

1 [Public Financing for Mayoral Candidates.]

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3 **Ordinance amending the Campaign and Governmental Conduct Code by amending**
4 **sections 1.104, 1.108, 1.130, 1.134, 1.136, 1.138, 1.140, 1.142, 1.144, 1.148, 1.150, 1.152,**
5 **1.154, 1.156 and 1.170 and adding sections 1.134.5, 1.138.5, 1.140.5, 1.144.5 and 1.146**
6 **to create a public financing program for mayoral candidates, appropriate funding for**
7 **the program and make other changes to the Campaign Finance Reform Ordinance.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

12 Section 1. The San Francisco Campaign and Governmental Conduct Code is hereby
13 amended by amending Sections 1.104, 1.108, 1.130, 1.134, 1.136, 1.140, 1.142, 1.144,
14 1.148, 1.150, 1.152, 1.156 and 1.170 to read as follows:

15 **SEC. 1.104. DEFINITIONS.**

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

17 (a) "Candidate" shall mean any individual listed on the ballot for election to any City
18 elective office or who otherwise has taken affirmative action to seek nomination or election to
19 such office. The term "candidate" shall also mean the candidate's campaign committee.

20 (b) "Charitable organization" shall mean an entity exempt from taxation pursuant to
21 Title 26, Section 501 of the United State Code.

22 (c) "City elective office" shall mean the offices of Mayor, Member of the Board of
23 Supervisors, City Attorney, District Attorney, Treasurer, Sheriff, Assessor, Public Defender,
24 Member of the Board of Education of the San Francisco Unified School District and Member
25 of the Governing Board of the San Francisco Community College District. The Board of

1 Supervisors shall be deemed to consist of eleven separate City elective offices, the San
2 Francisco Community College District shall be deemed to consist of seven separate City
3 elective offices, and the Board of Education of the San Francisco Unified School District shall
4 be deemed to consist of seven separate City elective offices.

5 (d) "Committee" shall be defined as set forth in the Government Code of the State
6 of California (commencing at Section 81000).

7 (e) "Contribution" shall be defined as set forth in Government Code of the State of
8 California (commencing at Section 81000); provided, however, that "contribution" shall include
9 loans of any kind or nature.

10 (f) "Election" shall mean any primary, general, special or run-off municipal election
11 held in the City and County of San Francisco for City elective office, regardless of whether the
12 election is conducted by district or Citywide. With respect to the offices of Public Defender
13 and Assessor, primary and general elections are separate elections for purposes of this
14 ordinance. The primary election period for these offices shall extend from January 1 of the
15 first year of an election cycle up to and including the date of the primary election, and the
16 general election period for these offices shall extend from the day following the primary
17 election up to and including December 31 of the fourth year of the election cycle. With
18 respect to the offices of Mayor, City Attorney, District Attorney, Sheriff, Treasurer and
19 Supervisor, general and run-off elections are separate elections for the purposes of this
20 ordinance. The general election period shall extend from January 1 of the first year of an
21 election cycle up to and including the date of the general election, and the run-off election
22 period shall extend from the date of the general election up to and including December 31 of
23 the fourth year of the election cycle.

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1 (g) "Election cycle" shall mean a four-year period preceding a term of office as
2 defined by the San Francisco Charter, beginning on January 1, and ending on December 31
3 of the fourth year thereafter.

4 (h) "Enforcement authority" shall mean the District Attorney of the City and County
5 of San Francisco for criminal enforcement and the City Attorney for civil enforcement. Nothing
6 in this Chapter shall be construed as limiting the authority of any law enforcement agency or
7 prosecuting attorney to enforce the provisions of this Chapter under any circumstances where
8 such law enforcement agency or prosecuting attorney otherwise has lawful authority to do so.

9 (i) "Ethics Commission" shall mean the San Francisco Ethics Commission.

10 (j) "Executive Director" shall mean the Executive Director of the Ethics
11 Commission, or the Executive Director's designee.

12 (k) "Individual Expenditure Ceiling" shall mean the expenditure ceiling established for
13 each individual candidate for Mayor who has been certified by the Ethics Commission as eligible to
14 receive public funds under this Chapter.

15 (l)(4) "Matching contribution" shall mean a contribution up to \$500, that is made by an
16 individual, other than the candidate, who is a resident of San Francisco. Matching
17 contributions shall not include loans, contributions that are received more than 18 months before
18 the date of the election, contributions made by the candidate's immediate family or qualifying
19 contributions, and must comply with all requirements of this Chapter. Matching contributions
20 under \$100 that are not made by written instrument must be accompanied by written
21 documentation of the contributor's name and address.

22 (m)(4) "Measure" shall mean any City referendum, recall or ballot proposition, whether
23 or not it qualifies for the ballot.

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1 ~~(n)~~~~(m)~~ "Person" shall mean any individual, partnership, corporation, association, firm,
2 committee, club or other organization or group of persons, however organized.

3 ~~(o)~~~~(n)~~ "Qualified campaign expenditure" for candidates shall mean includes all of the
4 following:

5 (1) Any expenditure made by a candidate, or by a committee controlled by
6 the candidate, for the purpose of influencing or attempting to influence the actions of the
7 voters for the election of the candidate to City elective office.

8 (2) A nonmonetary contribution provided to the candidate, officeholder or
9 committee controlled by the candidate.

10 (3) The total cost actually paid or incurred by the candidate or controlled
11 committee of the candidate for a slate mailing or other campaign literature produced or
12 authorized by more than one candidate.

13 (4) Expenses incurred, but for which payment has not yet been made.

14 (5) Expenses associated with complying with applicable laws, including but
15 not limited to the California Political Reform Act, Government Code section 81000, et seq.,
16 Chapter 3 of this Article governing electronic filing of campaign statements, and the provisions
17 of this Chapter.

18 (6) "Qualified campaign expenditure" shall not include expenses incurred in
19 connection with an administrative or judicial proceeding, payments for administrative, civil or
20 criminal fines, including late filing fines, or for inaugural activities or officeholder expenses.

21 ~~(p)~~~~(o)~~ "Qualifying contribution" shall mean a contribution of not less than \$10 and not
22 more than \$100 that is made by an individual who is a resident of San Francisco and that
23 complies with all requirements of this Chapter. Qualifying contributions shall not include
24 loans, contributions that are received more than 18 months before the date of the election or
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1 contributions made by the candidate or the candidate's immediate family. Qualifying contributions
2 under \$100 that are not made by written instrument must be accompanied by written
3 documentation of the contributor's name and address.

4 ~~(q)(p)~~ "Recorded telephone message" shall mean a recorded audio message that
5 expressly supports or opposes a candidate for City elective office that is distributed by
6 telephone.

7 ~~(r)(q)~~ "Surplus funds" shall mean funds remaining in a candidate's campaign account
8 at the time the candidate leaves City elective office, or at the end of the post-election reporting
9 period following the defeat of the candidate for City elective office, whichever occurs last, and
10 funds remaining in the campaign account of a committee primarily formed to support or
11 oppose a measure at the end of the post-election reporting period following the election at
12 which the measure appeared on the ballot.

13 ~~(s)~~ "Total Opposition Spending" shall mean the sum of any expenditures made or expenses
14 incurred by any person or persons for the purpose of making independent expenditures, electioneering
15 communications or member communications in opposition to a specific candidate for Mayor.

