

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Bill No. 2015-27

Public Campaign Finance Code

SPONSOR(S): Councilor Ives

SUMMARY: The proposed ordinance to the Public Campaign Finance Code (Chapter 9-3) does the following:

- modifies the definitions of “contribution” and “expenditure” in Section 9-3.3
- creates a definition for “coordinated expenditure” in Section 9-3.3
- deletes the definition of “qualifying contribution” in Section 9-3.3
- creates a definition for “qualified small contribution” in Section 9-3.3
- deletes provisions related to seed money contributions in Sections 9-3.4 to 9-3.11
- establishes provisions for qualified small contributions in Sections 9-3.4 to 9-3.11
- deletes provisions related to qualifying contributions in Sections 9-3.4 to 9-3.11
- modifies provisions related to reports of expenditure in Sections 9-3.4 to 9-3.11
- modifies the requirements to qualify as a participating candidate in Section 9-3.8
- additional matching payments from fund in Section 9-3.12
- adds provisions for additional reporting of qualified small contributions in Section 9-3.14

PREPARED BY: Zachary Shandler, Assistant City Attorney

FISCAL IMPACT: Yes

DATE: June 18, 2015

ATTACHMENTS: Letter from Justin Miller, Chair Ethics and Campaign Review Board
Bill
FIR
Bill with proposed changes incorporated

Nancy R. Long
Mark E. Komer

Little V. West
Justin W. Miller

 Long, Komer & Associates

Attorneys and
Counselors at Law

May 22, 2015

Via hand delivery

Dear Mayor Gonzales and City Councilors:

I write to you on behalf of the Ethics and Campaign Review Board to inform you that the Board has completed its review of City of Santa Fe campaign ordinances and has developed a number of recommendations for consideration by the governing body.

The Board has worked diligently on the recommendations since the city's most recent municipal elections. The Board has held numerous meetings, drafted and debated various proposals, heard from experts in the field, received testimony from candidates about first hand experiences with the campaign finance laws, and listened to public comment and input from a variety of dedicated citizens.

Broadly speaking, the recommendations address four major areas of concern to the Board and the public: (1) coordination between candidates and independent groups; (2) transparency of campaign financing; (3) revising the process by which a candidate qualifies for public financing; and (4) providing for a matching fund allocation to improve the ability of publicly financed candidates to be competitive with privately financed candidates. The recommendations represent the Board's best effort to suggest ways to improve the City's campaign and public campaign financing system, given the existing legal constraints and practical realities with which we are all confronted.

We hope you will find the recommendations useful. Each Board member stands willing to discuss and explain the work of the Board, in whatever manner that may be helpful to the governing body.

If a councilor would like to sponsor some, or all, of the recommendations as an ordinance change, please contact City Clerk Vigil so your legislation can be introduced at the June 10, 2015 council meeting in order to get it on a timely tract for adoption prior to the commencement of the 2016 campaign season.

Sincerely,



Justin Miller
Chair, ECRB

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2015-27

3 INTRODUCED BY:

4
5 Councilor Peter Ives

6
7
8
9
10 AN ORDINANCE

11 AMENDING THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987 TO
12 MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE", DELETE
13 THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION
14 FOR "COORDINATED EXPENDITURE" AND "QUALIFIED SMALL
15 CONTRIBUTION"; TO MODIFY THE REQUIREMENTS TO QUALIFY AS A
16 PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO "SEED
17 MONEY CONTRIBUTIONS" AND "QUALIFYING CONTRIBUTIONS"; TO ESTABLISH
18 PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO MODIFY PROVISIONS
19 RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING
20 REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF
21 QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS
22 FROM FUND"; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO
23 CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE.

24
25 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE.

1 Section 1. Subsection 9-3.3 SFCC 1987 (being Ord. #2009-44, §4, as amended)

2 is amended to read:

3 **9-3.3 Definitions.**

4 As used in this section, the following terms have the following meanings:

5 A. *Campaign depository* means a bank, mutual savings bank, savings and loan
6 association or credit union doing business in this state under which a campaign account or
7 accounts are maintained.

8 B. *Campaign materials* means any published communication, electronic or
9 otherwise, disseminated to more than one hundred (100) persons that either supports the election
10 or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot
11 proposal, other than communications to, or editorials, reports, or commentary by news media.

12 C. *Candidate* means any individual who seeks election to a Santa Fe municipal
13 office. An individual shall be a candidate when they:

- 14 (1) Announce publicly;
- 15 (2) File for office;
- 16 (3) When contributions are accepted or expenditures made; or when
- 17 (4) Any activity is held to promote an election campaign of an individual if
18 that activity is endorsed or supported by that person or if the benefits of such activity are
19 later accepted by such person.

