

**CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

Policy Analysis Report

To: Supervisor Gordon Mar
From: Budget and Legislative Analyst's Office
Re: Public Financing of Campaigns
Date: September 4, 2019



Summary of Requested Action

You requested that our office analyze potential reforms to the City's public financing program for Board of Supervisors and Mayoral elections, including proposed legislation that addresses:

- Increasing the ratio for matching contributions or match rate
- Decreasing the amount of individual contributions that is matched
- Increasing the amount of public funds available to candidates
- Increasing the Individual Expenditure Ceiling, or total amount that candidates participating in the public financing program can expend on their campaigns.

For further information about this report, contact Fred Brousseau, Director of Policy Analysis, at the Budget and Legislative Analyst's Office.

Project Staff: Fred Brousseau, Amanda Guma

EXECUTIVE SUMMARY

- Like many cities in the U.S., the City and County of San Francisco (the City) has a voluntary public financing program in which candidates for the offices of Board of Supervisors and Mayor can participate.
- Participation in San Francisco's program is subject to candidates first raising a required amount of funds from private donors at which point they receive an initial grant of public funds. After that, participating candidates can receive additional public funds from the program, up to a set maximum, in proportion to additional privately raised funds.
- Public funds are granted to candidates participating in the public financing program at different rates. The initial grant matches the required qualifying raised funds at a \$2-to-\$1 rate for non-incumbent candidates and \$1.33-to-\$1 for incumbents. Once qualified for the program, both incumbent and non-incumbent candidates are eligible to receive a second tier of public funds, granted in proportion to privately raised funds at a \$2-to-\$1 matching rate, up to a set maximum amount.

- After the second tier maximum amount is fully granted, candidates can receive a third and final tier of public funds, again awarded in proportion to privately raised funds, this time at a \$1-to-\$1 matching rate, up to a set maximum amount.
- The City’s public financing program sets limits on participating candidates’ expenditures, referred to in the City’s Campaign and Governmental Conduct Code as Individual Expenditure Ceilings (IECs). IECs are composed of the maximum amount of public funds made available per candidate with the balance privately raised funds.
- IECs can be increased if a candidate’s opponents report fundraising above the set IEC level. IEC increases are approved by the Ethics Commission based on reported fundraising by opposing candidates and independent expenditures by individuals or organizations that operate independent of candidates but advocate on behalf of a particular candidate or measure.

Details of the current program are presented in the body of this report. A glossary of terms is presented as an Appendix to this report.

Proposed Changes in Public Financing of Campaigns

We have analyzed the proposed legislation that would make changes to the City’s public financing program. Specifically, the proposed legislation includes the following changes:

| Proposed legislative change | Policy objectives |
|--|---|
| Reduce the maximum private contribution amount that qualifies for public matching funds and increase the public funds match rate from the current range of \$1-to-\$1 to \$2-to-\$1 to \$6-to-\$1 for all matches for non-incumbents and a range of \$4-to-\$1 to \$6-to-\$1 for incumbents. | Enhance the impact of smaller sized donations. Encourage candidates to enter City races regardless of whether their supporters and donors are not able to contribute relatively larger sums. |
| Increase the initial total spending limit for publicly financed campaigns and provide a greater amount of public funds to candidates. | Amplify the level of resources made available to participating candidates to enable them to run effective, sufficiently resourced campaigns. Participating candidates will have more resources available to better make themselves and their policy views known to voters while reducing the amount of time they need to spend |

| | |
|--|---|
| | fundraising. |
| <p>After qualifying for public financing in a first tier of private fundraising, reduce the amount of funds that candidates must privately raise to qualify for all remaining public funds for which they may qualify.</p> <p>Reduce the number of tiers of private fundraising required to access public funds from three to two.</p> | Reduce the importance of raising larger sums of money to access public funds. |

The specific proposed legislative changes and their impacts for Board of Supervisors candidates participating in the City’s public financing program are summarized in Exhibit B below.

Exhibit B: Proposed changes in public financing for Board of Supervisors candidates

| | Non-incumbent | | | Incumbent | | |
|---|---------------|-----------|------------|-----------|-----------|------------|
| | Current | Proposed | Change | Current | Proposed | Change |
| Individual Expenditure Ceiling | \$250,000 | \$350,000 | +\$100,000 | \$250,000 | \$350,000 | +\$100,000 |
| Maximum Public \$ Available per Candidate | \$155,000 | \$255,000 | +\$100,000 | \$152,500 | \$252,000 | +\$99,500 |
| Total amount to be privately raised to release total available public funds | \$95,000 | \$42,500 | -\$52,500 | \$97,500 | \$47,000 | -\$50,500 |
| Total amount to be privately raised to allow candidate to expend Individual Expenditure Ceiling maximum | \$95,000 | \$95,000 | \$0 | \$97,500 | \$98,000 | +\$500 |

Exhibit C presents the impacts of the proposed legislative changes for mayoral races.

Exhibit C: Proposed changes in public financing for Mayoral candidates

| | Non-incumbent | | | Incumbent | | |
|---|---------------|-------------|------------|-------------|--------------|------------|
| | Current | Proposed | Change | Current | Proposed | Change |
| Individual Expenditure Ceiling | \$1,475,000 | \$1,700,000 | +\$225,000 | \$1,475,000 | \$1,700,000` | +\$225,000 |
| Maximum Public \$ Available per Candidate | \$975,000 | \$1,200,000 | +\$225,000 | \$962,500 | \$1,185,000 | +\$222,500 |
| Amount needed to be privately raised to release maximum public funds | \$500,000 | \$200,000 | -\$300,000 | \$512,500 | \$222,500 | -\$290,000 |
| Total amount to be privately raised to allow candidate to expend Individual Expenditure Ceiling maximum | \$500,000 | \$500,000 | \$0 | \$522,500 | \$515,000 | -7,500 |

- As can be seen by comparing Exhibits B and C, the nature of the proposed changes for mayoral candidates is similar to those for the Board of Supervisors.

Fiscal Impact of Proposed Changes

- The source of public funds used for campaigns is the City’s Election Campaign Fund, administered by the Ethics Commission. The fund is allocated \$2.75 per resident each year whether there is an election or not. Additional funding can be appropriated to the Ethics Commission for special elections for Mayor and the Board of Supervisors, according to the Campaign and Government Conduct Code to ensure baseline amounts of funding for regular Mayoral and Board of Supervisors elections.
- Except for the Board of Supervisors election in 2004, the Fund has been sufficient to cover the public funds awarded to all candidates participating in the public financing program every year since 2002. This is because:
 - 1) participation in the program has never exceeded 50 percent of qualifying candidates (except for the special District 3 election in 2015 when two of three candidates participated),

2) matching public funds awarded have been less than the maximum amount that the candidates could have been awarded because not all candidates raise the minimum amount of private funds needed to receive the maximum amount of matching public funds available, and

3) fewer mayoral candidates, for whom public fund grants are much greater than those for Board of Supervisor candidates, have participated in the program over the years. In fact, Mayoral candidates have only participated in the public financing program in 2011 and 2018.

- Assuming that the proposed new higher levels of public funding were in place in 2018, that the Fund started the year with the approximately \$7 million balance as it actually had that year, and that the same level of candidate participation in the program occurred (14 participating candidates), the Fund would have been sufficient to cover the increased costs and there would have been a \$632,525 surplus at year end. This assumes that all fourteen participating candidates received the maximum amount of public funds possible.

Exhibit C: Election Campaign Fund Impact with Proposed New Public Funding Levels Based on 2018 Actual Experience

| | Actual 2018 | Under Proposed Changes |
|---------------------------|--------------------|---------------------------------------|
| Starting Balance, 2018 | \$ 7,034,525 | \$ 7,034,525 |
| Expenditures | \$ 4,171,224 | \$ 6,402,000 |
| Balance | \$ 2,863,301 | \$ 632,525 |

- Though the Election Campaign Fund appears to be adequately funded at this time to accommodate the proposed new funding levels based on historical participation levels and public funds actually granted to candidates, a reduction in rolled over funds from previous years, which have been available most years of the program, and/or increased levels of program participation could result in the Fund being inadequate for future elections. This would also be true with current public funding levels, though it would take more participating candidates and higher levels of private fundraising to deplete the Fund.
- Besides a baseline annual appropriation equal to \$2.75 per City resident and funds rolled over from prior years, the Campaign and Government Conduct Code also allows for baseline funding levels to be appropriated to the Ethics Commission if needed to achieve a minimum level of funding. In the event that there were no rollover funds from prior years, these baseline amounts would be the sole source of funding for the public financing program.