16 ~~(t)~~ "Total Supportive Funds" shall mean the sum of all contributions received by a
17 candidate for Mayor other than any funds in the candidate's Campaign Contingency Account, plus the
18 expenditures made or expenses incurred by any person or persons for the purpose of making
19 independent expenditures, electioneering communications or member communications in support of
20 that same candidate.

21 ~~(u)~~ "Trust Account Limit," shall mean the amount of funds in the Campaign Contribution
22 Trust Account of a candidate for Mayor who has been certified by the Ethics Commission as eligible to
23 receive public funds under this Chapter such that the expenditure of this amount would cause the
24 candidate to reach, but not exceed, the candidate's Individual Expenditure Ceiling. The Trust Account
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1 Limit shall be reduced as the candidate spends money and shall be increased when his or her
2 Individual Expenditure Ceiling increases.

3 (v)(#) "Written instrument" means a check, credit card receipt, or record of electronic
4 transfer of funds.

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6 **SEC. 1.108. CANDIDATE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS AND**
7 **CAMPAIGN CONTINGENCY ACCOUNTS –~~ESTABLISHMENT~~.**

8 (a) Candidate Campaign Contribution Trust Accounts.

9 (1) Each treasurer for a candidate shall establish a campaign contribution trust
10 account for the candidate at an office of a bank located in the City and County of San
11 Francisco, the account number and branch identification of which shall be filed with the Ethics
12 Commission within 10 days of the establishment of the account. All of the expenditures by the
13 candidate for the City elective office sought shall be made from that account.

14 (2) A candidate for Mayor who has been certified by the Ethics Commission as eligible to
15 receive public funds under this Chapter shall not, at any time, have an amount of funds greater than the
16 candidate's Trust Account Limit in his or her Campaign Contribution Trust Account.

17 (b) Campaign Contingency Accounts for Candidates for Mayor.

18 (1) Notwithstanding any other section of this Code, including section 1.200, a candidate for
19 Mayor who has been certified by the Ethics Commission as eligible to receive public funds under this
20 Chapter may maintain a Campaign Contingency Account separate from his or her Campaign
21 Contribution Trust Account into which he or she may deposit money in anticipation of the candidate's
22 Individual Expenditure Ceiling being raised. All money deposited into this account shall be reported
23 as if it were deposited into the candidate's Campaign Contribution Trust Account.

1 (2) No expenditures shall be made from a Campaign Contingency Account established
2 pursuant to this section. Funds may be transferred between a candidate's Campaign Contingency
3 Account and the candidate's Campaign Contribution Trust Account, provided that the amount of funds
4 in the candidate's Campaign Contribution Trust Account does not exceed the candidate's Trust Account
5 Limit. All funds that qualify as matching contributions and are transferred from the Campaign
6 Contingency Account to the Campaign Contribution Trust Account shall be eligible to be matched with
7 public funds in accordance with the procedures set forth in this Chapter. Within 10 days after the date
8 of the election, the candidate shall turn over all funds in the Campaign Contingency Account to the
9 Mayoral Election Campaign Fund.

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11 **SEC. 1.130. AMOUNT OF EXPENDITURE CEILINGS.**

12 (a) In primary elections, any candidate for Assessor or Public Defender who agrees
13 to expenditure ceilings shall not make total qualified campaign expenditures exceeding
14 \$211,000. In general elections, any candidate for Assessor or Public Defender who agrees to
15 expenditure limits shall not make total qualified campaign expenditures exceeding \$121,000.

16 (b) In general elections, any candidate for Mayor who agrees to expenditure ceilings
17 shall not make total qualified campaign expenditures exceeding ~~\$1,375,000~~\$724,000. In run-off
18 elections, any candidate for Mayor who agrees to expenditure limits shall not make total
19 qualified campaign expenditures exceeding \$482,000.

20 (c) In general elections, any candidate for City Attorney, District Attorney, Treasurer
21 or Sheriff who agrees to expenditure ceilings shall not make total qualified campaign
22 expenditures exceeding \$211,000. In run-off elections, any candidate for City Attorney, District
23 Attorney, Treasurer or Sheriff who agrees to expenditure limits shall not make total qualified
24 campaign expenditures exceeding \$121,000.

1 (d) In general elections, any candidate for the Board of Supervisors who agrees to
2 expenditure ceilings shall not make total qualified campaign expenditures exceeding \$83,000.
3 In run-off elections, any candidate for the Board of Supervisors who agrees to expenditure
4 limits shall not make total qualified campaign expenditures exceeding \$22,000.

5 (e) Any candidate for the Board of Education of the San Francisco Unified School
6 District or the Governing Board of the San Francisco Community College District who agrees
7 to expenditure ceilings shall not make total qualified campaign expenditures exceeding
8 \$90,000.

9 (f) The expenditure ceilings set forth in this section for a particular office apply to
10 any special election to fill a vacancy in that office. The expenditure ceilings applicable to the
11 general or primary election for the office apply in any initial election held as part of the special
12 election. In the event that a run-off is held as part of a special election, the expenditure
13 ceilings applicable to the run-off for that office, or general election in the case of the office of
14 Public Defender or Assessor, shall apply.

15 (g) The Ethics Commission is authorized to adjust annually the expenditure ceilings
16 imposed by this Section to reflect the change in the California Consumer Price Index for that
17 year.

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19 **SEC. 1.134. EXPENDITURE CEILINGS LIFTED.**

20 This Section shall apply only if at least one candidate for the City elective office has
21 filed a statement with the Department of Elections pursuant to Section 1.128 indicating
22 acceptance of the applicable expenditure limits, and the applicable expenditure limit has not
23 already been lifted.

1 (a) If a candidate who has filed a statement under Section 1.128 declining to accept
2 expenditure ceilings receives contributions or makes qualified campaign expenditures in
3 excess of 100 percent of the applicable expenditure ceiling, or if a person or persons make
4 expenditures or payments, or incur expenses for the purpose of making independent
5 expenditures, electioneering communications or member communications in support of or in
6 opposition to a candidate that total more than 100 percent of the applicable expenditure
7 ceiling, the applicable expenditure limit shall no longer be binding on any candidate seeking
8 election to the same City elective office. This subsection shall not apply to a candidate for Mayor
9 who has been certified by the Ethics Commission as eligible to receive public funds under this Chapter
10 and is therefore subject to an Individual Expenditure Ceiling.

11 (b) Any candidate who declines to adopt the voluntary expenditure ceiling and who
12 receives contributions, makes expenditures, incurs expenses or has funds in his campaign
13 trust account that exceed 100 percent of the applicable expenditure ceiling shall, within 24
14 hours of exceeding 100 percent of the applicable expenditure ceiling, file a statement with the
15 Ethics Commission, on forms to be provided by the Ethics Commission, stating that fact and
16 any additional information required by the Ethics Commission. Within 24 hours after receiving
17 such notice, the Ethics Commission shall inform every other candidate for that office that the
18 expenditure ceiling has been lifted.

