

1 [Clarifying when the Ethics Commission must raise the individual expenditure ceilings in the  
2 partial public financing program for candidates for Mayor and the Board of Supervisors, and  
3 correcting minor drafting errors]

4 **Ordinance amending sections 1.108, 1.134.5, and 1.144 of the Campaign and**  
5 **Governmental Conduct Code, to clarify when the Executive Director of the Ethics**  
6 **Commission shall raise the Individual Expenditure Ceiling for a candidate for Mayor or**  
7 **the Board of Supervisors and to make technical corrections.**

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.  
11 Board amendment deletions are ~~strikethrough normal~~.

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

13 Section 1. The San Francisco Campaign & Governmental Conduct Code is hereby  
14 amended by amending Sections 1.108, 1.134.5, and 1.144 to read as follows:

15 SEC. 1.108. CANDIDATE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS AND  
16 CAMPAIGN CONTINGENCY ACCOUNTS.

17 (a) CANDIDATE CAMPAIGN CONTRIBUTION TRUST ACCOUNTS.

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

24 (2) Prohibition on Multiple Accounts. All funds, services or in-kind contributions  
25 received by a City elective officer, or by any person or committee on behalf of a City elective  
officer, for expenses incurred directly in connection with carrying out the usual and necessary

1 duties of holding office shall be deposited, credited or otherwise reported to the officer's  
2 campaign contribution trust account and shall be subject to the contribution limits in Section  
3 1.114 of this Chapter. Nothing in this Section shall prohibit an officer from spending personal  
4 funds on official or related business activities.

5 (3) Account Limits. A candidate for Mayor or the Board of Supervisors who has been  
6 certified by the Ethics Commission as eligible to receive public funds under this Chapter shall  
7 not, at any time, have an amount of funds greater than the candidate's Trust Account Limit in  
8 his or her Campaign Contribution Trust Account.

9 (b) CAMPAIGN CONTINGENCY ACCOUNTS FOR CANDIDATES FOR MAYOR  
10 AND THE BOARD OF SUPERVISORS.

11 (1) Notwithstanding any other section of this Code, including subsection (a)(2), a  
12 candidate for Mayor or the Board of Supervisors who has been certified by the Ethics  
13 Commission as eligible to receive public funds under this Chapter may maintain a Campaign  
14 Contingency Account separate from his or her Campaign Contribution Trust Account into  
15 which he or she may deposit contributions in anticipation of the candidate's Individual  
16 Expenditure Ceiling being raised. All contributions deposited into this account shall be  
17 reported as if it were deposited into the candidate's Campaign Contribution Trust Account.

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

4 SEC. 1.134.5. LIFTING OF INDIVIDUAL EXPENDITURE CEILINGS.

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

8 (a) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate  
9 for Mayor or the Board of Supervisors to an amount equal to the highest level of the Total  
10 Supportive Funds of any other candidate seeking election to the same office if such amount is  
11 greater than \$1,375,000.00 for candidates for Mayor or greater than \$140,000.00 for  
12 candidates for the Board of Supervisors, provided that the Executive Director may lift a  
13 candidate's Individual Expenditure Ceilings only in increments of \$100,000.00 for candidates  
14 for Mayor and \$10,000.00 for candidates for the Board of Supervisors.

15 (b) The Executive Director shall lift the Individual Expenditure Ceiling of a candidate  
16 for Mayor or the Board of Supervisors by an amount equal to the Total Opposition Spending  
17 against that candidate ~~of any other candidate seeking election to the same office~~ if such amount is  
18 greater than \$1,375,000.00 for candidates for Mayor or greater than \$140,000.00 for  
19 candidates for the Board of Supervisors, provided that the Executive Director may lift a  
20 candidate's Individual Expenditure Ceiling only in increments of \$100,000.00 for candidates  
21 for Mayor and \$10,000.00 for candidates for the Board of Supervisors.

