassets/city-clerk/media-library/documents/elections/2020/2020-beginner-s-guide-for-prospective-candidates>.

<sup>14</sup> PORTLAND, OR., MUN. CODE tit. 2, ch. 2.16., available at <https://www.portlandoregon.gov/citycode/72577>; Berkeley, CA., Mun. Code tit. 2, § 2.12.500.A.

opponent has received a certain level of contributions. Notably, Oakland,<sup>15</sup> Los Angeles,<sup>16</sup> and New York City<sup>17</sup> follow this approach.

The third approach, which is used in San Francisco, allows candidates to participate only if they are opposed by at least one candidate who has met a certain fundraising threshold.<sup>18</sup> Long Beach also follows this approach.<sup>19</sup>

To determine how many additional candidates might be eligible to receive public funds if unopposed candidates were allowed to participate, Staff looked at past San Francisco elections and identified supervisorial and mayoral candidate who were (1) opposed on the ballot, but only by candidates who failed to raise a significant amount of campaign contributions; and (2) literally unopposed, meaning no other candidate appeared on the ballot.

Had the program allowed candidates who were opposed on the ballot but faced no well-funded opposition to qualify for public financing, it is possible that some candidates who were barred from participation would have been able to receive public financing. Staff identified twelve races in which candidates faced competition from candidates who did not raise the minimum amount of contributions required to qualify for public financing (and were therefore barred from participating themselves). Table 2 lists those candidates. Notably, all of the candidates were incumbents.

**Table 2: Candidates with No Opponent Raising \$10,000 (Supervisorial) or \$50,000 (Mayoral)**

Race	Candidate	Amount Raised	Incumbent?	Final % of Votes
<b>2018 BOS District 8</b>	Rafael Mandelman	\$238,659	Yes	91%
<b>2016 BOS District 3</b>	Aaron Peskin	\$99,619	Yes	71%
<b>2015 Mayor</b>	Ed Lee	\$1,508,824	Yes	55%
<b>2014 BOS District 2</b>	Mark Farrell	\$396,000	Yes	79%
<b>2014 BOS District 4</b>	Katy Tang	126,970	Yes	97%
<b>2014 BOS District 6</b>	Jane Kim	\$278,319	Yes	67%
<b>2014 BOS District 8</b>	Scott Weiner	\$264,720	Yes	78%
<b>2013 BOS District 4</b>	Katy Tang	\$197,303	Yes <sup>20</sup>	80%
<b>2008 BOS District 7</b>	Sean Elsbernd	\$248,153	Yes	71%

<sup>15</sup> OAKLAND, CAL., MUN. CODE tit. 3 ch. 3.13.080(D), available at [https://library.municode.com/ca/oakland/codes/code\\_of\\_ordinances?nodeId=TIT3MUEL\\_CH3.13LIPUFAC](https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT3MUEL_CH3.13LIPUFAC).

<sup>16</sup> Chapter 4 – Public Matching Funds, CITY OF LOS ANGELES, <https://ethics.lacity.org/wp-content/uploads/2019/01/2019-City-Candidate-Guide-Chapter-4.pdf>.

<sup>17</sup> How it Works, NEW YORK CITY CAMPAIGN FINANCE BOARD, <https://www.nycfb.info/program/how-it-works> (last visited May 17, 2019).

<sup>18</sup> See Campaign and Gov't. Code §§ 1.136(b)(3) & (c)(3).

<sup>19</sup> LONG BEACH, CAL. MUN. CODE tit. 2, ch. 2.01, div. IV, available at [https://library.municode.com/ca/long\\_beach/codes/municipal\\_code?nodeId=TIT2ADPE\\_CH2.01THLOBECAREAC\\_DIVIVEXCEMAFU](https://library.municode.com/ca/long_beach/codes/municipal_code?nodeId=TIT2ADPE_CH2.01THLOBECAREAC_DIVIVEXCEMAFU).

<sup>20</sup> Tang was appointed to the Board prior to the election.

<b>2006 BOS District 2</b>	Michaela Alioto-Pier	\$204,156	Yes	80%
<b>2002 BOS District 2</b>	Gavin Newsom	\$296,223	Yes	79%

If the program had also allowed candidates to participate who faced no opponent on the ballot, that would have affected at most three additional candidates, as shown in Table 3.

**Table 3: Funds Raised by Candidates Facing No Opposition Candidate**

<b>Race</b>	<b>Candidate</b>	<b>Amount Raised</b>	<b>Incumbent?</b>
<b>2012 BOS District 11</b>	John Avalos	\$83,870	Yes
<b>2010 BOS District 4</b>	Carmen Chu	\$178,097	Yes
<b>2002 BOS District 10</b>	Sophie Maxwell	\$49,619	Yes

Staff does not recommend changing the program's qualification requirements to allow unopposed candidates to qualify for participation at this time. There is inherent value in having a candidate participate in the program, even if the candidate would be able to mount a competitive campaign without public financing. This is because public financing reduces the candidate's need to raise funds, thereby reducing the potential for undue influence over the candidate, and allows the candidate to spend more time engaging with voters. However, there are also countervailing policy concerns that support keeping the current qualification requirements. For one, it is unclear what the total cost will be of switching to a six-to-one matching rate and of increasing the maximum amount of funding that candidates may receive. Before these costs are more fully known, Staff recommends maintaining the current requirement that participating candidates have an opponent who has raised a threshold level of funds.