20 D. *Contested race* means a race in which there are at least two (2) candidates for the
21 office sought.

22 E. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,
23 agreement or promise of money or anything of value or other obligation, whether or not legally
24 enforceable, made directly or indirectly, to a candidate or political committee, or to a person
25 obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of [influencing the

1 ~~outcome of a municipal election]~~ supporting or opposing the election of a candidate or the
2 approval or defeat of a ballot proposition.

3 (1) The term "contribution" includes:

4 (a) The transfer of funds or anything of value between political
5 committees;

6 (b) The transfer of anything of value for less than full consideration;

7 (c) Interest, dividends or other income derived from the investment
8 of campaign funds;

9 (d) The payment for the services of an individual serving on behalf
10 of a candidate or political committee, which payments are made by a third party;
11 and

12 (e) The purchase of tickets for fundraising events such as dinners,
13 rallies, raffles, etc. and the proceeds of collections at fundraising events.

14 (f) ~~[An expenditure by a person other than a candidate or the~~
15 ~~candidate's political committee that is made in cooperation, consultation or~~
16 ~~concert with, or at the request or suggestion of, a candidate or the candidate's~~
17 ~~political committee.]~~ Coordinated expenditure.

18 (2) The term "contribution" does not include:

19 (a) A volunteer's personal services provided without compensation
20 or the travel or personal expenses of such a campaign worker; and

21 (b) The cost of an event held in honor of or on behalf of a candidate when the total
22 cost of the event amounts to no more than two hundred dollars (\$200.).

23 F. *Coordinated Expenditure* means an expenditure that is made:

24 (1) by an individual or entity other than a candidate or the candidate's
25 political committee; and

1 (2) in cooperation, consultation or concert with, or at the request or
2 suggestion of, a candidate, his/her representatives or agents or the candidate's political
3 committee, including but not limited to, the following examples in 9-3.3(F)(2)(a)-(d):

4 (a) there has been substantial discussion between the individual or
5 entity and the candidate, candidate's political committee or his/her
6 representatives or agents. Substantial discussion includes, but is not limited to, an
7 exchange of campaign strategies, polling information, voter lists or any other
8 similar information that would facilitate the election or defeat of a candidate;

9 (b) an entity is directly or indirectly formed or established by or at
10 the request or suggestion of, or with the encouragement of the candidate,
11 candidate's political committee or his/her representatives or agents;

12 (c) the candidate, candidate's political committee or his/her
13 representatives or agents has solicited funds or engaged in other fundraising
14 activities on behalf of the person or entity making the expenditure during the
15 twelve-month (12) period preceding the date of the expenditure. Fundraising
16 activities, include but are not limited to, exchanging names of potential donors or
17 other lists to be used in engaging in fundraising activity, regardless of whether or
18 not the individual or entity pays fair market value for the names or lists provided;
19 or being a featured guest or speaker at a fundraising event;

20 (d) if the individual or entity has employed, has in a leadership
21 position, or has accepted a donation of the campaign related professional services
22 of any person, who, during the twelve-month (12) period preceding the date of
23 the expenditure, has been an employee of, has advised, or provided or is
24 providing services to the candidate or candidate's political committee. These
25 services include, but are not limited to, any services in support of the candidate's

1 or candidate's political committee's campaign activities, such as advertising,
2 message, strategy or policy services, polling, allocation of resources, fundraising
3 or campaign operations.

4 (e) an expenditure is not a coordinated expenditure solely because:

5 (i) the individual or entity and a candidate or candidate's
6 political committee use the same vendor to provide polling services,
7 printing or distribution services or physical space, provided that the
8 vendor has in place prior to the expenditure a firewall to ensure that there
9 is no exchange of information between the individual or entity and the
10 candidate or campaign committee. Evidence of an adequate firewall is a
11 vendor's formal written policy or a contractual agreement with the
12 vendor prohibiting the exchange of information between the individual
13 or entity and the candidate or candidate's political committee, which
14 policy or contract is distributed to all relevant employees, consultants
15 and clients affected by the policy or contract. The firewall shall be
16 designed and implemented to prohibit the flow of information between
17 employees and consultants providing services to the individual and entity
18 and to those currently or previously providing services to the candidate
19 or candidate's political committee. Coordination will be presumed in the
20 absence of such a firewall.

21 (ii) the individual or entity making the expenditure
22 interviews a candidate; has endorsed a candidate; has obtained from the
23 candidate a biography of the candidate or a position paper, press release,
24 or similar material about the candidate; has invited the candidate to make
25 an appearance before the person's members, employees or shareholders;

1 or has shared space with a candidate or candidate's political committee
2 for one or more single events of limited duration.