Budget and Legislative Analyst

- For Mayoral elections, the baseline amount specified in the Code is equal to \$7.50 per resident, or \$6,450,000 based on a population of 860,000. For Board of Supervisors elections, the amount is \$1.50 per resident, or \$1,290,000. Based on past participation levels for Mayoral elections, the existing baseline funding seems sufficient, but for Board of Supervisors elections, the baseline amount would only provide a level of funding to cover five non-incumbent candidates if each received maximum public funds awards of \$255,000 each, the amount proposed in the legislation being considered. The annual appropriation to the Ethics Commission of \$2.75 per resident, on the other hand, would be better, generating \$2,365,000 with a population of 860,000 and would cover nine candidates at \$255,000 each in public funds awards.
- Program participation by candidates for the Board of Supervisors since 2012 has been as high as 12 in a number of elections so a higher baseline level of funding for Board of Supervisors elections than provided by the current baseline or annual appropriation amount to the Ethics Commission appears reasonable. A funding level of \$4.50 per resident, for example, would allow for baseline funding of \$3,870,000 and would cover 15 candidates at \$255,000 each. An appropriation to meet this baseline would only be necessary if the combination of the annual appropriation to the Ethics Commission and any rolled over funds are lower than the baseline amount specified for Board of Supervisors elections.
- There are a number of inconsistent funding provisions for the public financing program in the City's Campaign and Government Conduct Code. Some amendments to these provisions should be considered by the Board of Supervisors in the short term and some could be considered in conjunction with monitoring levels of participation in the program and actual public funds disbursement over the next two election cycles to determine if higher levels of funding will be needed.

Policy Options:

1. The Board of Supervisors should consider adoption of the proposed legislation if it chooses to support the policy goals of reducing the importance of larger donations and sums of money to access public funds, encouraging candidates to enter City races regardless of whether their supporters are able to make relatively larger contributions, increasing total public spending on Mayoral and Board of Supervisors campaigns, and reducing the amount of time to be spent fundraising by candidates participating in the public financing program.

The Election Campaign Fund appears to be sufficient to cover the increases in public funding in the proposed legislation based on historical participation levels and because the Fund has generally been higher than the baseline appropriation allowed by the Campaign and Government Conduce Code due to rolled over funds from prior years. However, if rolled over funds are not available in the future, the current funding

formulae could prove insufficient to cover program costs, whether the proposed legislation is adopted or not. Therefore, the Board of Supervisors could:

2. Consider amending the City's Campaign and Government Conduct Code to allow the Election Campaign Fund to be funded at levels over \$7 million, by amending Section 1.138 (b)(1) since funding over the cap is now allowed under Section 1.154 by allowing for an appropriation of \$7.50 per resident plus 15% for administrative costs for Mayoral elections.
 3. Consider amending the City's Campaign and Government Conduct Code to clarify which funding provisions allow for administrative costs of 15 percent.
 4. Consider increasing the baseline level of funding for Board of Supervisors elections now set at \$1.50 per resident in Campaign and Government Conduct Code section 1.154(2) to a higher amount such as \$4.50 that the Ethics Commission could request in the event the Election Campaign Fund balance is lower than this amount. Baseline funding of \$4.50 per resident would ensure that up to 15 Board of Supervisors candidates could participate in the public financing program and receive maximum public funds available per non-incumbent candidate of \$255,000 each. An appropriation authorized by the Board of Supervisors for this baseline funding would only be necessary if the Election Campaign Fund had insufficient funding to cover the election from rolled over funds and/or the Ethics Commission's regular annual appropriation, both of which have provided adequate funding levels in recent years of the program.
-

Public Financing of Campaigns in San Francisco

In November 2000, the voters of San Francisco approved Proposition O, a ballot measure that established voluntary public financing for candidates for the Board of Supervisors. Codified in the City's Campaign and Government Conduct Code as the Campaign Finance Reform Ordinance, Mayoral candidates also became eligible to receive public funding through amendments to the ordinance in 2006.

A number of other cities in the U.S. have also established public financing programs for their municipal elections. Among these jurisdictions are New York City, Los Angeles, Seattle, and Berkeley. Other cities such as Denver, Portland, Oregon, and Baltimore have initiated or enhanced existing programs in the recent past.

In accordance with the Campaign Finance Reform Ordinance, the City's Election Campaign Fund receives a General Fund allocation of \$2.75 per resident, up to a maximum of \$7 million, per fiscal year. Qualifying candidates can receive public funds to match eligible campaign contributions up to maximum levels established by the Campaign Finance Reform Ordinance, as codified in the City's Campaign and Government Conduct Code.

Based on their level of private fundraising, public funds are currently distributed to candidates in three tiers, each with its own funding match rate and maximum qualifying or matching contribution amounts. The structure sets minimum levels of private fundraising and number of donations needed to qualify for participation in the public financing program (Tier 1). Once a candidate has raised the qualifying private fundraising amount, he or she is allowed to participate in the public financing program and receives a first allocation of public funds at a rate of \$2-to-\$1 for non-incumbents and \$1.33-to-\$1 for incumbents relative to the qualifying amount raised (\$10,000 for non-incumbent and \$15,000 for incumbent candidates for the Board of Supervisors and \$50,000 for incumbent and \$75,000 for incumbent Mayoral candidates). Once participating in the program, candidates receive public matching funds up to set maximum amounts in proportion to privately raised funds in two more tiers, first at a \$2-to-\$1 match rate for the second tier, then at a lower \$1-to-\$1 match rate for the third tier.

Candidates can receive less than the maximum amount of public funds if their private fundraising is less than the total maximum matching amounts allowed by the program. Candidates may accept donations in excess of the matching contribution amounts in Tier 1 (currently \$100 per contribution for Board of Supervisors and Mayoral candidates) but only up to the legally allowed individual

contribution maximum of \$500. However, only the amount designated by the program as qualifying is counted for matching public funds (e.g., only \$100 of a \$500 contribution would generate matching public funds of \$200 for Tier 1). Any such excess funds raised in Tiers 1 and 2 can be transferred to the subsequent tier, where they will count as matching fund contributions. So \$100 of a \$500 Teri 1 donation would be counted as a matching contribution for Tier 1, and the remaining \$400 would be counted as a matching contribution for Tier 2.

Exhibits 1 and 2 present the current structure of San Francisco’s public financing program, with descriptive information for each tier following the tables.

Exhibit 1: Current Public Financing Model - Board of Supervisors

| Fundraising Tier | Maximum qualifying/matching contribution | Match Rate | Non-incumbent | | Incumbent | |
|---|--|----------------------|------------------------|--------------------------------|------------------------|-----------------------|
| | | | Privately Raised Funds | Matching Public Funds Provided | Privately Raised Funds | Public Funds Provided |
| Tier 1: qualifying requirement (100/150 minimum number of donors) | \$100 | \$2:\$1 & \$1.33:\$1 | \$10,000 | \$20,000 (2:1) | \$15,000 | \$20,000 (1.33:1) |
| Tier 2: next fundraising increment | \$500 | \$2:\$1 | \$50,000 | \$100,000 (2:1) | \$50,000 | \$100,000 (2:1) |
| Tier 3: next fundraising increment | \$500 | \$1:\$1 | \$35,000 | \$35,000 (1:1) | \$32,500 | \$32,500 (1:1) |
| <i>Subtotal</i> | | | <i>\$95,000</i> | <i>\$155,000</i> | <i>\$97,500</i> | <i>\$152,500</i> |
| Total | | | \$250,000 | | \$250,000 | |

Source: San Francisco Campaign and Government Conduct Code, Article I, Chapter I

Exhibit 2: Current Public Financing Model - Mayor

| Fundraising Tier | Maximum qualifying/matching contribution | Match Rate | Non-incumbent | | Incumbent | |
|---|--|----------------------|------------------------|--------------------------------|------------------------|-----------------------|
| | | | Privately Raised Funds | Matching Public Funds Provided | Privately Raised Funds | Public Funds Provided |
| Tier 1 increment: qualifying requirement (500/750 minimum number of donors) | \$100 | \$2:\$1 & \$1.33:\$1 | \$50,000 | \$100,000 (2:1) | \$75,000 | \$100,000 (1.33:1) |
| Tier 2: next fundraising increment | \$500 | \$2:\$1 | \$425,000 | \$850,000 (2:1) | \$425,000 | \$850,000 (2:1) |
| Tier 3: next fundraising increment | \$500 | \$1:\$1 | \$25,000 | \$25,000 (1:1) | \$12,500 | \$12,500 (1:1) |
| <i>Subtotal</i> | | | <i>\$500,000</i> | <i>\$975,000</i> | <i>\$512,500</i> | <i>\$962,500</i> |
| Total | | | \$1,475,000 | | \$1,475,000 | |

Source: San Francisco Campaign and Government Conduct Code, Article I, Chapter I

A glossary of terms used in this report appears as an appendix.