22 (c) On the fourth business day after a statement is filed pursuant to Section  
23 1.152(a)(3) and (b)(3) of this Chapter, the Executive Director shall determine whether to lift  
24 the Individual Expenditure Ceilings of each candidate for Mayor or the Board of Supervisors  
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1 pursuant to subsections (a) and (b) of this Section based on the information in the statement  
2 unless pursuant to subsection (d) a candidate for Mayor or the Board of Supervisors requests  
3 that the Executive Director make a determination regarding which candidate or candidates the  
4 communication filed with the statement supports or opposes or whether the Communication is  
5 neutral.

6 (d) Any candidate for ~~Mayor or~~ the Board of Supervisors or Mayor may request that  
7 the Executive Director review the original or copy of a communication filed pursuant to  
8 Sections 1.152(a)(3) or 1.152(b)(3) of this Chapter to make an independent determination  
9 regarding which candidate or candidates for Mayor or the Board of Supervisors the  
10 communication actually supports or opposes or whether the communication is neutral. Such  
11 requests must be filed with the Executive Director within three business days from the date  
12 the original or copy of the communication is filed. Factors the Executive Director shall use to  
13 determine whether the communication supports or opposes one or more candidates include  
14 the following:

- 15 (1) the communication clearly identifies one or more candidates;
- 16 (2) the timing of the communication coincides with the campaign;
- 17 (3) the communication targets voters in a particular election;
- 18 (4) the communication identifies one or more candidate's position on a public policy  
19 issue and urges the reader or viewer to take action, including calling the candidate to support  
20 or oppose the candidate's position;
- 21 (5) the position of one or more candidates on the public policy issue has been raised  
22 as distinguishing these candidates from others in the campaign, either in the communication  
23 itself or in other public communications;

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

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

4 Within three business days of the date the request for a determination is received, the  
5 Executive Director shall make his or her initial determination.

6 Within one business day of the date that the Executive Director makes an initial  
7 determination, any candidate for Mayor or the Board of Supervisors may submit to the  
8 Executive Director a request that the Ethics Commission review the Executive Director's initial  
9 determination.

10 Within one business day of receiving the request, the Executive Director shall notify  
11 each Commissioner of the candidate's request.

12 If within one business day of the Executive Director's notice, two or more members of  
13 the Commission inform the Executive Director that they would like to review the initial  
14 determination, the Executive Director shall schedule a meeting of the Commission on a date  
15 that occurs within one week of the Commissioners' requests. If three members of the  
16 Commission vote to overrule the Executive Director's initial determination, the Commission  
17 shall make a final determination based on the factors set forth above.

18 If no candidate requests review of the Executive Director's initial determination, if a  
19 request is made and two or more members of the Commission do not request to review the  
20 initial determination, or within one week of two members of the Commission requesting to  
21 review the initial determination, at least three members of the Commission do not vote to  
22 overrule the Executive Director's initial determination, the Executive Director's determination  
23 shall become final.

1           The Executive Director shall determine whether to lift the Individual Expenditure  
2           Ceilings of each candidate for Mayor or the Board of Supervisors pursuant to subsections (a)  
3           and (b) of this Section within one business day of a final determination.

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

5           **(a) PAYMENT BY CONTROLLER.**

6           Upon certifying that a candidate is eligible to receive public financing under this  
7           Chapter, the Executive Director shall forward the certification to the Controller, and the  
8           Controller shall disburse payments to the candidate from the Election Campaign Fund in  
9           accordance with the certification and this Section.

10          **(b) TIME OF PAYMENTS.**

11          The Controller shall not make any payments under this Chapter to any candidate more  
12          than nine (9) months before the date of the election. Payments from the Controller shall be  
13          disbursed to eligible candidates within 48 hours of the Controller receiving notification from the  
14          Ethics Commission regarding the amount of the disbursement, except that within 60 calendar  
15          days before the election, such payments shall be made within 24 hours.