19 (c) Any person that makes expenditures or payments, or incurs expenses for the
20 purpose of making independent expenditures, electioneering communications or member
21 communications in support of or in opposition to any candidate in an amount of \$5,000 or
22 more shall, within 24 hours of reaching this threshold, file a statement with the Ethics
23 Commission, on forms to be provided by the Ethics Commission, stating that fact and any
24 additional information required by the Ethics Commission. Thereafter, until such time as the
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1 applicable expenditure ceiling is lifted, any such committee shall file a supplemental statement
2 with the Ethics Commission each time the committee makes expenditures or payments or
3 incurs expenses for the purpose of making independent expenditures, electioneering
4 communications or member communications or incurs expenses in support of or in opposition
5 to any candidate of an additional \$5,000. The supplemental statements shall be filed within
6 24 hours of reaching these spending thresholds. This subsection shall not apply to any
7 expenditures, payments, or expenses incurred for the purpose of making independent expenditures,
8 electioneering communications or member communications in support of or in opposition to any
9 candidate for Mayor if the Ethics Commission has certified that at least one candidate for Mayor is
10 eligible to receive public funds under this Chapter.
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12 **SEC. 1.136. PUBLIC FINANCING OF ELECTION CAMPAIGNS.**

13 Candidates for the Board of Supervisors or Mayor who are certified by the Ethics
14 Commission as eligible to receive public financing of their election campaigns, and who
15 comply with the applicable conditions and restrictions specified in Section 1.140 and 1.140.5 of
16 this Chapter, may receive public funds as provided in this Chapter to defray the costs of their
17 election campaigns.
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19 **SEC. 1.138. SUPERVISOR ELECTION CAMPAIGN FUND; APPROPRIATION OF**
20 **FUNDS.**

21 (a) ESTABLISHMENT of SUPERVISOR ELECTION CAMPAIGN fund. There
22 is hereby established a special fund of the City and County of San Francisco called the
23 Supervisor Election Campaign Fund. All money deposited in the Fund is hereby appropriated
24 for use as specified in this Chapter and the implementing regulations.
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1 (b) APPROPRIATION TO SUPERVISOR ELECTION CAMPAIGN FUND.

2 Each fiscal year the City and County of San Francisco shall appropriate to the Supervisor
3 Election Campaign Fund an amount sufficient to provide funding for election campaigns as
4 authorized by this Chapter for all candidates for the Board of Supervisors who may be eligible
5 to receive such funds. The Ethics Commission shall assist the Mayor and Board of
6 Supervisors in estimating the amount required. If at any time the amount appropriated is
7 insufficient to fund all eligible candidates, the Ethics Commission shall notify the Mayor and
8 Board of Supervisors, and the City and County shall appropriate additional funds. The Ethics
9 Commission shall assist the Mayor and Board of Supervisors in estimating any additional
10 funds required.

11 (c) APPROPRIATION TO ETHICS COMMISSION. Each fiscal year the City

12 and County of San Francisco shall appropriate to the Ethics Commission an amount sufficient
13 to pay for the costs of administration of the public financing program. This appropriation shall
14 be in addition to and separate from the regular annual appropriation made to the Ethics
15 Commission. The Ethics Commission shall assist the Mayor and Board of Supervisors in
16 estimating the amount required.

17 (d) LIMITATION ON EXPENDITURE OF FUNDS. The annual appropriation

18 to this public financing program, including the cost of administration, shall not exceed \$2.00
19 per resident of the City and County of San Francisco. At the request of the Ethics
20 Commission, the Controller shall estimate the number of residents of the City and County of
21 San Francisco for purposes of this subsection.

1 **SEC. 1.140. ELIGIBILITY TO RECEIVE PUBLIC FINANCING – CANDIDATES FOR**
2 **THE BOARD OF SUPERVISORS.**

3 (a) REQUIREMENTS. To be eligible to receive public financing of campaign
4 expenses under this Chapter, a candidate *for the Board of Supervisors* must:

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

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

9 (3) Have received at least \$5,000 in qualifying contributions from at least 75
10 contributors before the 70th day before the election;

11 (4) Be opposed by another candidate who has either established eligibility to
12 receive public financing, or received contributions or made expenditures which in the
13 aggregate equal or exceed \$5,000;

14 (5) Agree to the following conditions:

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

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

19 (C) The candidate shall not make qualified campaign expenditures which in the
20 aggregate exceed the expenditure limits specified in Section 1.130 of this Chapter, except as
21 provided in Section 1.134 of this Chapter; and

22 (D) The candidate shall agree to participate in at least one debate with the
23 candidate's opponents.

1 (6) Have paid any outstanding late fines or penalties, owed to the City by the
2 candidate or any of the candidate's previous campaign committees, which were imposed for
3 violations of Chapters 1 through 5 of this Article, the campaign finance provisions of the
4 California Political Reform Act (Government Code sections 84100-85704), Chapter 1 of Article
5 II of this Code or Chapters 1 or 2 of Article III of this Code, provided that the Ethics
6 Commission had notified the candidate of such fines or penalties by the time of certification;

7 (7) Have filed any outstanding forms, owed to the City by the candidate or any of the
8 candidate's previous campaign committees, which were required to be filed pursuant to
9 Chapters 1 through 5 of this Article, the campaign finance provisions of the Political Reform
10 Act (Government Code sections 84100-85704), or Chapter 1, Article III of this Code, provided
11 that the Ethics Commission had notified the candidate of such outstanding forms by the time
12 of certification;

13 (8) Have no finding by a court within the prior five years that the candidate knowingly,
14 willfully, or intentionally violated Chapters 1 through 4 of this Article or the campaign finance
15 provisions of the California Political Reform Act (Government Code sections 84100-85704).
16 For purposes of this section, a plea of nolo contendere shall be treated the same as a finding
17 by a court of a willful violation.

18 (b) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS. Whenever the
19 Ethics Commission pursuant to Section 1.130 adjusts the voluntary expenditure ceilings to
20 reflect changes in the California Consumer Price Index, the Commission is authorized to
21 adjust the threshold limits in subsections (a)(3) and (a)(4) of this Section, and Section 1.152,
22 to reflect changes in the California Consumer Price Index.

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1 **SEC. 1.142. PROCESS FOR ESTABLISHING ELIGIBILITY; CERTIFICATION BY**
2 **THE ETHICS COMMISSION.**

3 (a) STATEMENT OF PARTICIPATION OR NON-PARTICIPATION. Each
4 candidate for the Board of Supervisors or Mayor must sign and verify under penalty of perjury
5 a Statement of Participation or Non-Participation in the public financing program. The
6 statement must be filed by the candidate with the Ethics Commission no later than the
7 deadline for filing nomination papers. On the statement, each candidate shall indicate
8 whether he or she intends to participate in the public financing program. A statement of
9 participation or non-participation may not be amended after the deadline for filing nomination
10 papers.

11 (b) DECLARATION BY CANDIDATE.

12 (1) Candidates for the Board of Supervisor. To become eligible to receive public
13 financing of campaign expenses under this Chapter, a candidate for the Board of Supervisors
14 shall declare, under penalty of perjury, that the candidate satisfies the requirements specified
15 in Section 1.140. Candidates shall submit the declaration and any supporting material
16 required by the Ethics Commission to the Ethics Commission on or after June 1 of the election
17 year, but no later than the 70th day before the election. Once the declaration and supporting
18 material are submitted, they may not be amended. The declaration and supporting material
19 may be withdrawn and refiled, provided that the refiling is made no later than the 70th day
20 before the election.