#### **F. Contribution Sizes for "Grassroots" and First-Time Candidates**

The Commission directed Staff at the April 2019 Commission meeting to investigate whether grassroots and first-time candidates rely more heavily than other candidates on contributions of \$100 or less. To address this question, Staff defined "grassroots" candidates as candidates who raised between one and three times the minimum amount required to qualify for public financing. For supervisorial candidates, this includes candidates who raised between \$10,000 and \$30,000, and for mayoral candidates it includes candidates who raised between \$50,000 and \$100,000. Staff considered first time candidates to be candidates who had not previously run for either supervisor or mayor. Overall, Staff identified fifty-seven candidates for the 2016-2018 election cycle, thirty-five of whom met the criteria of first-time candidate and six of whom met the criteria of grassroots.

To understand how heavily candidates rely on contributions of \$100 or less, Staff examined the amount candidates reported in total unitemized contributions. State law requires candidate committees to report all contributions received on the Form 460, however committees may report contributions of less than \$100 as "unitemized" contributions. This means that committees do not need to separately list each such contribution and provide information about the contributor; the committee may simply provide the total amount received in contributions of under \$100. The amount of unitemized contributions a candidate receives is a good indicator of how much of the candidate's total funds were received through contributions of less than \$100.

Table 4 shows how grassroots candidates compare against all candidates in terms of the percentage of their funds that come from unitemized contributions. Importantly, candidates identified in this analysis as “grassroots” received, on average, just over twelve percent of their total contributions from unitemized contributions while all candidates received just 4.2% of the total value of their contributions from unitemized contributions on average. That disparity stands in even starker relief when the total value of those unitemized contributions are compared. Though all candidates raised nearly fifty-three times more than grassroots candidates did over the 2016 and 2018 election cycles, grassroots candidates received about one-twelfth of the amount that all candidates did from unitemized contributions First-time candidates received on average 4.8% of the total value of their contributions from unitemized contributions, which does not differ greatly from the overall average for all candidates. This data indicates that grassroots candidates, as defined, appear to rely more heavily than other candidates on contributions of under \$100.

**Table 4 – Selected Grassroots and Incumbent Contribution Characteristics**

<b>Candidate Type</b>	<b>Contributions (Total \$ Value)</b>	<b>Unitemized (Total \$ Value)</b>	<b>Unitemized (% of Total)</b>	<b>Number of Candidates</b>
<b>Grassroots</b>	\$169,738	\$19,541	11.5%	6
<b>First-Time</b>	\$3,439,787	\$166,382	4.8%	35
<b>All Candidates</b>	\$8,982,315	\$374,821	4.2%	57

#### G. Effects of Restricting Qualifying Contributions to In-District Residents

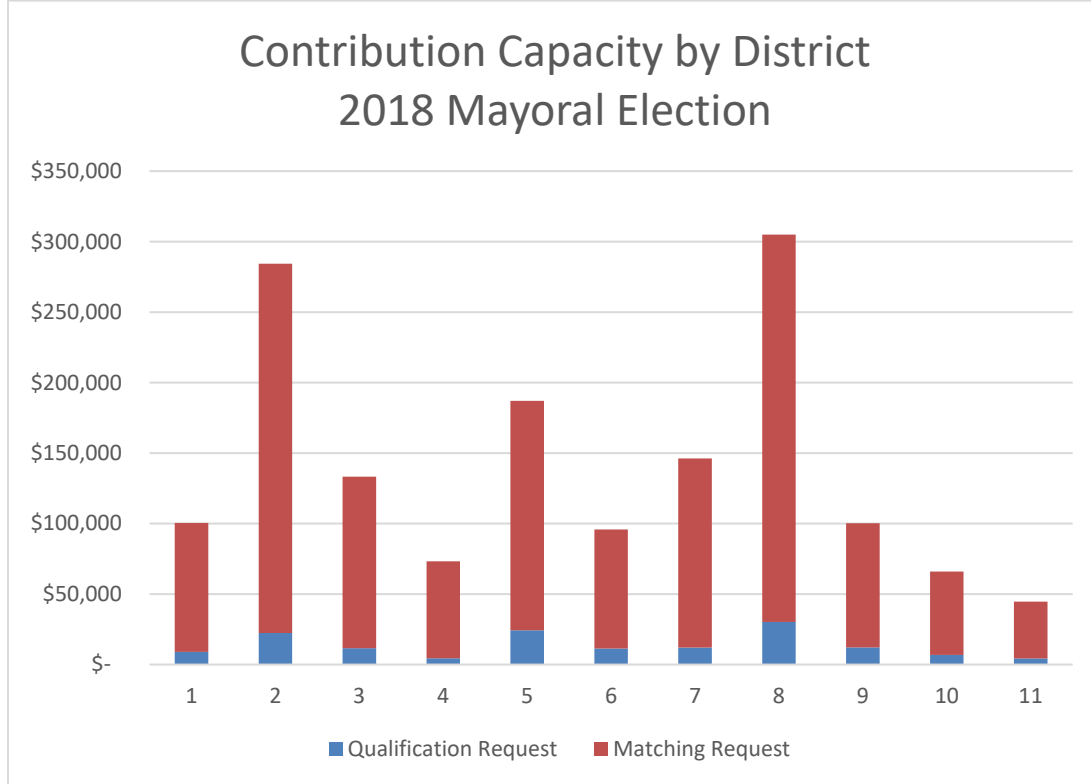
The Commission asked Staff to analyze the effect of restricting qualifying contributions to in-district residents would have on supervisorial races and whether this restriction would significantly affect candidates’ ability participate in the program.