Qualifying 1st tier: Minimum level of private fundraising required to qualify for public financing of campaign and to receive a first award of public funds

Board of Supervisors

To qualify for public financing, non-incumbent candidates for the Board of Supervisors must raise \$10,000 in at least 100 contributions since the maximum qualifying contribution for this tier is \$10,000 (\$100 contributions x 100 contributors = \$10,000). Contributions in excess of \$100 can be accepted¹ but the amount above \$100 does not count towards the \$10,000 threshold to qualify for public funding. Once \$10,000 has been raised from at least 100 contributors, non-incumbent candidates for the Board of Supervisors participating in the program receive \$20,000 in public funds, or a match rate of 2-to-1.

Incumbent candidates for the Board of Supervisors must raise \$15,000 or \$5,000 more than non-incumbents to qualify for public financing, in at least 150 contributions as the maximum qualifying contribution per individual is also \$100 (\$100 x 150 donations = \$15,000). These candidates then also qualify to participate in the program, with a first matching grant of public funds of \$20,000. Therefore, incumbents' public funding match rate is \$1.33-to-\$1, or less than the \$2-to-\$1 match rate for non-incumbents.

Mayor

The structure for the Mayoral campaigns is similar to that of the Board of Supervisors though the amounts are larger for this Citywide office. Non-incumbents must raise \$50,000 in at least 500 donations since \$100 of each is the maximum qualifying amount of each donation that qualifies for matching public financing (500 contributors x \$100 = \$50,000). With a match rate of \$2-to-\$1, achieving the \$50,000 threshold for privately raised funds results in a \$100,000 allocation of public funds for non-incumbent candidates.

To qualify for public financing of their campaigns, Incumbent candidates for Mayor must raise \$75,000 (\$25,000 more than non-incumbents), in at least 750 donations of at least \$100 (\$100 x 750 contributors = \$75,000). When this threshold is reached, incumbent candidates can receive \$100,000 in public funding, for a match rate of \$1.33-to-\$1, the same as the rate for incumbent candidates for the Board of Supervisors.

¹ Donors are allowed by law to contribute up to \$500 per individual.

2nd tier: Largest allocation of matching public funds provided at a rate of \$2-to-\$1 in proportion to a candidate's privately raised funds up to a set maximum

Board of Supervisors

The next increment of privately raised funds needed to qualify for a second round of public funds is the same for non-incumbent and incumbent candidates for the Board of Supervisors. Privately raised funds of up to \$50,000 are matched with public funds at a rate of \$2-to-\$1, up to \$100,000 in public funds per candidate. Funds are distributed in proportion to the amount raised up to the \$50,000 cap.

Any contributions in excess of the \$100 maximum qualifying contribution from the first tier of fundraising may be applied to the private fundraising threshold for the second tier of the program. To the extent those funds aren't sufficient to fully meet the second tier threshold, candidates have to raise additional funds to receive the full second tier amount of public funding made available through the program. Unlike first tier contributions, for which only the first \$100 is considered a qualifying contribution, second tier contributions up to \$500 each, the legal limit for individual donations, fully qualify for matching funds.

Mayor

The second tier of public financing candidates for Mayor is also the same for non-incumbents and incumbents. All candidates receive a match at the rate of \$2-to-\$1 for up to \$425,000 in privately raised funds, for a maximum allotment of \$850,000 in public funds.

3rd tier: Smaller allocation of matching public funds provided at a rate of \$1-to-\$1 in proportion to a candidate's privately raised funds, up to a set maximum

Board of Supervisors

The next and third increment of privately raised funds are matched at a rate of \$1-to-\$1 for up to \$35,000 in privately raised funds for non-incumbents and the slightly lower \$32,500 for incumbents.

Mayor

The third tier for Mayoral candidates is similar to the structure for the Board of Supervisors. The match rate is \$1-to-\$1 and the public funding provided is \$25,000 for non-incumbents and \$12,500 for incumbents.

Impacts of Reforming San Francisco’s Approach to Public Financing

Your office requested an analysis of the impacts of the proposed legislation that would reform a number of aspects of San Francisco’s public financing program. Key proposed changes are:

- ✓ Increase the maximum amount of public funds available to qualifying candidates.
- ✓ Increase the match rate by which public funds are provided to candidates in proportion to funds privately raised from between \$1-to-\$1 and \$2-to-\$1 to between \$4-to-\$1 and \$6-to-\$1,
- ✓ Reduce the total amount of private funds that must be raised for candidates to be awarded public funds.
- ✓ Reduce the amount of each privately raised matching contribution (the amount of a contribution that qualifies for public fund matching) from \$500 to \$150 to enable candidates to be awarded public funds with a greater number of smaller donations.

The current program and specific proposed changes for Board of Supervisors campaigns are presented in Exhibit 3.

Exhibit 3: Current and Proposed Public Financing Model – Board of Supervisors

| | Fundraising Tier | Maximum qualifying/ matching contribution | Match Rate | Non-Incumbent | | Incumbent | |
|----------|--|---|------------|------------------------|-----------------------|------------------------|-----------------------|
| | | | | Privately Raised Funds | Public Funds Provided | Privately Raised Funds | Public Funds Provided |
| current | Tier 1 qualifying requirement (100/150 donors minimum) | \$100 | 2:1/1.33:1 | \$10,000 | \$20,000 | \$15,000 | \$20,000 |
| | Tier 2: next fundraising increment | \$500 | 2:1 | \$50,000 | \$100,000 | \$50,000 | \$100,000 |
| | Tier 3: final fundraising allowance | \$500 | 1:1 | \$35,000 | \$35,000 | \$32,500 | \$32,500 |
| | <i>Subtotal</i> | | | <i>\$95,000</i> | <i>\$155,000</i> | <i>\$97,500</i> | <i>\$152,500</i> |
| | Total (Individual Expenditure Ceiling) | | | \$250,000 | | \$250,000 | |
| proposed | Tier 1 qualifying requirement (100/150 donors minimum) | \$100 | 6:1/4:1 | \$10,000 | \$60,000 | \$15,000 | \$60,000 |
| | Tier 2: next fundraising increment | \$150 | 6:1 | \$32,500 | \$195,000 | \$32,000 | \$192,000 |
| | Tier 3: final fundraising allowance | \$0 | n.a. | \$52,500 | \$0 | \$51,000 | \$0 |
| | <i>Subtotal</i> | | | <i>\$95,000</i> | <i>\$255,000</i> | <i>\$98,000</i> | <i>\$252,000</i> |
| | Total (Individual Expenditure Ceiling) | | | \$350,000 | | \$350,000 | |

The details of the proposed changes for Board of Supervisors campaigns as shown in Exhibit 3 are as follows.

- Increase the initial campaign spending limit, or Individual Expenditure Ceiling, for candidates participating in the public financing program from

Budget and Legislative Analyst

\$250,000 to \$350,000 per candidate, consisting of privately raised and public funds as detailed below.