21 (2) Candidates for Mayor. To become eligible to receive public financing of campaign
22 expenses under this Chapter, a candidate for Mayor shall declare, under penalty of perjury, that the
23 candidate satisfies the requirements specified in Section 1.140.5. Candidates shall be permitted to
24 submit the declaration and any supporting material required by the Ethics Commission to the Ethics
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1 Commission starting nine (9) months before the date of the election, but no later than the 70th day
2 before the election. Once the declaration and supporting material are submitted, they may not be
3 amended. The declaration and supporting material may be withdrawn and refiled, provided that the
4 refiling is made no later than the 70th day before the election.

5 (3) Extension of Deadlines. If ~~the~~ any deadline imposed by this section falls on a
6 Saturday, Sunday, or legal holiday, the deadline shall be the next business day.

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

13 (d) DETERMINATION OF OPPOSITION. To determine whether a candidate for the
14 Board of Supervisors is opposed as required under Section 1.140(a)(3) of this Chapter or a
15 candidate for Mayor is opposed as required under Section 1.140.5(a)(4) of this Chapter, the
16 Executive Director shall review the material filed pursuant to Section 1.152 of this Chapter,
17 and may review any other material.

18 (e) CERTIFICATION. If the Executive Director determines that a candidate for the
19 Board of Supervisors has satisfied the requirements of Section 1.140 or a candidate for Mayor
20 has satisfied the requirements of Section 1.140.5, the Executive Director shall notify the candidate
21 and certify to the Controller that the candidate is eligible to receive public financing under this
22 Chapter. The Executive Director shall not certify that a candidate is eligible to receive public
23 financing if the candidate's declaration or supporting material is incomplete or otherwise
24 inadequate to establish eligibility. The Executive Director shall determine whether to certify a
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1 candidate no later than 30 days after the date the candidate submits his or her *candidate*
2 declaration and supporting material, provided that the Executive Director shall make all
3 determinations regarding whether to certify a candidate no later than the 60th day before the election.

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

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

15 (g) RECONSIDERATION. A candidate may request that the Executive Director
16 reconsider a final determination that the candidate is ineligible to receive public funds under
17 this Chapter. The candidate must request reconsideration in writing within five days of the
18 date of notification of ineligibility.

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

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2 **SEC. 1.144. DISBURSEMENT OF PUBLIC FUNDS – CANDIDATES FOR THE**
3 **BOARD OF SUPERVISORS.**

4 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate *for the Board of*
5 *Supervisors* is eligible to receive public financing under this Chapter, the Executive Director
6 shall forward the certification to the Controller and the Controller shall disburse payments to
7 the candidate from the *Supervisor* Election Campaign Fund in accordance with the certification
8 and this Section.

9 (b) TIME OF PAYMENTS. The Controller shall not make any payments under this
10 Chapter *to a candidate for the Board of Supervisors* until the day following the deadline for filing
11 nomination papers with the Director of Elections.

12 (c) PAYMENTS FOR GENERAL ELECTION EXPENSES. Upon certification of
13 eligibility, and in accordance with subsection (b) of this Section, the candidate shall receive a
14 payment of \$5,000 from the *Supervisor* Election Campaign Fund. Thereafter, for each of the
15 first \$5,000 dollars of matching contributions raised by the candidate, the candidate shall
16 receive four dollars from the *Supervisor* Election Campaign Fund. Thereafter, for each
17 additional dollar of matching contributions raised by the candidate, the candidate shall receive
18 one dollar from the *Supervisor* Election Campaign Fund. The maximum amount of public
19 funds a candidate *for the Board of Supervisors* may receive to defray general election expenses
20 under this Chapter is \$43,750. The amount of public funds paid *to a candidate for the Board of*
21 *Supervisors* under this Section shall not be affected by the lifting of expenditure limits under
22 Section 1.134.

23 (d) PAYMENTS FOR RUN-OFF ELECTION EXPENSES. Each candidate *for the*
24 *Board of Supervisors* who is certified to receive public funds under this Chapter and who
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1 qualifies for a run-off election shall receive a payment of \$5,000 from the Supervisor Election
2 Campaign Fund. Thereafter, for each dollar of matching contributions raised by the
3 candidate, the candidate shall receive four dollars from the Supervisor Election Campaign
4 Fund. The maximum amount of public funds such candidates may receive to defray run-off
5 election expenses under this Chapter is \$17,000. The amount of public funds paid under this
6 Section to candidates for the Board of Supervisors shall not be affected by the lifting of
7 expenditure limits under Section 1.134.

8 (e) PRORATION OF FUNDS. Notwithstanding subsections (c) and (d) of this
9 Section, if the Executive Director makes an initial or the Ethics Commission makes a final
10 determination, pursuant to Section 1.154(b) of this Chapter, that funds in the Supervisor
11 Election Campaign Fund are insufficient, the Executive Director or the Commission shall
12 distribute the money in the Fund on a pro rata basis to all candidates who are certified as
13 eligible to receive public funds.

14 (f) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT. Candidates
15 must deposit all payments received from the Supervisor Election Campaign Fund in the
16 candidate's Campaign Contribution Trust Account.

17 ~~(g) — TERMINATION OF PAYMENTS. The Controller shall terminate all payments to a
18 candidate who is otherwise eligible to receive public financing if the candidate:~~

19 ~~(1) — withdraws or fails to qualify to have his or her name printed on the ballot for the
20 election for which the candidate applied for public financing;~~

21 ~~(2) — fails to comply with the conditions specified in Section 1.140 of this Chapter; or~~

22 ~~(3) — fails to comply with any of the reporting requirements imposed by this Chapter or the
23 Political Reform Act, California Government Code Section 81000, et seq.~~

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1 **SEC. 1.148. RESTRICTIONS ON USE OF PUBLIC FUNDS; UNEXPENDED PUBLIC**
2 **FUNDS.**

3 (a) **USE FOR QUALIFIED CAMPAIGN EXPENDITURES ONLY.** Candidates who
4 receive public financing may use the public funds solely to pay for qualified campaign
5 expenditures, as defined by Section 1.104 of this Chapter, and to repay loans used to pay for
6 qualified campaign expenditures. Candidates may not use public funds to pay for expenses
7 incurred in connection with an administrative or judicial proceeding. Candidates may not use
8 public funds to pay administrative, civil or criminal fines, including late filing fines, or to pay for
9 inaugural activities or officeholder expenses.

10 (b) **PURCHASE OF EQUIPMENT.** Any equipment purchased by a candidate with
11 public funds provided under this Chapter that has a useful life beyond the election campaign
12 for which the funds were provided, and a fair market value exceeding \$100, becomes City and
13 County property on the day following the date the candidate is elected or not elected to office.

14 (c) **WITHDRAWAL OR FAILURE TO QUALIFY.** Any candidate who receives public
15 financing but who withdraws or fails to qualify to have his or her name printed on the ballot in
16 the election for which the public funds were provided shall repay the Supervisor Election
17 Campaign Fund if the candidate was a candidate for the Board of Supervisors or to the Mayoral
18 Election Campaign Fund if the candidate was a candidate for Mayor the full sum received from the
19 Fund.