16          **(c) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR MAYOR.**

17          (1) Until the Per Candidate Available Disbursement Limit has been determined,  
18          candidates for Mayor who have been certified by the Ethics Commission as eligible to receive  
19          public financing for their election campaigns will have access to up to \$850,000.00 in funds  
20          from the Election Campaign Fund on a first come, first served basis according to the formula  
21          set forth in Subsection (c)(3) of this Section.

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

3 (A) If the Executive Director determines that the Per Candidate Available  
4 Disbursement Limit is greater than \$850,000.00, each participating candidate shall have  
5 access to the amount of the Per Candidate Disbursement, subject to the limitations set forth  
6 under Subsection (c)(3)(D) and (c)(3)(E) of this Section.

7 (B) If the Executive Director determines the Per Candidate Available Disbursement  
8 Limit is less than or equal to \$850,000.00, participating candidates shall have access to funds  
9 from the Election Campaign Fund on a first come, first served basis up to a maximum per  
10 candidate of \$850,000.00.

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

14 (A) Upon qualification the candidate shall receive a one-time payment of \$50,000.00  
15 from the Election Campaign Fund.

16 (B) After the initial payment under Subsection (c)(3)(A), for the first \$100,000.00 in  
17 matching contributions raised by the candidate, the candidate shall receive four dollars from  
18 the Election Campaign Fund for each dollar raised.

19 (C) After the payments under Subsection (c)(3)(B), for the next \$400,000.00 in  
20 matching contributions raised by the candidate, the candidate shall receive one dollar from the  
21 Election Campaign Fund for each dollar raised.

22 (D) The maximum amount of public funds a mayoral candidate may receive is  
23 \$850,000.00, unless the candidate's Individual Expenditure Ceiling is lifted according to the  
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1 rules set forth under Section 1.134.5. The amount of public funds paid under this Section  
2 shall not be affected by the lifting of expenditure limits under Section 1.134.

3 (E) If the Per Candidate Available Disbursement Limit has been determined to be an  
4 amount greater than \$850,000.00, a candidate who has already received at least \$850,000.00  
5 in disbursements from the City shall continue to be eligible to receive public funds from the  
6 City at the rate of one dollar for each dollar of a matching contribution raised up to the Per  
7 Candidate Disbursement Limit, provided that no funds shall be disbursed if disbursement of  
8 the funds would result in the candidate exceeding his or her Trust Account Limit.

9 (d) PAYMENTS FOR ELECTION EXPENSES TO CANDIDATES FOR THE BOARD  
10 OF SUPERVISORS.

11 (1) Until the Per Candidate Available Disbursement Limit has been determined,  
12 candidates for the Board of Supervisors who have been certified by the Ethics Commission as  
13 eligible to receive public financing for their election campaigns will have access to up to  
14 \$87,500.00 in funds from the ~~Mayoral~~ Election Campaign Fund on a first come, first served  
15 basis according to the formula set forth in Subsection (d)(3) of this Section.

16 (2) Once the Per Candidate Available Disbursement Limit has been determined,  
17 candidates for the Board of Supervisors who have been certified by the Ethics Commission as  
18 eligible to receive public financing for their election campaigns shall have access to funds  
19 from the Election Campaign Fund as follows:

20 (A) If the Executive Director determines that the Per Candidate Available  
21 Disbursement Limit is greater than \$87,500.00, each participating candidate shall have  
22 access to the amount of the Per Candidate Disbursement, subject to the limitations set forth  
23 under Subsection (d)(3)(D) and (d)(3)(E) of this Section.



1 (B) If the Executive Director determines the Per Candidate Available Disbursement  
2 Limit is less than or equal to \$87,500.00, participating candidates shall have access to funds  
3 from the Election Campaign Fund on a first come, first served basis up to a maximum per  
4 candidate of \$87,500.00.