- Keep the amount to be privately raised to qualify to participate in the program and receive Tier 1 public funds at \$10,000 for non-incumbents and \$15,000 for incumbents, each of which must still be raised from a minimum of 100 donors for non-incumbents and 150 for incumbents.
- Increase the amount of Tier 1 public funds that non-incumbent and incumbent candidates receive upon qualifying for the program from \$20,000 at present to \$60,000.
- Increase the Tier 2 match rate from \$2-to-\$1 to \$6-to-\$1 and reduce the portion of each contribution that qualifies for matching funds (the “matching contribution”) from \$500 to \$150 for both non-incumbents and incumbents.
- Based on a higher matching rate of \$6-to-\$1, reduce the maximum amounts that candidates need to raise to obtain all available Tier 2 public funds from \$50,000 to \$32,500 for non-incumbents and from \$50,000 to \$32,000 for incumbents.
- Increase the maximum amount of Tier 2 public funds that non-incumbents will be granted in proportion to their private fund raising from \$100,000 to \$195,000. For incumbent candidates, increase the maximum amount of Tier 2 public funds that will be granted in proportion to the amount of private funds raised from \$100,000 to \$192,000.
- Eliminate Tier 3 as a mechanism to grant public funds to candidates as all public funds would be awarded in their entirety through Tiers 1 and 2 under the proposed legislation. However, candidates would still be allowed to continue to raise and spend additional privately raised funds up to set maximums of \$52,500 for non-incumbents and \$51,000 for incumbent candidates. Candidates would not receive any public funds to match these amounts.
- Non-incumbent candidates who are successful in raising the amounts required to be granted the full \$255,000 in public funds will have raised a total of \$42,500 in private funds. If non-incumbent candidates further raise the \$52,500 in non-matching privately raised funds (\$51,000 for incumbents) allowed under the proposed program changes, they will have raised a total of \$95,000 in private funds and been granted \$255,000 in public funds, for a grant total of \$350,000, or the proposed new Individual Expenditure Ceiling, at their disposal to spend on their campaign.

Incumbent candidates will have raised \$98,000 through private fundraising and received \$252,000 in public funds that, when combined also amounts to the Individual Expenditure Ceiling total of \$350,000 that they would be allowed to expend on their campaign (\$98,000 + \$252,000 = \$350,000).

- As with the present program structure, candidates under the proposed changed could raise more than the \$95,000 and \$98,000 in private funds needed to obtain all public funds available for non-incumbents and incumbents, respectively, but they cannot spend any excess funds unless their Individual Expenditure Ceiling is raised, discussed further below.

For comparison, other cities with public financing programs have higher match rates than San Francisco, such as New York City, the City of Los Angeles, the City of Portland, and the City of Berkeley, all with a \$6-to-\$1 rate. Denver voters passed an initiative in November 2018 that will establish the public financing match rate of \$9-to-\$1.

A summary of the impacts of the key proposed changes for Board of Supervisors campaigns are presented in Exhibit 4.

Exhibit 4: Key Proposed Changes for Board of Supervisors Candidates

| | Non-incumbent | | | Incumbent | | |
|---|---------------|-----------|------------|-----------|-----------|------------|
| | Current | Proposed | Change | Current | Proposed | Change |
| Individual Expenditure Ceiling | \$250,000 | \$350,000 | +\$100,000 | \$250,000 | \$350,000 | +\$100,000 |
| Maximum Public \$ Available per Candidate | \$155,000 | \$255,000 | +\$100,000 | \$152,500 | \$252,000 | +\$99,500 |
| Total amount to be privately raised by candidates to release total available public funds | \$95,000 | \$42,500 | -\$52,500 | \$97,500 | \$47,000 | -\$50,500 |
| Total amount to be privately raised to allow candidate to expend Individual Expenditure Ceiling maximum | \$95,000 | \$95,000 | \$0 | \$97,500 | \$98,000 | +\$500 |

Currently the City’s public financing program requires non-incumbent Board of Supervisors candidates to raise a total of \$95,000 to be entitled to \$155,000 in

public funds and be granted the maximum Individual Expenditure Ceiling total of \$250,000 ($\$95,000 + \$155,000 = \$250,000$) to spend on their campaign. Under the proposed legislation with its higher match rates and increased public funding, non-incumbent candidates would need to raise \$42,500 from donors, or \$52,500 less than the \$95,000 presently required, to be entitled to a higher maximum of \$255,000 in public funds available per candidate, or \$100,000 more than under the current program. This would occur in Tiers 1 and 2 of the program as opposed to three tiers of private fundraising under the current program..

Although they would have obtained the maximum public funds available in Tiers 1 and 2 under the proposed legislation, candidates would still need to raise additional private funds to have sufficient funds to spend up to the maximum Individual Expenditure Ceiling. For non-incumbent candidates, this would mean raising an additional \$52,500 in private funds. For incumbent candidates, this would mean raising an additional \$51,000. When all of the private and public funds are combined, candidates would be able to spend up to the Individual Expenditure Ceiling amount of \$350,000 under the proposed legislation.

In summary, the proposed legislation would reduce the amounts that candidates for the Board of Supervisors would need to privately fundraise to be granted larger sums of public funds than is presently made available to program participants.

Mayor

A similar pattern would be established for Mayoral races under the proposed legislation, as shown in Exhibit 5. Key objectives of the changes in public financing for Mayoral campaigns would be:

- ✓ Provide an increased maximum amount of public funds to qualified participating candidates..
- ✓ Increase the match rate by which public funds are provided in proportion to privately raised funds from between \$1-to-\$1 and \$2-to-\$1 to between \$4-to-\$1 and \$6-to-\$1.
- ✓ Retain the amount of private funds that must be raised for candidates to qualify to participate in the program, but reduce the total amount of private funds that subsequently must be raised for candidates to receive the maximum public funds available through the program through smaller donations.
- ✓ Retain the maximum amount of each privately raised contribution that qualifies for public fund matching in the first tier of fundraising to qualify

for participation in the program but reduce the matching contribution maximum from \$500 to \$150 for the second tier of fundraising to enable candidates to receive maximum public funds through smaller donations.

Exhibit 5 presents the current and proposed changes for Mayor’s campaigns.

Exhibit 5: Current and Proposed Public Financing Model – Mayor

| | Fundraising Tier | Maximum qualifying/ matching | Match Rate | Non-incumbent | | Incumbent | |
|----------|---|---------------------------------|------------|------------------------|-----------------------|------------------------|-----------------------|
| | | | | Privately Raised Funds | Public Funds Provided | Privately Raised Funds | Public Funds Provided |
| current | Tier 1 qualifying requirement (500/750 donors minimum) | \$100 | 2:1/1.33:1 | \$50,000 | \$100,000 | \$75,000 | \$100,000 |
| | Tier 2: next fundraising increment | \$500 | 2:1 | \$425,000 | \$850,000 | \$425,000 | \$850,000 |
| | Tier 3: next fundraising increment | \$500 | 1:1 | \$25,000 | \$25,000 | \$12,500 | \$12,500 |
| | <i>Subtotal</i> | | | \$500,000 | \$975,000 | \$512,500 | \$962,500 |
| | Total (Individual Expenditure Ceiling) | | | \$1,475,000 | | \$1,475,000 | |
| proposed | Tier 1 increment: qualifying reqt. (500/750 donors minimum) | \$100 | 6:1/4:1 | \$50,000 | \$300,000 | \$75,000 | \$300,000 |
| | Tier 2: next fundraising increment | \$150 | 6:1 | \$150,000 | \$900,000 | \$147,500 | \$885,000 |
| | Tier 3: next fundraising increment | \$500 | n.a. | \$300,000 | | \$292,500 | |
| | <i>Subtotal</i> | | | \$500,000 | \$1,200,000 | \$515,000 | \$1,185,000 |
| | Total (Individual Expenditure Ceiling) | | | \$1,700,000 | | \$1,700,000 | |

As can be seen in Exhibit 5, details of the proposed changes are as follows.

- The Individual Expenditure Ceiling, or spending limit, for Mayoral candidates would be increased from \$1,475,000 to \$1,700,000 per candidate, consisting of \$500,000 in required privately raised funds and \$1,200,000 in public funds for non-incumbents and \$515,000 in required privately raised funds and \$1,185,000 in public funds for incumbent candidates.
- There would be no change in the \$50,000 Tier 1 privately fundraised minimum amount needed to qualify for participation in the program for non-incumbents and \$75,000 for incumbents. If these amounts are raised, candidates would then be entitled to receive their Tier 1 award of public funds. These qualifying private funds must still be raised from a minimum of 500 donors for non-incumbents and 750 donors for incumbent candidates.
- Public funds provided once candidates have met the Tier 1 qualifying level of fundraising would be increased from \$100,000 to \$300,000 for both non-incumbents and incumbents.
- The Tier 2 match rate would be increased from \$2-to-\$1 to \$6-to-\$1 and the maximum matching contribution amount, or the amount of a donation that qualifies for matching public funds would be reduced from

\$500 to \$150 for both non-incumbents and incumbents. The corresponding maximum amounts of privately raised funds needed to qualify for Tier 2 public funds would be reduced from \$425,000 to \$150,000 for non-incumbents and from \$425,000 to \$147,500 for incumbents.