20 (d) **UNEXPENDED PUBLIC FUNDS.**

21 (i) **General.** Any candidate who receives public financing and who has
22 unexpended public funds shall pay to the City and County of San Francisco and deliver to the
23 Ethics Commission those funds for deposit in the Supervisor Election Campaign Fund if the
24 candidate was a candidate for the Board of Supervisors or to the Mayoral Election Campaign Fund if
25

1 the candidate was a candidate for Mayor no later than 30 days after the Ethics Commission
2 completes its audit of the candidate. Unexpended funds may be used to pay for qualified
3 campaign expenditures until the Ethics Commission completes its audit of the candidate.

4 (ii) Definition. For purposes of this section, unexpended public funds shall mean all
5 funds remaining in the candidate's account on the 30th day after the candidate is elected or
6 not elected to office, regardless of the source of the funds, but shall not exceed the amount of
7 public funds provided to the candidate. Funds raised after this date do not constitute
8 unexpended funds and may be used for any lawful purpose.

9
10 **SEC. 1.150. AUDIT; REPAYMENT; AND TERMINATION OF COMMITTEES.**

11 (a) AUDIT. The Ethics Commission shall audit all candidates who receive public
12 financing under this Chapter. The audit shall begin within 30 days after the date the candidates'
13 first post-election campaign disclosure report is required to be filed pursuant to Section 1.106 of this
14 Chapter. At the request of the Executive Director, the Controller shall assist in conducting
15 these audits.

16 (b) REPAYMENT. If the Ethics Commission determines that any portion of the
17 payments made to a candidate from the Supervisor Election Campaign Fund or the Mayoral
18 Election Campaign Fund exceeded the aggregate amount of payments to which the candidate
19 was entitled under this Chapter, the Commission shall notify the Controller and the candidate.
20 In addition to any other penalties, the candidate shall pay to the City and County of San
21 Francisco, and deliver to the Ethics Commission an amount equal to the amount of the excess
22 payments, and if the Commission determines that any amount of any payment made to a
23 candidate from the Supervisor Election Campaign Fund or the Mayoral Election Campaign Fund
24 was used for something other than qualified campaign expenditures, the candidate shall pay
25

1 to the Ethics Commission an amount equal to the improper expenditure. All payments
2 delivered to the Ethics Commission under this Section shall be deposited in the Supervisor
3 Election Campaign Fund if made by a candidate for the Board of Supervisors or in the Mayoral
4 Election Campaign Fund if made by a candidate for Mayor.

5 (c) TERMINATION OF COMMITTEES. All candidates for Mayor who receive public funds
6 under this Chapter shall terminate their campaign committees within 30 days of the date the Ethics
7 Commission completes an audit of the committee as required by this Section.

8
9 **SEC. 1.152. SUPPLEMENTAL REPORTING IN ELECTIONS FOR BOARD OF**
10 **SUPERVISORS AND MAYOR.**

11 (a) Candidates for the Board of Supervisors. In addition to the campaign disclosure
12 requirements imposed by the California Political Reform Act and other provisions of this
13 Chapter, each candidate for the Board of Supervisors who has filed a statement indicating that
14 he or she does not intend to participate in the public financing program under Section 1.142(a)
15 of this Chapter or who has received notice under Section 1.142 that the candidate is ineligible
16 to receive public funds under this Chapter shall, no later than the deadline for filing nomination
17 papers, file a statement with the Ethics Commission indicating whether the nonparticipating
18 candidate has received contributions, made expenditures or has funds in his or her campaign
19 trust account that in the aggregate equal or exceed \$5,000. If the nonparticipating candidate
20 first reaches or exceeds the \$5,000 threshold after the deadline for filing nomination papers,
21 or receives notice of ineligibility to receive public funds after that date, the nonparticipating
22 candidate shall, within 24 hours of reaching or exceeding the threshold or receiving notice of
23 ineligibility, file a statement indicating this fact with the Ethics Commission. The supplemental
24 reports are not required if no candidate in a race seeks public financing.

1 (b) Candidates for Mayor.

2 (1) In addition to the campaign disclosure requirements imposed by the California Political
3 Reform Act and other provisions of this Chapter, each candidate for Mayor shall file a statement with
4 the Ethics Commission indicating when the candidate has received contributions, made expenditures or
5 has funds in his or her Campaign Contribution Trust Account that in the aggregate equal or exceed
6 \$50,000 within 24 hours of reaching or exceeding that amount.

7 (2) In addition to the supplemental report in subsection (b)(1) of this Section, each
8 candidate for Mayor who has not been certified as eligible to receive public funds under this Chapter
9 shall file a statement with the Ethics Commission disclosing when the candidate has received
10 contributions, made expenditures or has funds in his or her Campaign Contribution Trust Account that
11 in the aggregate equal or exceed \$1,000,000. The candidate shall file this report within 24 hours of
12 reaching or exceeding the threshold. Thereafter, the candidate shall file an additional supplemental
13 report within 24 hours of every time the candidate receives additional contributions, makes additional
14 expenditures or has additional funds in his or her campaign trust account that in the aggregate equal
15 or exceed \$50,000.

16 (3) Any person that makes independent expenditures, electioneering communications, or
17 member communications in support of or in opposition to any candidate for Mayor in an amount that in
18 the aggregate equals or exceeds \$5,000, shall, within 24 hours of reaching or exceeding the spending
19 threshold, provide an original copy of the communication to the Ethics Commission and file a
20 statement with the Ethics Commission disclosing the cost of each communication. Every person who is
21 required to file a statement with the Ethics Commission pursuant to this subsection shall indicate on the
22 statement which candidate or candidates for Mayor the independent expenditures, electioneering
23 communications, or member communications disclosed on the statement are intended to support or
24 oppose, or whether they are intended to be neutral, provided that an independent expenditure may not
25

1 be neutral. For the purposes of this subsection, the costs of a communication that supports or opposes
2 more than one candidate or ballot measure shall be apportioned among each candidate and measure in
3 the communication.

4 Thereafter, any such person shall file a supplemental statement with the Ethics Commission
5 each time the person makes independent expenditures, electioneering communications or member
6 communications in support of or in opposition to any candidate for Mayor in an amount that in the
7 aggregate equals or exceeds an additional \$5,000. The supplemental statements shall be filed within
8 24 hours of reaching or exceeding the spending threshold.

9 The Executive Director shall post the information disclosed on statements required by this
10 subsection on the web page of the Ethics Commission within one business day of the statement being
11 filed.

12 (4) The supplemental statements required by subsections (b)(2) and (b)(3) are not required
13 until the Ethics Commission has certified that at least one candidate for Mayor is eligible to receive
14 public funds under this Chapter, provided that within 48 hours of the Ethics Commission's certification
15 that a candidate for Mayor is eligible to receive public funds under this Chapter any report that would
16 be required under (b)(2) or (b)(3) must be filed. Within 24 hours of certifying that at least one
17 candidate for Mayor is eligible to receive public financing under this Chapter, the Ethics Commission
18 shall post a notice on its web page, send out a press release and send written notice to any person who
19 has requested such notice.