Staff researched this question by determining the amount of political contributions that originates from each of the eleven supervisorial districts, as one indicator of the ability and willingness of residents of those districts to make political contribution. Staff based the data for each district on the June 2018 mayoral election because this Citywide race provided data from all districts. Contribution data for races prior to 2016 does not support the kind of location analysis needed to perform this research.<sup>21</sup> The results are summarized in Chart 1.

<sup>21</sup> The data from the November 2018 BOS races mirror the Mayoral election. However, Staff did not include this data since it represented only even numbered Districts.



**Chart 1: Total Contributions to Publicly Financed Mayoral Candidates, 2018, by Supervisorial District**



As Chart 1 indicates, the contribution patterns between districts varied considerably. Residents of some districts contributed at a much higher rate than residents of other districts. While this pattern could be influenced in part by the particularities of the 2018 mayoral election, it also could reflect general trends in the situations and behaviors of residents of different parts of the City. Table 5 and Chart 1A provide general income and employment data for each district, and these figures appear to roughly correlate to the patterns shown in Chart 1 of political giving in each district.

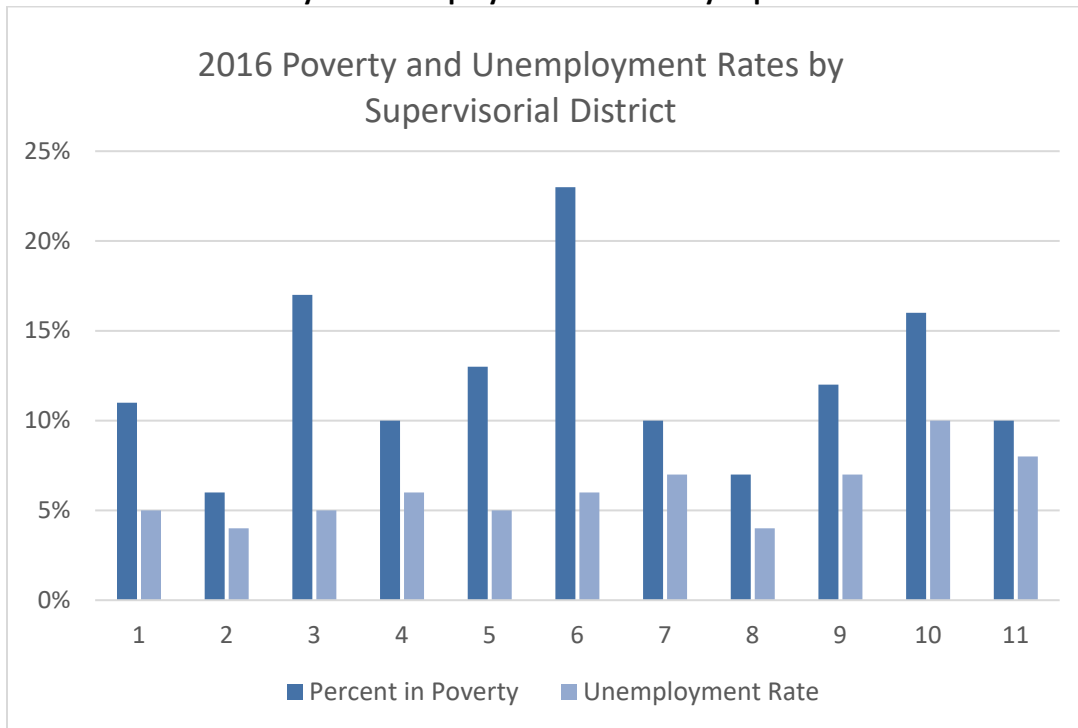
**Table 5 – San Francisco Supervisorial Districts: Economic Profiles (2016)<sup>22</sup>**

District	Population	Median Home Value	Median Family Income	Percent in Poverty	Unemployment Rate
1	79,970	\$875,948	\$103,755	11%	5%
2	68,390	\$887,429	\$194,825	6%	4%
3	72,360	\$775,070	\$64,633	17%	5%
4	77,000	\$818,849	\$103,128	10%	6%
5	84,030	\$779,898	\$121,054	13%	5%
6	69,360	\$695,276	\$85,207	23%	6%

<sup>22</sup> *San Francisco Supervisor Districts Socio-Economic Profiles: American Community Survey 2012-2016*, S.F. PLANNING DEPT. (Sept. 2018) available at [http://default.sfplanning.org/publications\\_reports/SF\\_NGBD\\_SocioEconomic\\_Profiles/2012-2016\\_ACS\\_Profile\\_SupeDistricts\\_Final.pdf](http://default.sfplanning.org/publications_reports/SF_NGBD_SocioEconomic_Profiles/2012-2016_ACS_Profile_SupeDistricts_Final.pdf) (Staff used this report since the 2014-2018 report will be released in 2020. Thus, this data represents the most complete recent snapshot of Districts).

<b>7</b>	74,710	\$924,881	\$141,699	10%	7%
<b>8</b>	68,200	\$913,611	\$162,319	7%	4%
<b>9</b>	86,430	\$735,156	\$83,458	12%	7%
<b>10</b>	75,250	\$614,335	\$68,378	16%	10%
<b>11</b>	86,120	\$643,860	\$76,976	10%	8%

**Chart 1A: Poverty and Unemployment Statistics by Supervisorial District<sup>23</sup>**



As Table 5 makes clear, Districts differ substantially in their economic profiles. For example, Districts 3, 6, 10, and 11 face the lowest median home values and family income while facing the highest rates of poverty and unemployment. Notably, residents of those districts made political contributions at a lower rate in the June 2018 mayoral election.