- As with proposed changes for Board of Supervisors candidates, the Tier 3 private fundraising maximum to qualify for a third tier of public funds for Mayoral candidates would be eliminated since total maximum public funding available for candidates would already have been awarded earlier through Tiers 1 and 2. However, non-incumbent candidates could continue to raise and spend up to \$300,000 and incumbents could continue to raise and spend up to \$292,500 from private donors after they have received all public funds through Tiers 1 and 2. These additional private funds could be raised and spent because, together with all public funds granted and previous privately raised funds, the total amount available for a candidate would be within the Individual Expenditure Ceiling of \$1,700,000.
- Under the current and proposed systems, candidates can continue to privately raise funds in excess of their Individual Expenditure Ceiling but they cannot spend any excess donations unless their Individual Expenditure Ceiling is increased by the Ethics Commission, as described and discussed further below.

Exhibit 6 summarizes the key changes that would occur for Mayoral campaigns if the proposed changes are implemented.

Exhibit 6: Key Proposed Changes for Mayoral Candidates

| | Non-incumbent | | | Incumbent | | |
|---|---------------|-------------|------------|-------------|--------------|------------|
| | Current | Proposed | Change | Current | Proposed | Change |
| Individual Expenditure Ceiling | \$1,475,000 | \$1,700,000 | +\$225,000 | \$1,475,000 | \$1,700,000` | +\$225,000 |
| Maximum Public \$ Available per Candidate | \$975,000 | \$1,200,000 | +\$225,000 | \$962,500 | \$1,185,000 | +\$222,500 |
| Amount needed to be privately raised to release maximum public funds | \$500,000 | \$200,000 | -\$300,000 | \$512,500 | \$222,500 | -\$290,000 |
| Total amount to be privately raised to allow candidate to expend Individual Expenditure Ceiling maximum | \$500,000 | \$500,000 | \$0 | \$522,500 | \$515,000 | -7,500 |

As shown in Exhibit 6, Individual Expenditure Ceilings, or the total amount of privately raised funds and public funds that candidates participating in the program are allowed to spend, would be increased. Non-incumbent and incumbents would both be allowed to spend up to \$1,700,000 on their campaigns, an increase of \$225,000 from the current limit of \$1,475,000. Additional spending beyond these limits could be allowed but is subject to approval by the Ethics Commission based on when certain circumstances are met, as discussed below.

Non-incumbent Mayoral candidates would be eligible to receive up to \$1,200,000 in public funds, or \$225,000 more than under the current system. Maximum public funding for Incumbent candidates would be increased from \$962,500 under the current system to \$1,185,000 under the proposed changes, or \$222,500 more than is presently provided.

With higher match rates of \$6-to-\$1 under the proposed legislation as compared to the current match rate of \$2-to-\$1, private fundraising requirements for candidates to receive the maximum public funds available would be reduced. Non-incumbent candidates would be required to privately raise \$200,000 instead of the current \$500,000, a \$300,000 reduction. Incumbent candidates would be required to raise \$222,500 under the proposed legislation instead of the current \$512,500, a \$290,000 reduction. And, as discussed above, the amount of public

funds provided if these private fundraising requirements are met would be \$1,200,000 for non-incumbent candidates, or \$225,000 more than is presently provided. Incumbent candidates would be entitled to \$1,185,000 in public funds if they fully meet the private fundraising requirements, an increase of \$222,500 under the current program.

The final significant change would be that non-incumbent Mayoral candidates could continue to privately fundraise up to \$300,000 or more after having received all total public funding in Tiers 1 and 2. However, no additional matching public funding would be awarded for those additional funds raised. Under the current system, non-incumbent candidates who raise up to \$25,000 in the current third tier of the program are entitled to \$1-to-\$1 matching funds of \$25,000, which, when received, completes the public funds award for a candidate.. Under the proposed changes, after non-incumbent candidates have received the full \$1,200,000 in public funds through Tiers 1 and 2 private fundraising, public fund awards will be complete. Candidates could still raise up to \$300,000 in private funds as the new Tier 3 but these funds won't be matched with public funds. Candidates who raise the full \$300,000 in the new Tier 3 would then have a total of \$1,700,000 in private and public funds, or the proposed new Individual Expenditure Ceiling, to spend on their campaigns

For incumbent candidates, the comparable amounts for Tier 3 are currently \$12,500 in privately raised funds required to obtain \$12,500 in public funds, with the current \$1-to-\$1 match rate. This would change so that incumbent candidates would be allowed to raise and spend up to \$292,500 more after raising the required amounts from private donors for Tiers 1 and 2 and receiving the entirety of public funds made available to Mayoral candidates. Incumbent candidates who raise the full \$292,500 in private funds and receive all public funds available would be entitled to expend the full increased Individual Expenditure Ceiling of \$1,700,000.

Under the current and proposed systems, candidates can continue to privately fundraise in excess of the Individual Expenditure Ceiling, but they cannot spend those excess funds unless their Individual Expenditure Ceiling is increased by the Ethics Commission, as described and discussed further below.

Adjustments to Individual Expenditure Ceilings

Pursuant to the City's Campaign and Government Conduct Code, candidates who receive public funds must agree to limit their campaign spending to the amount of their Individual Expenditure Ceiling (IEC), or total maximum amount that can be spent on qualified campaign expenditures for program participants. As identified

above, the current maximum amount of public and private funds allowed for a candidate's campaign starts at \$250,000 for Board of Supervisors candidates and \$1,475,000 for Mayoral candidates. The Ethics Commission may increase these amounts to the sum of the highest level of Total Supportive Funds among a candidate's opponents for the same office and the Total Opposition Spending against that candidate whenever it is greater than \$250,000 for Board of Supervisors candidates and \$1,475,000 for Mayoral candidates. Any such increases are made in increments of \$50,000 for Board of Supervisors candidates and \$250,000 for Mayoral candidates.

The proposed legislation would increase the initial threshold amounts over which adjustments would be made to reflect the new Individual Expenditure Ceilings: \$350,000 for Board of Supervisors candidates instead of the current \$250,000 and \$1,700,000 for Mayoral candidates to replace the current \$1,475,000.

How the Proposed Legislative Changes Shifts Emphasis from Big Donations

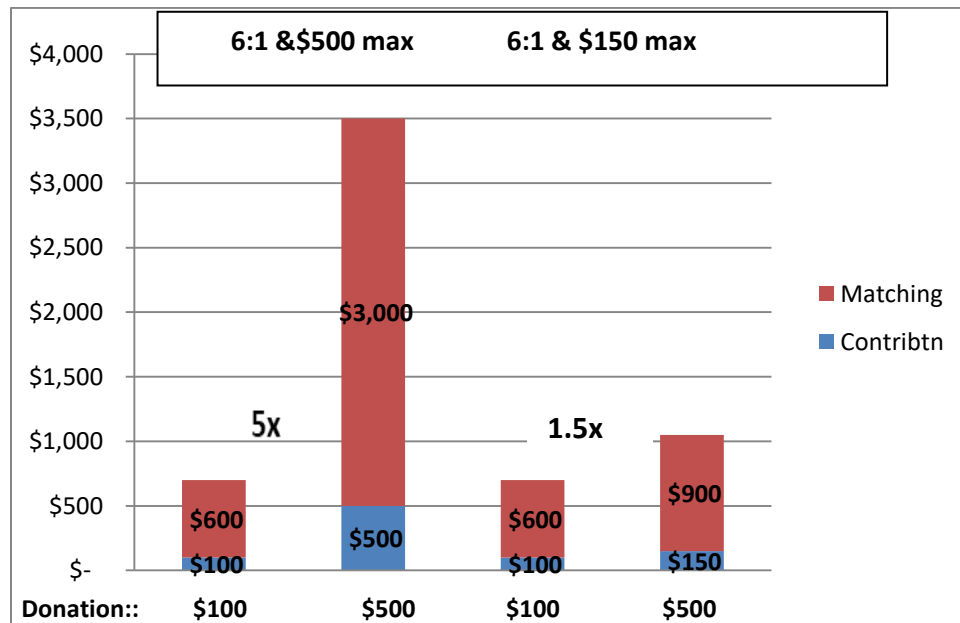
To illustrate the impact and interaction of two of the key proposed changes to the public financing program, Exhibit 7 shows the impact of both increasing the Tier 2 match rate from \$2-to-\$1 to \$6-to-\$1 *and* reducing the matching contribution amount of each private donation from \$500 to \$150, as the legislation proposes for Tier 2.