1 **SEC. 1.154. INSUFFICIENT FUNDS IN SUPERVISOR ELECTION CAMPAIGN**

2 **FUND.**

3 (a) REPORT BY CONTROLLER. At the request of the Ethics Commission,
4 the Controller shall provide a statement of the total amount of funds in the Supervisor Election
5 Campaign Fund.

6 (b) DETERMINATION. Within 24 hours of the deadline for filing nomination
7 papers, the Executive Director shall notify the Controller whether the amount in the Supervisor
8 Election Campaign Fund is sufficient to fund all candidates who have filed a notice of intent to
9 participate in the public financing program and who may be eligible to receive public financing.
10 No later than 60 days before the election, the Ethics Commission shall make a final
11 determination whether the amount in the Supervisor Election Campaign Fund is sufficient to
12 fund all candidates for the Board of Supervisors who may be eligible to receive public
13 financing for their election campaigns under this Chapter. If the Executive Director's initial or
14 the Commission's final determination is that the amount in the Fund is insufficient, the
15 Executive Director or the Commission shall distribute the money in the Fund on a pro rata
16 basis to all candidates who are certified as eligible to receive public funds. Notwithstanding
17 an initial determination that the funds are insufficient and the distribution of some funds on a
18 pro rata basis, if the Commission makes a final determination that there are sufficient funds
19 for all eligible candidates, the Commission may distribute the full amount of funds to eligible
20 candidates.

1 **SEC. 1.156. REPORT TO THE MAYOR AND BOARD OF SUPERVISORS.**

2 Following each election at which *the Mayor or* members of the Board of Supervisors are
3 elected, the Ethics Commission shall submit a report to the Mayor and Board of Supervisors.
4 The report shall state the amount of public funds used to pay for election campaigns in that
5 election and such other information as the Ethics Commission deems useful, including the
6 number of candidates who received public funds; the number of nonparticipating candidates;
7 the amount of qualified campaign expenditures made by all candidates in that election; and
8 the amount of independent expenditures made in connection with the election.

9
10 **SEC. 1.170. PENALTIES.**

11 (a) CRIMINAL.

12 Any person who knowingly or willfully violates any provision of this Chapter shall be
13 guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more
14 than \$5,000 for each violation or by imprisonment in the County jail for a period of not more
15 than six months or by both such fine and imprisonment; provided, however, that any willful or
16 knowing failure to report contributions or expenditures done with intent to mislead or deceive
17 or any willful or knowing violation of the provisions of Section 1.114 of this Chapter shall be
18 punishable by a fine of not less than \$5,000 for each violation or three times the amount not
19 reported or the amount received in excess of the amount allowable pursuant to Section 1.114
20 of this Chapter, or three times the amount expended in excess of the amount allowable
21 pursuant to Section 1.130 *or 1.140.5*, whichever is greater.

22 (b) CIVIL.

23 Any person who intentionally or negligently violates any of the provisions of this
24 Chapter shall be liable in a civil action brought by the civil prosecutor for an amount up to
25

1 \$5,000 for each violation or three times the amount not reported or the amount received in
2 excess of the amount allowable pursuant to Section 1.114 or three times the amount
3 expended in excess of the amount allowable pursuant to Section 1.130 or 1.140.5, whichever
4 is greater.

5 (c) ADMINISTRATIVE.

6 Any person who intentionally or negligently violates any of the provisions of this
7 Chapter shall be liable in an administrative proceeding before the Ethics Commission held
8 pursuant to the Charter for an amount up to \$5,000 for each violation, or three times the
9 amount not reported or the amount received in excess of the amount allowable pursuant to
10 Section 1.114 or three times the amount expended in excess of the amount allowable
11 pursuant to Section 1.130 or 1.140.5, whichever is greater.

12 (d) MISUSE OF PUBLIC FUNDS.

13 Any person who willfully or knowingly uses public funds, paid pursuant to this Chapter,
14 for any purpose other than the purposes authorized by this Chapter shall be subject to the
15 penalties provided in this section.

16 (e) PROVISION OF FALSE OR MISLEADING INFORMATION TO THE ETHICS
17 COMMISSION; WITHHOLDING OF INFORMATION.

18 Any person who knowingly or willfully furnishes false or fraudulent evidence,
19 documents, or information to the Ethics Commission under this Chapter, or misrepresents any
20 material fact, or conceals any evidence, documents, or information, or fails to furnish to the
21 Ethics Commission any records, documents, or other information required to be provided
22 under this Chapter shall be subject to the penalties provided in this section.

23
24
25

1 (f) PERSONAL LIABILITY.

2 Candidates and treasurers are responsible for complying with this Chapter and may be
3 held personally liable for violations by their committees.

4 (g) JOINT AND SEVERAL LIABILITY.

5 If two or more persons are responsible for any violation of this Chapter, they shall be
6 jointly and severally liable.

7 (h) EFFECT OF VIOLATION ON OUTCOME OF ELECTION.

8 (1) If a candidate is convicted of a violation of this Chapter at any time prior to his or
9 her election, his or her candidacy shall be terminated immediately and he or she shall be no
10 longer eligible for election, unless the court at the time of sentencing specifically determines
11 that this provision shall not be applicable. No person convicted of a misdemeanor under this
12 Chapter after his or her election shall be a candidate for any other City elective office for a
13 period of five years following the date of the conviction unless the court shall at the time of
14 sentencing specifically determine that this provision shall not be applicable. *A plea of not*
15 *contendere shall be deemed a conviction for purposes of this Section.*

16 (2) *If a candidate for Mayor is found by a court to have exceeded the Individual*
17 *Expenditure Ceiling in this Chapter by ten percent or more at any time prior to his or her election, he*
18 *or she is ineligible for election, unless the court specifically determines that this provision shall not be*
19 *applicable. If feasible, the candidate's name shall be removed from the ballot. No candidate for*
20 *Mayor who is found by a court to have exceeded the Individual Expenditure Ceiling in this Chapter by*
21 *ten percent or more after his or her election shall be a candidate for any City elective office for a*
22 *period of 5 years following the court's determination unless the court specifically determines that this*
23 *provision shall not be applicable. The Ethics Commission may make a recommendation to the Board of*
24

1 Supervisors that a candidate found by a court to have exceeded the Individual Expenditure Ceiling in
2 this Chapter by ten percent or more should be removed from office.

3 (3) A plea of nolo contendere shall be deemed a conviction for purposes of this Section.

4
5 Section 2. The San Francisco Campaign and Governmental Conduct Code is hereby
6 amended by adding Sections 1.134.5, 1.138.5, 1.140.5, 1.144.5, and 1.146 to read as follows:

7
8 **SEC. 1.134.5. LIFTING OF INDIVIDUAL EXPENDITURE CEILINGS.**

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

11 (a) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for
12 Mayor to an amount equal to the highest level of the Total Supportive Funds of any other candidate
13 seeking election to the same office if such amount is greater than \$1,375,000, provided that the
14 Executive Director may lift a candidate's Individual Expenditure Ceilings only in increments of
15 \$100,000.

16 (b) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate for
17 Mayor by an amount equal to the candidate's Total Opposition Spending, provided that the Executive
18 Director may lift a candidate's Individual Expenditure Ceiling only in increments of \$100,000.