If supervisorial candidates were restricted only to their own districts for purposes of raising qualifying contributions, this would likely impact candidates differently depending on which district they were seeking to represent. It would eliminate the ability of a candidate to look beyond their district for qualifying contributions, which could likely make qualification more difficult for candidates running in districts that tend to produce fewer political contributions. This disparate impact on candidates based on district would run counter to the goals of the program by depressing participation for candidates. Although there is a benefit to incentivizing candidates to fundraise exclusively within their districts in order to promote further engagement with the voters they seek to represent, on balance the potential

<sup>23</sup> *Id.*

benefit is outweighed by the potentially negative, unintended impact this policy could have on participation rates.

#### H. Status of Seattle Voucher Program

The Commission asked Staff to provide an update on the status of the democracy voucher program in Seattle, Washington. Seattle passed ballot Initiative 122 in 2015, which made Seattle the nation's first jurisdiction to implement taxpayer funded democracy vouchers.<sup>24</sup> Under the program, each registered voter in Seattle received four \$25 vouchers to give to any eligible candidate running for municipal office.<sup>25</sup> The program was funded by an increase in property tax and has an annual budget of \$3 million.<sup>26</sup> Seattle residents were first able to use the vouchers for the 2017 election cycle.<sup>27</sup>

This year, seven city council district races are eligible for vouchers. In early January 2019, the Seattle Ethics Commission mailed the vouchers to all registered voters.<sup>28</sup> Candidates have until May 31, 2019 to decide to participate in the Program. The election takes place on November 5, 2019.<sup>29</sup>

Staff continues to monitor the voucher program in Seattle, observing how the Seattle Ethics and Elections Commission administers the program and what its impact will be. As previously stated during this review project, Staff does not recommend that San Francisco pursue a voucher-based public financing model at this time.

#### I. Portion of a Contribution that Can Be Matched

One of Staff's recommendations is to lower to the portion of an eligible contribution that can be matched with public funds. Currently, up the full \$500 of such a contribution can be matched; Staff recommended that only up to \$100 of a contribution be matched to incentivize candidates to engage with greater numbers of voters, especially those who cannot make larger contributions.

At the April Commission meeting, some stakeholders commented that Staff's proposal would distribute less public money for a maximum \$500 contribution than under current law, which is \$1,500. The Commission sought more information on the impacts of using a different figure, such as \$150 or \$200, as the highest portion of a contribution that could be matched.

Chart 2 compares the effects of six-to-one matching on a \$100 contribution and a \$500 contribution depending on whether \$100, \$150, or \$200 is the most that can be matched.

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<sup>24</sup> Bob Young, 'Democracy Vouchers' Win in Seattle; First in Country, THE SEATTLE TIMES (updated Nov. 4, 2015, 6:20 AM), <https://www.seattletimes.com/seattle-news/politics/democracy-vouchers/>.

<sup>25</sup> *Id.*

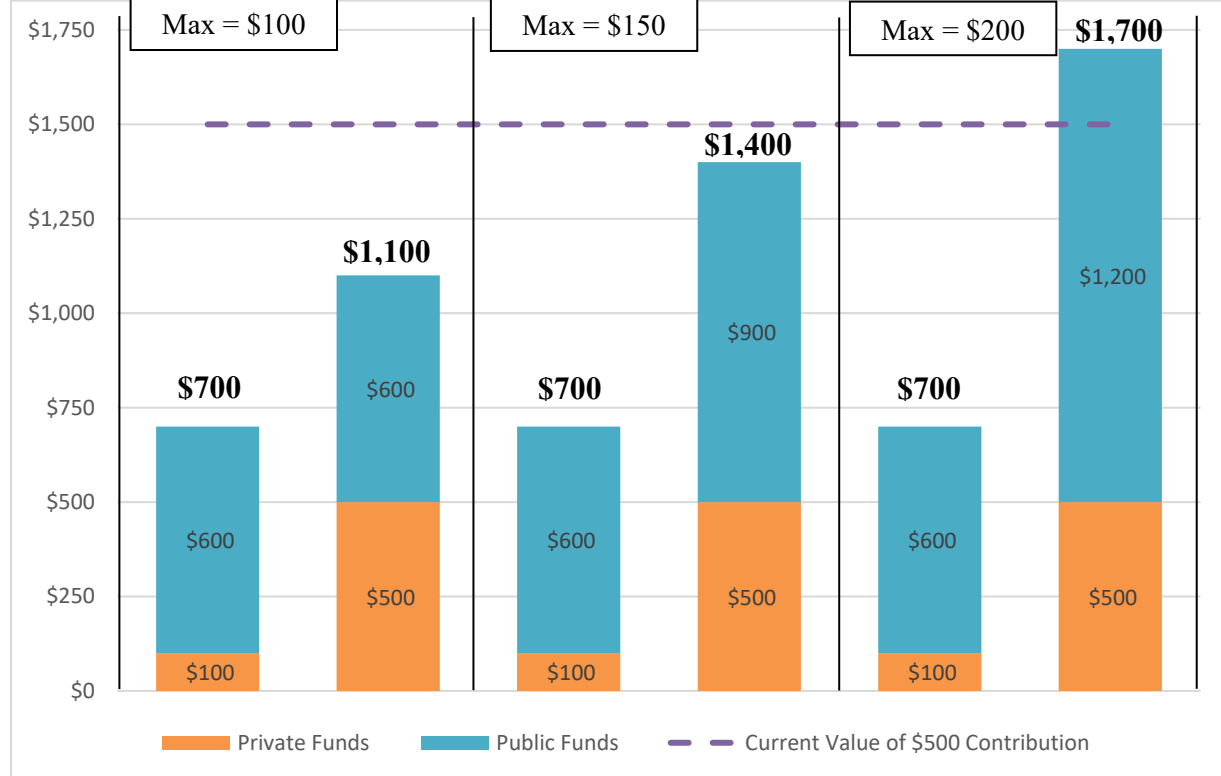
<sup>26</sup> *Democracy Voucher Program*, SEATTLE ETHICS & ELECTIONS COMMISSION, <http://www.seattle.gov/democracyvoucher/about-the-program> (last visited May 17, 2019).