Increasing the match rate from \$2-to-\$1 to \$6-to-\$1 as proposed would provide a greater level of public funding to match all private donations compared to the existing match rate of \$2-to-\$1. However, with this change alone and no change in the matching contribution amount of \$500, the differential between a \$100 donation and the highest qualifying Tier 2 donation amount of \$500 would be 5x, as shown in Exhibit 7, continuing to give significantly more weight to larger donations. A \$500 donation would thus result in a candidate having \$3,500 at their disposal (the \$500 donation and $(\$500 \times 6)$ in public funds) = \$3,500 at \$6-to-\$1) as compared to a \$100 donation, which would produce \$700 for the candidate (the \$100 donation and $(\$100 \times 6)$ in public funds) = \$700 at \$6-to-\$1).

By lowering the matching contribution amount from \$500 to \$150, as proposed for Tier 2 in the subject legislation, the differential between a \$100 donation and a \$500 donation, only \$150 of which would be matched with public funds, would be 1.5x. This would reduce the gap and inequity based on contribution size in terms of public funds provided. A \$500 donation would generate \$1,050 in private and public funds for a candidate ($\$150$ matching contribution + $(\$150 \times 6)$) = \$1,050, or only 1.5 times more than the \$700 generated in private and public funds by a \$100 donation ($\100 matching contribution + $(\$100 \times 6)$) = \$700). The additional

\$350 raised with a \$500 contribution that wouldn't count as a matching contribution could still be used by the candidate for their campaign, but it would not draw any matching public funds under the proposed legislation.

Exhibit 7: Impact of Combination of Proposed Increase in Match Rate and Reduced Matching Contribution Maximum



Minimum Number of Donors

The proposed legislation would not necessarily change the minimum number of donors contributing to a candidate but it would make it possible for candidates to receive all available public funds available through the program from smaller contribution amounts than is presently the case. By lowering the Tier 2 matching contribution maximum from \$500 to \$150, candidates who receive donations in smaller increments than \$500 would likely gain access to public funds faster than they do under the current structure.

As shown in Exhibit 8, a \$150 donation under the current system would generate \$300 in matching funds at the \$2-to-\$1 match rate. A \$500 donation, on the other hand, would generate \$1,000 in public funds for the candidate since \$500 is the current maximum matching contribution amount. Under the proposed legislation, with a \$6-to-\$1 match rate and a \$150 maximum matching contribution, a \$150 and a \$500 donation would both generate \$900 in public funds (\$150 x6).

Candidates receiving donations in lower increments would be at less of a disadvantage in terms of receiving public funds under the proposed structure.

Exhibit 8: Public Funds Generated for \$150 and \$500 Donations under Current and Proposed Program

| Public Funds Provided Under: | \$150 Donation (@ \$2-to-\$1) | \$500 Donation (\$150 matching contribution max.) (@ \$6-to-\$1) | Difference |
|-------------------------------------|--------------------------------------|---|-------------------|
| Current Program | \$300 | \$1,000 | \$700 |
| Proposed Changes | \$900 | \$900 | \$0 |

Trends in Program Participation and Performance

Because the public finance program is voluntary, the number (and percentage) of candidates participating has varied in every election cycle since 2002 when it began. Exhibit 9 below provides a summary of participation in elections since 2002.

Exhibit 9: Public Financing for San Francisco Campaigns, 2002 to 2018

| General Election Year | Total Amount of Spending- All Candidates | Total Public Funds Disbursed | % Public Funds | Average Public Funding Per Participating Candidate | Number of Participating Candidates | Total Qualifying Candidates | Participating Candidates % Total Qualifying Candidates |
|------------------------------|---|-------------------------------------|-----------------------|---|---|------------------------------------|---|
| 2002 | \$2,213,316 | \$281,989 | 12.7% | \$31,332 | 9 | 28 | 32% |
| 2004 | \$3,654,616 | \$757,678 | 20.7% | \$32,943 | 23 | 65 | 35% |
| 2006 | \$1,781,148 | \$216,784 | 12.2% | \$36,131 | 6 | 26 | 23% |
| 2008 | \$3,875,551 | \$1,315,470 | 33.9% | \$69,235 | 19 | 42 | 45% |
| 2010 | \$3,581,175 | \$1,477,713 | 41.3% | \$67,169 | 22 | 46 | 48% |
| 2011* | \$11,360,505 | \$4,696,390 | 41.3% | \$521,821 | 9 | 16 | 56% |
| 2012 | \$2,987,290 | \$1,228,097 | 41.1% | \$102,341 | 12 | 26 | 46% |
| 2014 | \$1,542,741 | \$194,710 | 12.6% | \$97,355 | 2 | 17 | 12% |
| 2015 | \$1,075,617 | \$307,500 | 28.6% | \$153,750 | 2 | 3 | 67% |
| 2016 | \$3,916,575 | \$1,522,296 | 38.9% | \$126,858 | 12 | 28 | 43% |
| 2018* | \$11,438,188 | \$4,171,224 | 36.5% | \$347,602 | 14 | 34 | 41% |

Source: Ethics Commission Reports, 2002 to 2018

*Includes participation of candidates for Mayor

As shown above in Exhibit 9, total spending by all candidates has nearly doubled since the program began from approximately \$2.2 million in 2002 to \$11.4 million in 2018. The total amount of public funds disbursed by the City to eligible candidates increased significantly since the public financing program began, from

\$281,989 in 2002 to over \$4 million in 2011 and 2018 (both years of which included a Mayor's race). Though changes in the program's funding formula occurred over the years, average public funding per candidate increased over these years from \$31,332 in 2002 to \$347,602 in 2018. Generally, the percentage of qualifying candidates participating in the program has been fairly flat since 2008, aside from 2014, when participation was exceptionally low, and the District 3 election in 2015, when participation was high.

With the exception of the election in 2015 in which there was a Board of Supervisors campaign for one supervisorial district only and two of the three candidates participated in the program², participation in the program has been 56 percent or less of candidates on the ballot.

Current Financing Provisions and Impact of Proposed Changes on City Costs

As mentioned above, the Ethics Commission receives an annual appropriation for the Election Campaign Fund of \$2.75 per City resident per year to cover the costs of the public financing program. Unused funds in a particular year can be carried over to subsequent years, though the Fund is not to exceed \$7 million according to the Campaign and Government Conduct Code.³ This mandate provides baseline funding of \$2,365,000 per year assuming a population of 860,000.

There are four other key provisions in the City's Campaign and Governmental Conduct Code pertaining to public financing of Board of Supervisors and Mayoral campaigns. In years when there will be a Mayoral election, the Ethics Commission is allowed by the Code to request a supplemental appropriation if the Election Campaign Fund is not equal to \$7.50 per resident plus 15 percent of that amount for administrative expenses. This would be equal to approximately \$6.45 million in funding for candidates plus \$967,500 for administrative expenses at 15 percent for a total of \$7,417,500.⁴ It is unclear in the Code if this amount would need to be reduced by \$417,500, so that the Election Campaign Fund does not exceed \$7 million, the cap mandated elsewhere in the Code.

The Code allows the Ethics Commission to make a similar supplemental appropriation request in years when there will be a Board of Supervisors election. The requirement for these elections is that the Campaign Election Fund have the equivalent, after subtracting 15 percent for administrative expenses, of \$1.50 per

² The 2015 general election included a Board of Supervisors District 3 race to cover the unexpired term of the member from that district.

³ San Francisco Campaign and Governmental Conduct Code Sect. 1.138.

⁴ San Francisco Campaign and Governmental Conduct Code Sect. 1.154

resident, or approximately \$1,290,000 in funds for candidates plus \$193,500 for administrative expenses, resulting in a grand total of \$1,483,500 assuming a population of 860,000. This amount would be under the \$7 million cap.