19 (c) On the third business day after a statement is filed pursuant to Section 1.152(b)(3) of
20 this Chapter, the Executive Director shall determine whether to lift the Individual Expenditure Ceilings
21 of each candidate for Mayor pursuant to subsections (a) and (b) of this Section based on the
22 information in the statement unless a candidate for Mayor requests that the Ethics Commission review
23 the statement pursuant to subsection (d) of this Section.

1 (d) Any candidate for Mayor may request that the Ethics Commission review a statement
2 filed pursuant to Section 1.152(b)(3) of this Chapter to make a final determination regarding which
3 candidate or candidates for Mayor the independent expenditures, electioneering communications, or
4 member communications disclosed on the statement actually support or oppose or whether they are
5 neutral. Such requests must be filed with the Ethics Commission within two (2) business days from the
6 date the statement is filed. Factors the Commission shall use to determine whether the independent
7 expenditure, electioneering communication or membership communication supports or opposes one or
8 more candidates include the following:

9 (1) the communication clearly identifies one or more mayoral candidates;

10 (2) the timing of the communication coincides with the mayoral campaign;

11 (3) the communication targets voters in a particular election;

12 (4) the communication identifies one or more candidate's position on a public policy issue
13 and urges the reader or viewer to take action, including calling the candidate to support or oppose the
14 candidate's position;

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

18 (6) the communication is not part of an ongoing series of substantially similar advocacy
19 communications by the organization on the same issue; and

20 (7) any other factors the Ethics Commission deems relevant.

21 The Ethics Commission shall make a final determination requested by this subsection within 96
22 hours of the date the request for a determination is received. If for any reason the Commission does
23 not make a final determination within this timeframe, the Executive Director shall do so within 120
24 hours of the date the request for a determination is received. Within 24 hours of a final determination
25

1 and based on that determination, the Executive Director shall determine whether to lift the Individual
2 Expenditure Ceilings of each candidate for Mayor pursuant to subsections (a) and (b) of this Section.

3
4 **SEC. 1.138.5 MAYORAL ELECTION CAMPAIGN FUND; APPROPRIATION OF FUNDS.**

5 (a) ESTABLISHMENT OF MAYORAL ELECTION CAMPAIGN FUND. There is
6 established a special fund of the City and County of San Francisco called the Mayoral Election
7 Campaign Fund. All money deposited in the Fund is appropriated for use as specified in this Chapter
8 and the implementing regulations. This special fund is separate from the Election Campaign Fund
9 established in Section 1.138(a) of this Chapter.

10 (b) APPROPRIATION TO MAYORAL ELECTION CAMPAIGN FUND. Except as provided
11 in subsections (b)(3) and (b)(4), each fiscal year the City and County of San Francisco shall
12 appropriate \$2.00 per resident of the City and County of San Francisco to the Mayoral Election
13 Campaign Fund to provide funding for election campaigns as authorized by this Chapter for all
14 candidates for Mayor who may be eligible to receive such funds. At the request of the Ethics
15 Commission, the Controller shall estimate the number of residents of the City and County of San
16 Francisco for purposes of this subsection.

17 (1) Any funds in the Mayoral Election Campaign Fund not used in one election shall be
18 carried over for use in the following election, provided that at no time shall the total amount in the
19 Mayoral Election Campaign Fund exceed \$12 million. Any funds in the Mayoral Election Campaign
20 Fund in excess of \$12 million shall be returned to the General Fund.

21 (2) Funds necessary for the administration of the public financing program for candidates
22 for Mayor authorized under section 1.136 of this Chapter shall be taken from the Mayoral Election
23 Campaign Fund. Administrative expenses for such public financing program for any election shall not
24 exceed 10% of the total amount of funds in the Mayoral Election Campaign Fund for that election.

1 (3) In order to ensure that four years worth of appropriations under this subsection are
2 available to provide public financing to candidates seeking election at the next mayoral election, the
3 City and County of San Francisco shall appropriate \$8.00 per resident of the City and County of San
4 Francisco to the Mayoral Election Campaign Fund by January 1, 2007.

5 (4) If the Office of Mayor becomes vacant and an election is held to fill the vacancy for the
6 remainder of the term, the City and County of San Francisco shall appropriate additional funds to the
7 Mayoral Election Campaign Fund in an amount that ensures that at least \$8.00 per resident is
8 available in the Mayoral Election Campaign Fund for that election and the next regularly scheduled
9 mayoral election.

10
11 **SEC. 1.140.5. ELIGIBILITY TO RECEIVE PUBLIC FINANCING – CANDIDATES FOR**
12 **MAYOR.**

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

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

16 (2) Have submitted a declaration under Section 1.142(b) of this Chapter indicating that the
17 candidate meets the eligibility criteria of this section;

18 (3) Have received at least \$25,000 in qualifying contributions from at least 250 contributors
19 by the 70th day before the election.

20 (4) Be opposed by another candidate who has either established eligibility to receive public
21 financing, or received contributions or made expenditures that in the aggregate equal or exceed
22 \$50,000;

23 (5) Agree to the following conditions.
24
25

1 (i) The candidate shall not spend on the candidate's campaign more than the candidate's
2 Individual Expenditure Ceiling of \$1,375,000, or as adjusted under Section 1.134.5 of this Chapter;

3 (ii) The candidate bears the burden of proving that each contribution the candidate relies
4 upon to establish eligibility is a qualifying contribution and that all contributions comply with the
5 requirements set forth in this Chapter;

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

8 (iv) The candidate will not make any payments to a contractor or vendor in return for the
9 contractor or vendor making a campaign contribution to the candidate or make more than a total of 50
10 payments, other than the return of a contribution, to contractors or vendors that have made
11 contributions to the candidate;

12 (v) Notwithstanding Sections 1.114 and 1.116, the candidate shall not loan or donate more
13 than \$5,000 of his or her own money to the campaign;

14 (vi) The candidate shall not accept any loans to his or her campaign with the exception of a
15 candidate's loan to his or her own campaign as permitted by this section; and

16 (vii) The candidate shall agree to participate in at least three (3) debates with the candidate's
17 opponents.

18 (6) Have paid any outstanding late fines or penalties, owed to the City by the candidate or any
19 of the candidate's previous campaign committees, which were imposed for violations of Chapters 1
20 through 5 of this Article, the campaign finance provisions of the California Political Reform Act
21 (Government Code sections 84100-85704), Chapter 1 of Article II of this Code or Chapters 1 or 2 of
22 Article III of this Code, provided that the Ethics Commission had notified the candidate of such fines or
23 penalties by the time of certification;

1 (7) Have filed any outstanding forms, owed to the City by the candidate or any of the
2 candidate's previous campaign committees, which were required to be filed pursuant to Chapters 1
3 through 5 of this Article, the campaign finance provisions of the Political Reform Act (Government
4 Code sections 84100-85704), or Chapter 1, Article III of this Code, provided that the Ethics
5 Commission had notified the candidate of such outstanding forms by the time of certification;

6 (8) Have no finding by a court within the prior five years that the candidate knowingly,
7 willfully, or intentionally violated Chapters 1 through 4 of this Article or the campaign finance
8 provisions of the California Political Reform Act (Government Code sections 84100-85704). For
9 purposes of this section, a plea of nolo contendere shall be treated the same as a finding by a court of a
10 willful violation.