<sup>27</sup> *Which Candidates are Participating in the Democracy Voucher Program? The Final List is Here!*, SEATTLE ETHICS & ELECTIONS COMMISSION (June 5, 2017), [http://www.seattle.gov/Documents/Departments/EthicsElections/DemocracyVoucher/Democracy%20Voucher%20-%20English%20-%20June%205%20-%20Press%20Release%20-%20FINAL\(1\).pdf](http://www.seattle.gov/Documents/Departments/EthicsElections/DemocracyVoucher/Democracy%20Voucher%20-%20English%20-%20June%205%20-%20Press%20Release%20-%20FINAL(1).pdf)

<sup>28</sup> Those who are not registered voters are otherwise eligible can request the vouchers from the Seattle Ethics Commission.

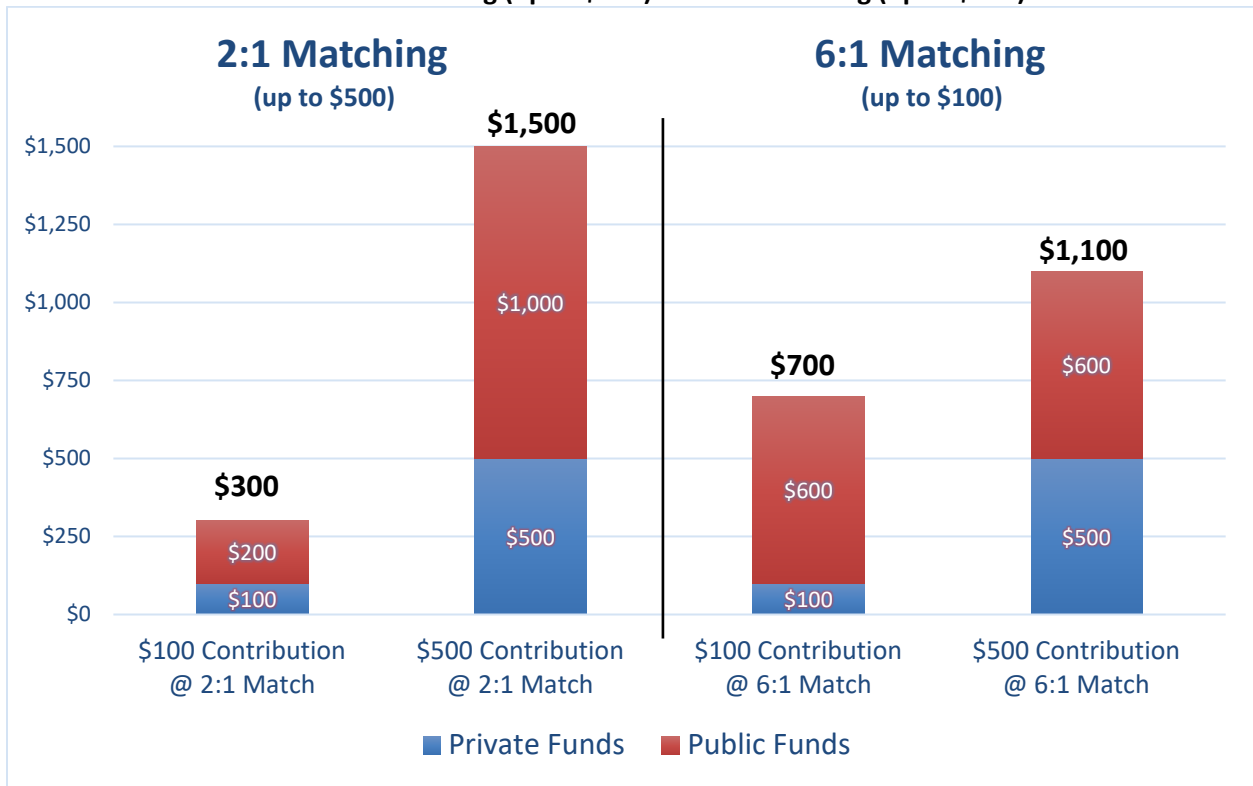
<sup>29</sup> Elections Calendar 2019, WASH. SECRETARY OF STATE, [https://www.sos.wa.gov/elections/calendar\\_list.aspx?y=2019](https://www.sos.wa.gov/elections/calendar_list.aspx?y=2019) (last visited May 17, 2019).

**Chart 2 – Comparison of Matching of \$100 and \$500 Contributions Under 6:1 Matching Rate**



As a review, the program currently matches the full amount of an eligible contribution, up to the \$500 contribution limit. For example, if one resident contributes \$100 while another contributes \$500, the second contribution is five times larger than the first. While the first contribution is matched with \$200 and yields \$300, the \$500 contribution is matched with \$1,000 and yields \$1,500. The value that the candidate obtains from the larger contribution, \$1,500, is still five times larger than the value of the smaller contribution, \$300. Chart 3 shows this under the “2:1 Matching” section.