If the Office of the Mayor becomes vacant and an election is needed to fill the vacancy for the remainder of a term, the City's Campaign and Government Code states that funds are to be appropriated to ensure the equivalent of \$8 per resident (approximately \$6.9 million assuming a population of 860,000) is in the Election Campaign Fund for that election and the next regularly scheduled Mayor's election. There is no requirement to provide funding of 15 percent of the Fund's value or any other amount for administrative expenses in these circumstances, as is required in the funding provisions for Mayoral elections cited above.⁵

If an office of the Board of Supervisors becomes vacant and an election is held to fill that vacancy for the remainder of the term, the City is to appropriate an additional \$0.25 per resident to the Fund (approximately \$215,000 based on a population of 860,000). Again, there is no mention in this provision to include funding for administrative expenses, as is required in the previous funding provision for regular Mayoral and Board of Supervisors elections cited above.⁶ Unlike the funding provisions for regular Board of Supervisors and Mayoral elections and vacancy-induced Mayoral elections, this provision for vacancy-induced Board of Supervisors elections states that this funding would not be subject to the \$7 million cap on the Election Campaign Fund.

Taken together, these provisions appear to allow for at least \$7 million in the Election Campaign Fund in a given year. However, this cap of \$7 million is contradicted by the provision that in years of Mayoral elections, the Fund should have at least \$7.50 per resident plus 15 percent in administrative expenses, which as pointed out above, results in an amount in excess of \$7 million based on a population of 860,000 ($860,000 \times \$7.50 = \$6,450,000$ plus \$967,500 in administrative expenses = \$7,417,500). The formula for minimum funding for Board of Supervisors races would not result in an appropriation over \$7 million.

The provisions for Mayoral and Board of Supervisors elections in the Code that call for funding for administrative expenses at the rate of 15 percent of the baseline amount in the Election Campaign Fund are not consistent across the other funding formulae. There are no allowances for administrative expenses in the three other public financing funding provisions in the Code, making it unclear how

⁵ San Francisco Campaign and Governmental Conduct Code Sect. 1.1.138(b)(3)

⁶ San Francisco Campaign and Governmental Conduct Code Sect. 1.1.138(b)(4)

much of these appropriations are to be used for public funding of campaigns and how much can be used for administrative costs. Resolution of these issues through amendments to the Campaign and Government Conduct Code would help determine the maximum amount available for public financing of campaigns and provide clarity to the Ethics Commission about how much of the funding can be used for administrative expenses.

Finally, three of the five funding provisions in the Code are mandates, but the two establishing baseline funding levels for regular Mayoral and Board of Supervisors elections are discretionary, allowing the Ethics Commission to request supplemental appropriations but without a guarantee of the funding levels specified. On the other hand, the baseline \$2.75 per resident and the amounts for vacancy-induced elections for Mayor and the Board of Supervisors mandate that certain amounts be appropriated.

Program Participation and Spending History

A review of the history of the City's campaign public financing program and the funding provisions of the Campaign and Governmental Conduct Code show that if present participation trends continue, current funding is adequate to accommodate the increased level of public funding proposed in the legislation. However, if participation levels increase or if candidates' rates of private fundraising increase, additional funding and/or changes in the funding provisions in the Campaign and Governmental Conduct Code may be necessary.

Exhibit 10 shows that, except for 2004, funding available based on the current formula or the formula in effect at the time was more than sufficient for every election, including those that provided funding for more costly Mayor's races. Further, the Fund was sufficient to cover all participating candidates if they had been awarded the maximum public funds available in that year. Any balances remaining in the Fund after elections are over are rolled forward for future elections.

Exhibit 10: Actual Disbursements from Election Campaign Fund and Amounts Needed if all Qualified Candidates had Received Maximum Public Funds: 2002 – 2018

| | Number of Participating Candidates | Total Available* In Election Campaign Fund | Total Funds Disbursed | Maximum Disbursements Possible** | Additional Cost to the City | Unspent Funds |
|------|------------------------------------|--|-----------------------|----------------------------------|-----------------------------|---------------|
| 2002 | 9 | | \$281,989 | \$393,750 | \$111,761 | (\$393,750) |
| 2004 | 23 | \$670,000 | \$757,678 | \$1,006,250 | \$248,572 | (\$336,250) |
| 2006 | 6 | \$600,000 | \$216,784 | \$262,500 | \$45,716 | \$337,500 |
| 2008 | 19 | \$4,200,000 | \$1,315,470 | \$4,143,767 | \$2,828,297 | \$56,233 |
| 2010 | 22 | \$6,454,341 | \$1,477,713 | \$6,358,000 | \$4,880,287 | \$96,341 |
| 2011 | 9 | \$11,094,247 | \$4,696,390 | \$8,100,000 | \$3,403,610 | \$7,690,637 |
| 2012 | 12 | \$5,613,030 | \$1,228,097 | \$1,855,000 | \$626,903 | \$3,758,030 |
| 2014 | 2 | \$4,372,039 | \$194,710 | \$310,000 | \$115,290 | \$4,062,039 |
| 2016 | 12 | \$7,000,000 | \$1,522,296 | \$1,855,000 | \$332,704 | \$5,145,000 |
| 2018 | 14 | \$ 7,034,525 | \$ 4,171,224 | \$ 4,622,500 | \$ 451,276 | \$2,412,025 |

* The City had not created the Election Campaign Fund in 2002, and there is no reported information on the funds set aside for public financing in that year. In 2004, the City had initially only allocated \$670,000, but agreed to meet the maximum disbursement level if all 23 candidates reached it.

** in 2012, the current formula was introduced. From 2004 to 2006, candidates earned a match at a \$4-to-\$1 rate, up to a maximum public funding amount of \$43,750. From 2008 to 2012, the maximum public funding available to candidates was calculated on the 59th day prior to an election, based on the total funds available and number of participating candidates

Adequacy of Election Campaign Fund to Absorb Proposed Changes in Public Financing of Campaigns

Given the history presented in Exhibit 10, it appears that the existing funding mechanisms are sufficient to absorb the additional costs associated with the proposed changes in the public financing program. Specifically, the proposed increases in public funding for participating candidates for the Board of Supervisors from a maximum of \$155,000 to \$255,000 for non-incumbent candidates, from \$152,500 to \$252,000 for incumbent candidates, from \$975,000 to \$1,200,000 for non-incumbent Mayoral candidates, and from \$962,500 to \$1,185,000 for incumbent Mayoral candidates would have been more than covered by funds in the Election Campaign Fund in the 2018 election if the same number of candidates had participated in the program and each received the maximum public funds available.

As shown in Exhibit 11 below, had the proposed changes been in effect in the 2018 election, when 11 candidates for the Board of Supervisors and three Mayoral candidates participated in the public financing program, the \$7,034,525 in the

Budget and Legislative Analyst

Election Campaign Fund would have been sufficient to cover the \$6,402,000 for full public funding of all participating candidates. Further, there would have been a \$632,535 balance left, also shown in Exhibit 11.

Given that only 14 of 34 candidates who qualified for the ballot participated in the program in 2018, an unusually high cost year for the program due to multiple special and regular elections, and the history of the program presented in Exhibit 9 which shows that, except for two years, participation has never exceeded half the candidates qualifying to be on the ballot, it appears that the existing funding does not immediately need to be changed if the total amount of public funds available per candidate is increased as proposed. Further, as shown in Exhibit 10 above, not all candidates have historically qualified for the full amount of public funds available since the amount provided for Tiers 2 and 3 is dependent on the amount of funds the candidates privately raise. For example, in 2016, the average amount of public funds received per candidate was \$126,858, for Board of Supervisors candidates, less than the maximum available of \$155,000 for non-incumbents and \$152,500 for incumbents.

Exhibit 11: Election Campaign Fund Impact with Proposed New Public Funding Levels Based on 2018 Actual Participation of Mayoral and Board of Supervisors Candidates

| | Actual 2018 | | Under Proposed Changes* | |
|------------------------|--------------------|-----------|--------------------------------|-----------|
| Starting Balance, 2018 | \$ | 7,034,525 | \$ | 7,034,525 |
| Expenditures | \$ | 4,171,224 | \$ | 6,402,000 |
| Balance | \$ | 2,863,301 | \$ | 632,525 |

*Note: Assumes one incumbent Board of Supervisors candidate ten non-incumbents and three non-incumbent Mayoral candidates each receiving the maximum in public funding as proposed.