5 (3) A candidate for the Board of Supervisors who is certified as eligible to receive  
6 public financing under this Chapter shall receive payments for eligible matching contributions  
7 according to the following formula:

8 (A) Upon qualification the candidate shall receive a one-time payment of \$10,000.00  
9 from the Election Campaign Fund.

10 (B) After the initial payment under Subsection (d)(3)(A), for the first \$10,000.00 in  
11 matching contributions raised by the candidate, the candidate shall receive four dollars from  
12 the Election Campaign Fund for each dollar raised.

13 (C) After the payments under Subsection (d)(3)(B), for the next \$37,500.00 in  
14 matching contributions raised by the candidate, the candidate shall receive one dollar from the  
15 Election Campaign Fund for each dollar raised.

16 (D) The maximum amount of public funds a candidate for the Board of Supervisors  
17 may receive is \$87,500.00, unless the candidate's Individual Expenditure Ceiling is lifted  
18 according to the rules set forth under Section 1.134.5. The amount of public funds paid under  
19 this Section shall not be affected by the lifting of expenditure limits under Section 1.134.

20 (E) If the Per Candidate Available Disbursement Limit has been determined to be an  
21 amount greater than \$87,500.00, a candidate who has already received at least \$87,500.00 in  
22 disbursements from the City shall continue to be eligible to receive public funds from the City  
23 at the rate of one dollar for each dollar of a matching contribution raised up to the Per  
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1 Candidate Disbursement Limit, provided that no funds shall be disbursed if disbursement of  
2 the funds would result in the candidate exceeding his or her Trust Account Limit.

3 (e) PER CANDIDATE AVAILABLE DISBURSEMENT LIMIT.

4 On the 59th day before the election, the Executive Director shall divide the total amount  
5 of non-administrative funds in the Election Campaign Fund by the number of qualified  
6 candidates. This number shall be deemed the Per Candidate Available Disbursement Limit.  
7 For the purposes of this section, the total amount of non-administrative funds in the Election  
8 Campaign Fund shall be the total amount of funds that existed in the Fund nine months before  
9 the date of election plus any funds deposited into the Fund between that date and the 59th  
10 day before the election minus any funds necessary to cover the administrative costs  
11 associated with implementing the public financing program for the next election.

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

18 Immediately upon calculating the Per Candidate Available Disbursement Limit, the  
19 Executive Director shall inform the Controller of the initial determination of the Per Candidate  
20 Available Disbursement Limit. Thereafter, the Executive Director shall immediately inform the  
21 Controller of any subsequent changes in the Per Candidate Available Disbursement Limit due  
22 to a determination that a candidate has not qualified to receive public financing.

23 (f) SUBMISSION OF CLAIMS FOR PUBLIC FUNDS. The Ethics Commission shall  
24 determine the information needed to submit a claim for payment of public funds. The  
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1 Executive Director shall certify each request for payment of public funds within four business  
2 days of the request, except that within 14 calendar days before the election, when the  
3 certification of a request for public funds shall be made within two business days of the  
4 request. For candidates for Mayor, any submission of a claim for public funds must include a  
5 minimum of \$5,000.00 of matching contributions; provided that in the 14 calendar days  
6 preceding an election, a claim must include a minimum of \$1,000.00 of matching  
7 contributions. For candidates for the Board of Supervisors, any submission of a claim for  
8 public funds must include a minimum of \$500.00 of matching contributions; provided that in  
9 the 14 calendar days preceding an election, a claim must include a minimum of \$100.00 of  
10 matching contributions. All claims for public funds must be submitted no later than 5:00 p.m.  
11 on the 30th day following the date of the election.

12 (g) DEPOSIT IN CAMPAIGN CONTRIBUTION TRUST ACCOUNT.

13 Candidates must deposit all payments received from the Election Campaign Fund in  
14 the candidate's Campaign Contribution Trust Account.

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

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18 By: \_\_\_\_\_  
ANDREW SHEN  
19 Deputy City Attorney

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