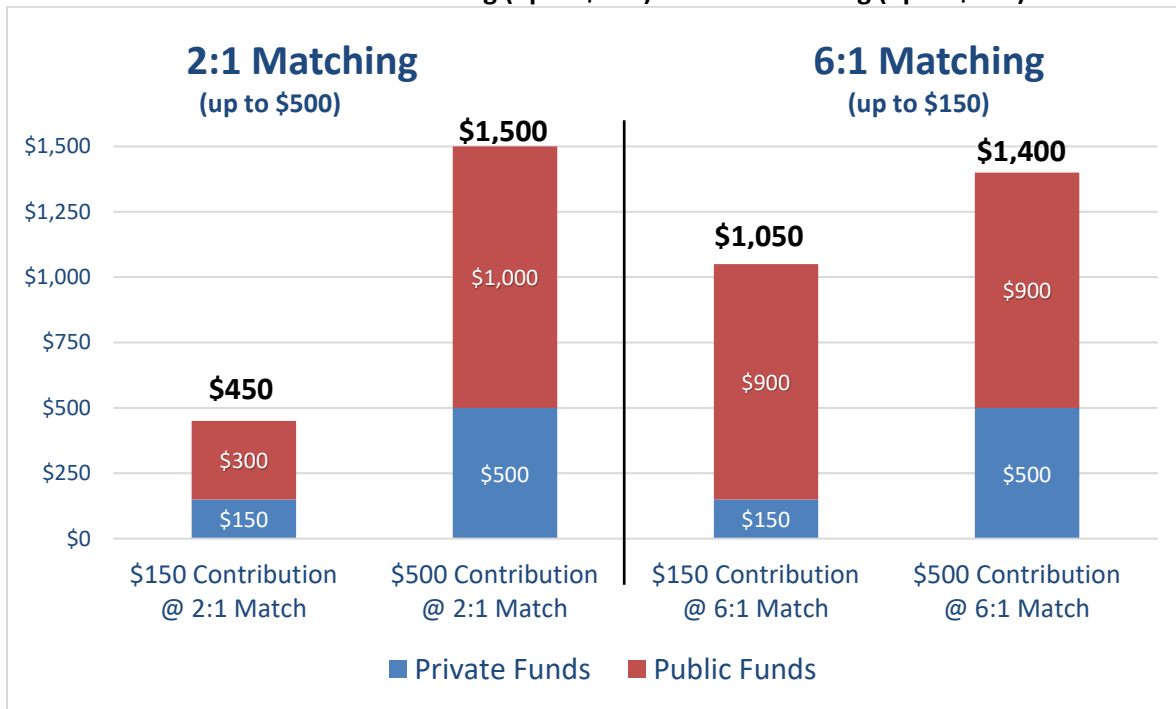
Chart 3: 2:1 Matching (up to \$500) and 6:1 Matching (up to \$100)



By contrast, if only the first \$100 of a contribution were matched at a six-to-one ratio, the relative difference between a \$100 contribution and a \$500 contribution would be less pronounced. As Chart 3 illustrates, a \$100 contribution is matched with \$600 and yields \$700, and a \$500 contribution is matched with \$600 and yields \$1,100.

Staff also analyzed the possibility of matching up to \$150, rather than \$100. As Chart 4 shows, the value of a maximum contribution would decline just 6% from \$1,500 to \$1,400.

Chart 4: 2:1 Matching (up to \$500) and 6:1 Matching (up to \$150)



Staff recommends that, if the commission desires a matching maximum that is higher than \$100, matching up to \$150 would be a good alternative. As shown in Chart 4, a \$150 limit would still help to bring the value of a \$150 contribution and a \$500 closer together and would therefore serve to incentivize candidates to pursue larger numbers of small contributions.

### III. Summary of Legislative Recommendations

The ordinance attached here as Attachment 1 contains all of Staff's legislative recommendations as presented at the April meeting. In addition, the ordinance reflects two minor changes that are described below.

The recommendations are as follows:

1. **Provide public financing only for the first \$100 from any contributor; matched at a six-to-one ratio.**
  - a. **Alternative:** Provide public financing for the first \$150, instead of \$100.
2. **Increase the initial grant to \$60,000 (supervisory) and \$300,000 (mayoral).**
3. **Increase the maximum funding a candidate can receive:**
  - a. **Supervisory:** \$255,000 (non-incumbent) and \$252,000 (incumbent).
  - b. **Mayoral:** \$1,200,000 (non-incumbent) and \$1,185,000 (incumbent).
4. **Increase the initial IECs to \$350,000 (supervisory) and \$1.7 million (mayoral).**

5. **Allow initial grants to be distributed on the 284<sup>th</sup> day before the election; retain the 142<sup>nd</sup> day before the election as the earliest date on which matching funds can be distributed.**
6. **Align the qualification fundraising period for supervisorial candidates with that of mayoral candidates by including the 70<sup>th</sup> day before the election.**
7. **Require that supervisorial candidates file threshold reports upon raising or spending \$10,000, rather than \$5,000.**

The following subsections explain the legislative recommendations that were not included in the April report.