The Election Campaign Fund has maintained balances sufficient to provide public funds to candidates participating in the public financing program with a combination of baseline appropriations and the rolling over of unused funds from prior years. This has provided sufficient funding for the program to date and would likely continue to do so absent significant increases in program participation. However, a reduction in funds that have contributed to the Election Campaign Fund to date could result in insufficient funding for the public financing program, whether the legislative changes are adopted or not.

In the event that rollover funds were not available in a given year or were insufficient to cover program costs, the Campaign and Government Conduct Code

sets baseline appropriations for which the Ethics Commission may request supplemental appropriations for Mayoral and Board of Supervisors elections. The Mayoral election baseline is \$7.50 per resident, as mentioned above, and with a population of 860,000 would produce \$6,450,000 for the Fund, or enough to cover five non-incumbent Mayoral candidates at \$1,200,000 in public funds each, as shown in Exhibit 12.

This appears to be an adequate funding level given Mayoral candidate participation in the past with three candidates being the highest number to participate in a single election in 2018. However, as the population of San Francisco grows, it will result in funding in excess of the \$7 million cap specified in Section 1.138 (b)(1) of the Code. Further, the Code now allows for 15 percent of the baseline funds to be added to the \$7.50 per resident appropriation and allocated to the Fund to cover administrative expenses. This also results in funding levels in excess of the \$7 million cap with a population of 860,000.

The Code's baseline minimum for Board of Supervisors elections is \$1.50 per resident, or \$1,290,000, assuming a population of 860,000. However, the general baseline annual appropriation for the Ethics Commission, \$2.75 per resident, would produce a greater amount for the Election Campaign Fund, \$2,365,000, and would more than cover the Board of Supervisors baseline. If the annual appropriation baseline were all that was available for a year with a Board of Supervisors election (in the event of no funds being rolled over from prior years), it would only cover nine non-incumbent Board of Supervisor candidates, assuming they each receive the maximum of \$255,000 in public funds available ($\$2,365,000/\$255,000 = 9.3$), as proposed in the subject legislation.

The Board of Supervisors may want to consider increasing baseline funding for which the Ethics Commission can request a supplemental appropriation for Board of Supervisors elections since past participation has ranged from two to 23 candidates. Increasing the baseline funding for Board of Supervisors elections from the \$1.50 per resident now in Section 1.154(b)(2) would ensure that funding would be adequate to cover more than nine Board of Supervisors candidates. For example, by increasing this baseline minimum to \$4.50 per resident, funding would be ensured to cover the \$3,825,000 that would be needed for 15 participating candidates for Board of Supervisors ($\$4.50 \times 860,000 \text{ residents} = \$3,870,000$), assuming each received the maximum public funds available. Appropriating these additional funds would only be necessary to the extent the Election Campaign Fund had no rollover funds in it in a given year.

Exhibit 12 shows the amounts that would be needed to cover full funding for varying numbers of program participants under the proposed new funding levels.

Exhibit 12: Maximum Funding Needed to Cover Varying Number or Candidates Participating in the Public Financing Program under Proposed Increases in Public Funding

| | Board of Supervisors (@ \$255,000/candidate) | | | Mayor (@ \$1,200,000 per candidate) | | |
|----------------------------|---|-------------|-------------|--|-------------|--------------|
| | 11 | 15 | 27 | 5 | 7 | 9 |
| # Participating Candidates | | | | | | |
| Maximum \$ Needed | \$2,805,000 | \$3,825,000 | \$6,885,000 | \$6,000,000 | \$8,400,000 | \$10,800,000 |

Finally, clarifying how the 15 percent administrative costs are calculated relative to the amount for funding candidates in the Campaign and Government Conduct Code would help determine the exact amount available for funding candidates and the amount available for Ethics Commission program administration. Since the Code already allows for administrative costs for Mayor’s elections that exceed the \$7 million cap, and some funding provisions do not specify any amount for administrative costs at all, there is further need for reconsidering the cap and making the various program funding provisions consistent. The \$7 million cap should also be reconsidered, to allow for funding in excess of that amount that will be occurring due to population growth in San Francisco, and the inclusion of the 15 percent administrative costs.

Policy Options:

1. The Board of Supervisors should consider adoption of the proposed legislation if it chooses to support the policy goals of reducing the importance of larger donations and sums of money to access public funds, encouraging candidates to enter City races regardless of whether their supporters are able to make relatively larger contributions, increasing total public spending on Mayoral and Board of Supervisors campaigns, and reducing the amount of time to be spent fundraising by candidates participating in the public financing program.

The Election Campaign Fund appears to be sufficient to cover the increases in public funding in the proposed legislation based on historical participation levels and because the Fund has generally had more than a baseline appropriation due to rolled over funds from prior years. However, if participation increases significantly in the future and/or rolled over funds are not available, the current Fund and funding formulae could prove insufficient to cover program costs, whether the proposed legislation is adopted or not. Therefore, the Board of Supervisors could:

2. Consider amending the City’s Campaign and Government Conduct Code to allow the Election Campaign Fund to be funded at levels over \$7 million, by amending Section 1.138 (b)(1) since funding over the cap is now allowed under Section

- 1.154 by allowing for an appropriation of \$7.50 per resident plus 15% for administrative costs for Mayoral elections.
3. Consider amending the City's Campaign and Government Conduct Code to clarify if all funding provisions allow for administrative costs of 15 percent.
 4. Consider increasing the baseline level of funding for Board of Supervisors elections now set at \$1.50 per resident in Campaign and Government Conduct Code section 1.154(2) to a higher amount such as \$4.50 that the Ethics Commission could request in the event the Election Campaign Fund balance is lower than this amount. Baseline funding of \$4.50 per resident would ensure that up to 15 Board of Supervisors candidates could participate in the public financing program and receive maximum public funds available per non-incumbent candidate of \$255,000 each. An appropriation authorized by the Board of Supervisors for baseline funding would only be necessary if the Election Campaign Fund had sufficient funding to cover the election from rolled over funds and/or the Ethics Commission's regular annual appropriation, as has the been the case in most years of the program to date.

APPENDIX: GLOSSARY OF TERMS USED IN THIS REPORT

Contribution: A payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.

Independent expenditure: An expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee. An expenditure is not considered independent and shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf or for whose benefit the expenditure is made, if the expenditure is made at the request, suggestion, or direction of, or in cooperation, consultation, concert or coordination with, the candidate on whose behalf, or for whose benefit, the expenditure is made.

Individual expenditure ceiling: The expenditure ceiling established for each individual candidate for Mayor or the Board of Supervisors whom the Ethics Commission has certified as eligible to receive public funds under San Francisco's Campaign and Government Conduct Code.

Match rate: The ratio of public funds provided to candidates participating in public campaign financing relative to amounts they have raised through private fundraising.

Matching contribution: A contribution up to \$500, made by an individual, other than the candidate, who is a resident of San Francisco. Matching contributions shall not include loans, contributions received more than 18 months before the date of the election, qualifying contributions or contributions made by the candidate's spouse, registered domestic partner or dependent child. Matching contributions must also comply with all requirements of the Campaign and Government Conduct Code. Matching contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

Qualified campaign expenditures: Excluding filing fees, expenses incurred in connection with an administrative or judicial proceeding, payments for administrative, civil or criminal fines, including late filing fees, costs incurred after the election that do not directly affect the outcome of the election, including but not limited to utility bills, expenses associated with an audit, and expenses related to preparing postelection campaign finance disclosure reports as required by the California Political Reform Act, California Government Code Section 81000, et seq., and the provisions of City's Campaign and Government Conduct Code, or for inaugural activities or officeholder expenses.

Qualifying contribution: A contribution of not less than \$10 and not more than \$100 that is made by an individual who is a resident of San Francisco and that complies with all requirements of this Chapter. Qualifying contributions shall not include loans, contributions received more than 18 months before the date of the election or contributions made by the candidate or the candidate's spouse, registered domestic partner or dependent child. Qualifying contributions under \$100 that are not made by written instrument must be accompanied by written documentation sufficient to establish the contributor's name and address. The Ethics Commission shall set forth, by regulation, the types of documents sufficient to establish a contributor's name and address for the purpose of this subsection.

Total opposition spending: The sum of any expenditures made or expenses incurred by any person or persons for the purpose of making independent expenditures, electioneering communications or member communications in opposition to a specific candidate for Mayor or the Board of Supervisors.

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