11 (b) ADJUSTMENT OF EXPENDITURE LIMITS AND THRESHOLDS

12 The Ethics Commission shall adjust:

13 (1) the figures in subsections (a)(3),(a)(4), and (a)(5) of this Section to reflect changes in
14 the California Consumer Price Index, provided that such adjustments shall be rounded off to the
15 nearest \$5,000; and

16 (2) the maximum amount of a contribution that constitutes a qualifying contribution for
17 mayoral candidates pursuant to section 1.104 to reflect changes in the California Consumer Price
18 Index, provided that such adjustments shall be rounded off to the nearest \$10.

19
20 **SEC. 1.144.5. DISBURSEMENT OF PUBLIC FUNDS – CANDIDATES FOR MAYOR.**

21 (a) PAYMENT BY CONTROLLER. Upon certifying that a candidate for Mayor is eligible
22 to receive public financing under this Chapter, the Executive Director shall forward the certification to
23 the Controller, and the Controller shall disburse payments to the candidate from the Mayoral Election
24 Campaign Fund in accordance with the certification and this Section.

1 (b) TIME OF PAYMENTS. The Controller shall not make any payments under this Chapter
2 to any candidate for Mayor more than nine (9) months before the date of the election. Payments from
3 the Controller shall be disbursed to eligible candidates within 48 hours of the Controller receiving
4 notification from the Ethics Commission regarding the amount of the disbursement, except that within
5 60 calendar days before the election, such payments shall be made within 24 hours.

6 (c) PAYMENTS FOR ELECTION EXPENSES.

7 (1) Until the Per Candidate Available Disbursement Limit has been determined, candidates
8 for Mayor who have been certified by the Ethics Commission as eligible to receive public financing for
9 their election campaigns will have access to up to \$850,000 in funds from the Mayoral Election
10 Campaign Fund on a first come, first served basis according to the formula set forth in subsection
11 (c)(3) of this Section.

12 (2) Once the Per Candidate Available Disbursement Limit has been determined, candidates
13 for Mayor who have been certified by the Ethics Commission as eligible to receive public financing for
14 their election campaigns shall have access to funds from the Mayoral Election Campaign Fund as
15 follows:

16 (A) If the Executive Director determines that the Per Candidate Available Disbursement
17 Limit is greater than \$850,000, each participating candidate shall have access to the amount of the Per
18 Candidate Disbursement, subject to the limitations set forth under subsection (c)(3)(D) and (c)(3)(E) of
19 this Section.

20 (B) If the Executive Director determines the Per Candidate Available Disbursement Limit is
21 less than or equal to \$850,000, participating candidates shall have access to funds from the Mayoral
22 Election Campaign Fund on a first come, first served basis up to a maximum per candidate of
23 \$850,000.

1 (3) A candidate for Mayor who is certified as eligible to receive public financing under this
2 Chapter shall receive payments for eligible matching contributions according to the following formula:

3 (A) Upon qualification the candidate shall receive a one-time payment of \$50,000 from the
4 Mayoral Election Campaign Fund.

5 (B) After the initial payment under subsection (c)(3)(A), for the first \$100,000 in matching
6 contributions raised by the candidate, the candidate shall receive four dollars from the Mayoral
7 Election Campaign Fund for each dollar raised.

8 (C) After the payments under subsection (c)(3)(B), for the next \$400,000 in matching
9 contributions raised by the candidate, the candidate shall receive one dollar from the Mayoral Election
10 Campaign Fund for each dollar raised.

11 (D) The maximum amount of public funds a mayoral candidate may receive is \$850,000,
12 unless the candidate's Individual Expenditure Ceiling is lifted according to the rules set forth under
13 Section 1.134.5. The amount of public funds paid under this Section shall not be affected by the lifting
14 of expenditure limits under Section 1.134.

15 (E) If the Per Candidate Available Disbursement Limit has been determined to be an
16 amount greater than \$850,000, a candidate who has already received at least \$850,000 in
17 disbursements from the City shall continue to be eligible to receive public funds from the City at the
18 rate of one dollar for each dollar of a matching contribution raised up to the Per Candidate
19 Disbursement Limit, provided that no funds shall be disbursed if disbursement of the funds would result
20 in the candidate exceeding his or her Trust Account Limit.

21 (d) PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT. On the 59th day before the
22 election, the Executive Director shall divide the total amount of non-administrative funds in the
23 Mayoral Election Campaign Fund by the number of qualified candidates. This number shall be
24 deemed the Per Candidate Available Disbursement Limit. For the purposes of this section, the total
25

1 amount of non-administrative funds in the Mayoral Election Campaign Fund shall be the total amount
2 of funds that existed in the Fund nine months before the date of election plus any funds deposited into
3 the Fund between that date and the 59th day before the election minus any funds necessary to cover the
4 administrative costs associated with implementing the mayoral public financing program.

5 If there are candidates who have submitted a Declaration of Qualification but whose eligibility
6 has not been determined as of the 59th day before the election, the Executive Director shall assume that
7 they are qualified for the purposes of determining the Per Candidate Available Disbursement Limit.
8 The Per Candidate Available Disbursement Limit shall be revised upward according to the formula
9 above if and when it is determined that the candidate or candidates in question did not qualify to
10 receive public financing.

11 Immediately upon calculating the Per Candidate Available Disbursement Limit, the Executive
12 Director shall inform the Controller of the initial determination of the Per Candidate Available
13 Disbursement Limit. Thereafter, the Executive Director shall immediately inform the Controller of any
14 subsequent changes in the Per Candidate Available Disbursement Limit due to a determination that a
15 candidate has not qualified to receive public financing.

16 (e) SUBMISSION OF CLAIMS FOR PUBLIC FUNDS. The Ethics Commission shall
17 determine the information needed to submit a claim for payment of public funds. The Executive
18 Director shall certify each request for payment of public funds within four (4) calendar days of the
19 request, except that within 14 calendar days before the election, when the certification of a request for
20 public funds shall be made within 48 hours of the request. Any submission of a claim for public funds
21 must include a minimum of \$5,000 of matching contributions; provided that in the 14 calendar days
22 preceding an election, a claim must include a minimum of \$1,000 of matching contributions. All claims
23 for public funds must be submitted no later than 5:00 P.M. on the 30th day following the date of the
24 election.

1 (f) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT. Candidates must
2 deposit all payments received from the Mayoral Election Campaign Fund in the candidate's Campaign
3 Contribution Trust Account.

4
5 **SEC. 1.146 – TERMINATION OF PAYMENTS.**

6 The Controller shall terminate all payments to a candidate who is otherwise eligible to receive
7 public financing if the candidate:

8 (a) withdraws or fails to qualify to have his or her name printed on the ballot for the
9 election for which the candidate applied for public financing;

10 (b) fails to comply with the conditions specified in Section 1.140 of this Chapter if a
11 candidate for the Board of Supervisors or Section 1.140.5 if a candidate for Mayor; or

12 (c) knowingly or willfully fails to comply with any of the reporting requirements imposed by
13 this Chapter or the Political Reform Act, California Government Code Section 81000, et seq.

14
15 APPROVED AS TO FORM:
16 DENNIS J. HERRERA, City Attorney

17 By: _____
18 CHAD A. JACOBS
19 Deputy City Attorney
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