A. Lower Maximum Amount of Public Financing for Incumbents

In April, Staff recommended higher maximum funding levels for candidates that did not distinguish between incumbents and non-incumbents. Attachment 1 would retain the approach taken in current law and institute slightly lower maximum funding levels for incumbents. Under current law, incumbents are eligible to receive slightly less than non-incumbents, under the theory that non-incumbents require a higher level of resources to mount a competitive campaign. Attachment 1 follows this model by allowing non-incumbent supervisorial candidates to receive up to \$255,000, but only allowing incumbents to receive up to \$252,000. Likewise, non-incumbent mayoral candidates would be able to receive up to \$1,200,000, while incumbents would only be eligible to receive up to \$1,185,000. These differences are in line with the current provisions for incumbents and non-incumbents, and Staff believes that they should be retained under the proposed model.

B. Threshold Filings at \$10,000 for Supervisorial Candidates

Under current law, each supervisorial candidate must file a threshold notice within twenty-four hours of raising or spending \$5,000, and mayoral candidates must do so upon raising or spending \$50,000. The purpose of this filing is to notify Staff of when a candidate in the race has reached this milestone. This information is relevant because no candidate may be certified as eligible to receive public financing until at least one opponent in the race has reached that financial threshold.

However, there is a flaw in this requirement for supervisorial candidates. Candidates must file the threshold notice upon raising or spending \$5,000, but \$10,000 is the financial threshold that is relevant for purposes of administering the program. By comparison, mayoral candidates must file the threshold notice upon raising or spending \$50,000, and \$50,000 is the level that an opponent must reach before a candidate can be certified to participate in the program. Staff recommends that this error be corrected so that threshold notices filed by supervisorial candidates can have their intended effect.

# ATTACHMENT 1



[Campaign and Governmental Conduct Code - Public Campaign Financing]

**Ordinance amending the Campaign and Governmental Conduct Code to increase the matching ratio for campaign contributions raised by candidates participating in the City's public financing program and the amount of public funds available for those candidates.**

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. The Campaign and Governmental Conduct Code is hereby amended by revising Sections 1.104, 1.140, 1.143, 1.144, 1.152, and 1.154, to read as follows:

**SEC. 1.104. DEFINITIONS.**

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

\* \* \* \*

"Matching contribution" shall mean a contribution up to ~~\$500~~ \$100, made by an individual, other than the candidate, who is a resident of San Francisco. Matching contributions shall not include loans, contributions received more than 18 months before the date of the election, qualifying contributions or contributions made by the candidate's spouse, registered domestic partner or dependent child. Matching contributions must also comply with all requirements of this Chapter. Matching contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the

1 contributor's name and address. The Ethics Commission shall set forth, by regulation, the  
2 types of documents sufficient to establish a contributor's name and address for the purpose of  
3 this subsection.

4 \* \* \* \*

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

6 \* \* \* \*

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

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

12 (2) Have a candidate committee that has received at least \$10,000 in qualifying  
13 contributions from at least 100 contributors ~~before~~ by the 70th day before the election; or, if the  
14 candidate is an incumbent member of the Board of Supervisors, have a candidate committee  
15 that has received at least \$15,000 in qualifying contributions from at least 150 contributors  
16 ~~before~~ by the 70th day before the election;

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

20 (4) Agree that his or her candidate committee will not make qualified campaign  
21 expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$250,000~~  
22 \$350,000, or as adjusted under Section 1.143 of this Chapter.

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

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

3 (2) Have a candidate committee that has received at least \$50,000 in qualifying  
4 contributions from at least 500 contributors by the 70th day before the election; or, if the  
5 candidate is the incumbent Mayor, have a candidate committee that has received at least  
6 \$75,000 in qualifying contributions from at least 750 contributors by the 70th day before the  
7 election;

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

11 (4) Agree that his or her candidate committee will not make qualified campaign  
12 expenditures that total more than the candidate's Individual Expenditure Ceiling of ~~\$1,475,000~~  
13 \$1,700,000, or as adjusted under Section 1.143 of this Chapter.

14 \* \* \* \*

#### 15 **SEC. 1.143. ADJUSTING INDIVIDUAL EXPENDITURE CEILINGS.**

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

19 (a) The Executive Director shall adjust the Individual Expenditure Ceiling of a  
20 candidate for Mayor by \$250,000 when the sum of the Total Opposition Spending against that  
21 candidate and the highest level of the Total Supportive Funds of any other candidate for  
22 Mayor is greater than ~~\$1,475,000~~ \$1,700,000 by any amount. Thereafter, the Executive Director  
23 shall further adjust a candidate's Individual Expenditure Ceiling in increments of \$250,000,  
24 whenever the sum of the Total Opposition Spending against that candidate and the highest  
25

1 level of the Total Supportive Funds of any other candidate for Mayor is greater than the  
2 candidate's current Individual Expenditure Ceiling by any amount.

3 (b) The Executive Director shall adjust the Individual Expenditure Ceiling of a  
4 candidate for the Board of Supervisors by \$50,000 when the sum of the Total Opposition  
5 Spending against that candidate and the highest level of the Total Supportive Funds of any  
6 other candidate for the same office on the Board of Supervisors is greater than ~~\$250,000~~  
7 \$350,000 by any amount. Thereafter, the Executive Director shall further adjust a candidate's  
8 Individual Expenditure Ceiling in increments of \$50,000, whenever the sum of the Total  
9 Opposition Spending against that candidate and the highest level of the Total Supportive  
10 Funds of any other candidate for the same office is greater than the candidate's current  
11 Individual Expenditure Ceiling by any amount.

12 \* \* \* \*

13 **SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS.**

14 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate is eligible to  
15 receive public financing under this Chapter, the Executive Director shall forward the  
16 certification to the Controller, and the Controller shall disburse payments to the candidate from  
17 the Election Campaign Fund in accordance with the certification and this Section.

18 (b) TIME OF PAYMENTS. The Controller shall not make any payments under this  
19 Chapter to any candidate more than ~~142~~ 284 days before the date of the election. Payments  
20 from the Controller shall be disbursed to eligible candidates within two business days of the  
21 Controller receiving notification from the Ethics Commission regarding the amount of the  
22 disbursement, except that within fifteen calendar days before the election, such payments  
23 shall be made within one business day.

24 (c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.  
25 Candidates for Mayor certified as eligible to receive public financing for their election

1 campaigns will have access to funds from the Election Campaign Fund on a first-come, first-  
2 served basis according to the following formula:

3 (1) Upon qualification the candidate shall receive a one-time payment of  
4 ~~\$100,000~~ \$300,000 from the Election Campaign Fund.

5 (2) After the initial payment under ~~§~~subsection (c)(1), for the first ~~\$425,000~~  
6 \$150,000 in matching contributions raised by the candidate, the candidate shall receive ~~two~~ six  
7 dollars from the Election Campaign Fund for each dollar raised. If the candidate is the  
8 incumbent Mayor, after the initial payment under subsection (c)(1), for the first \$147,500 in matching  
9 contributions raised by the candidate, the candidate shall receive six dollars from the Election  
10 Campaign Fund for each dollar raised.

11 ~~(3) After the payments under Subsection (2), for the next \$25,000 in matching~~  
12 ~~contributions raised by the candidate, the candidate shall receive one dollar from the Election~~  
13 ~~Campaign Fund for each dollar raised. If the candidate is the incumbent Mayor, after the payments~~  
14 ~~under Subsection (2), for the next \$12,500 in matching contributions raised by the candidate, the~~  
15 ~~candidate shall receive one dollar from the Election Campaign Fund for each dollar raised.~~

16 ~~(4)~~ (3) The maximum amount of public funds a non-incumbent mayoral  
17 candidate may receive is ~~\$975,000~~ \$1,200,000. The maximum amount of public funds an  
18 incumbent mayoral candidate may receive is ~~\$962,500~~ \$1,185,000.

19 (d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD  
20 OF SUPERVISORS. Candidates for the Board of Supervisors certified as eligible to receive  
21 public financing for their election campaigns will have access to funds from the Election  
22 Campaign Fund on a first-come, first-served basis according to the following formula:

23 (1) Upon qualification the candidate shall receive a one-time payment of ~~\$20,000~~  
24 \$60,000 from the Election Campaign Fund.

(2) After the initial payment under ~~§~~subsection (d)(1), for the first ~~\$50,000~~ \$32,500 in matching contributions raised by the candidate, the candidate shall receive ~~two~~ six dollars from the Election Campaign Fund for each dollar raised. If the candidate is an incumbent member of the Board of Supervisors after the initial payment under subsection (d)(1), for the first \$32,000 in matching contributions raised by the candidate, the candidate shall receive six dollars from the Election Campaign Fund for each dollar raised.

~~(3) After the payments under Subsection (2), for the next \$35,000 in matching contributions raised by the candidate, the candidate shall receive one dollar from the Election Campaign Fund for each dollar raised. If the candidate is an incumbent member of the Board of Supervisors, after the payments under Subsection (2), for the next \$32,500 in matching contributions raised by the candidate, the candidate shall receive one dollar from the Election Campaign Fund for each dollar raised.~~

~~(4)~~ (3) The maximum amount of public funds a non-incumbent candidate for the Board of Supervisors may receive is ~~\$155,000~~ \$255,000. The maximum amount of public funds an incumbent candidate for the Board of Supervisors may receive in ~~\$152,500~~ \$252,000.

\* \* \* \*

## **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF SUPERVISORS AND MAYOR.**

### **(a) ELECTIONS FOR THE BOARD OF SUPERVISORS.**

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

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

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

14                   \* \* \* \*

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

19  
20                   Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
21 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
22 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
23 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
24 additions, and Board amendment deletions in accordance with the "Note" that appears under  
25 the official title of the ordinance.

1  
2           Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word  
3 of this ordinance, or any application thereof to any person or circumstance, is held to be  
4 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision  
5 shall not affect the validity of the remaining portions or applications of the ordinance. The  
6 Board of Supervisors hereby declares that it would have passed this ordinance and each and  
7 every section, subsection, sentence, clause, phrase, and word not declared invalid or  
8 unconstitutional without regard to whether any other portion of this ordinance or application  
9 thereof would be subsequently declared invalid or unconstitutional.  
10

11           Section 5. Amendments to Campaign Finance Reform Ordinance. Under Campaign  
12 and Governmental Conduct Code Section 1.103, the City may enact this ordinance without  
13 voter approval only if (a) the ordinance furthers the purposes of Campaign and Governmental  
14 Conduct Code Article I, Chapter 1; (b) the Ethics Commission approves the ordinance in  
15 advance by at least a four-fifths vote of all its members; (c) the ordinance has been available  
16 for public review at least 30 days before the ordinance is considered by the Board of  
17 Supervisors or any committee of the Board of Supervisors; and (d) the Board of Supervisors  
18 approves the proposed amendment by at least a two-thirds vote of all its members.  
19

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

22 By: \_\_\_\_\_  
23       ANDREW SHEN  
24       Deputy City Attorney

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