3 [F]G. *Election* means any regular or special Santa Fe municipal election.

4 [G]H. *Expenditure* means a payment or transfer of anything of value in exchange for
5 goods, services, property, facilities or anything of value for the purpose of ~~[assisting, benefiting~~
6 ~~or honoring any public official or candidate, or assisting in furthering or opposing any election~~
7 ~~campaign for]~~ supporting or opposing the election of a candidate or the approval or defeat of a
8 ballot proposition. This includes contributions, subscriptions, distributions, loans, advances,
9 deposits, or gifts of money or anything of value, and includes a contract, a promise or agreement,
10 whether or not legally enforceable, to make an expenditure. The term "expenditure" also means
11 the transfer of funds or anything of value between political committees. ~~[In determining the dollar~~
12 ~~value of an expenditure, only that proportion of a payment or transfer of anything of value that is~~
13 ~~directly related to the campaign shall be considered an expenditure.]~~

14 [H]I. *Fund* means the public campaign finance fund created by subsection 9-3.4 SFCC
15 1987.

16 [I]J. *Non-participating candidate* means a candidate who is not a participating
17 candidate.

18 [J]K. *Participating candidate* means a candidate who has qualified and has been
19 certified pursuant to subsection 9-3.9 SFCC 1987 as eligible to receive payments from the fund.

20 [K]L. *Qualified elector* means a person who is registered to vote in the City of Santa
21 Fe.

22 [L]M. ~~[Qualifying contribution means a contribution of no more or no less than five~~
23 ~~dollars (\$5.00) that is received from a qualified elector during the qualifying period by a~~
24 ~~candidate seeking to become a participating candidate. A candidate for councilor shall only~~
25 ~~receive qualifying contributions from qualified electors registered to vote in the council district in~~

1 ~~which the candidate is running.] Qualified small contribution means a contribution of no more~~
2 ~~than one hundred dollars (\$100) made and accepted in compliance with the provisions of~~
3 ~~subsection 9-3.6 SFCC 1987.~~

4 [M]N. *Qualifying period* means the period during which a candidate seeking to become
5 a participating candidate is permitted to collect [qualifying] qualified small contributions and to
6 apply for certification as a participating candidate. It begins one hundred eighty-three (183) days
7 before the election and ends one hundred six (106) days before the election.

8 [N]O. *Race* means the electoral process in which one (1) or more candidates run and
9 one (1) candidate is elected to the office of mayor, municipal judge or city councilor for a
10 particular district.

11 [~~O. — *Seed money contribution* means a contribution of no more than one hundred~~
12 ~~dollars (\$100.) made and accepted in compliance with the provisions of subsection 9-3.6 SFCC~~
13 ~~1987 and used exclusively for the purposes specified in that section.] P. *Uncontested*~~

14 *race* means a race in which there is only one (1) candidate for the office sought.

15 **Section 2. Subsection 9-3.4 SFCC 1987 (being Ord. #2009-44, §5, as amended)**

16 is amended to read:

17 **9-3.4 Public Campaign Finance Fund.**

18 A. A dedicated public campaign finance fund ("the fund") is established to be
19 administered by the [municipal] city clerk for the purpose of providing public financing for the
20 election campaigns of participating candidates. Monies in the fund and disbursed from the fund to
21 participating candidates are public monies entrusted to the candidates to be used solely for the
22 public purposes specified in this Section 9-3 SFCC 1987.

23 B. Beginning with the city budget for fiscal year 2009-2010 and in each fiscal year
24 thereafter, the sum of one hundred fifty thousand dollars (\$150,000.) shall be budgeted for and
25 deposited in the fund.

1 C. Beginning with the election of 2014, the governing body shall appropriate and
2 deposit in the fund such additional sums, if any, as may be necessary to ensure:

3 (1) That the balance in the fund one hundred nineteen (119) days preceding
4 each election for mayor and four (4) council seats is at least six hundred thousand dollars
5 (\$600,000.); and

6 (2) That the balance in the fund one hundred nineteen (119) days preceding
7 each election for municipal judge and four (4) council seats is at least three hundred
8 thousand dollars (\$300,000.).

9 D. In addition to the deposits required by paragraphs B. and C. of this subsection,
10 the following shall also be deposited in the fund:

11 ~~[(1) All seed money contributions received by candidates seeking to become
12 certified as participating candidates which remain unspent;~~

13 ~~(2) All qualifying contributions received by candidates seeking to become
14 certified as participating candidates;]~~

15 ([3]1) All amounts paid from the fund to participating candidates which have
16 not been spent or obligated as of the date of the election;

17 ([4]2) All fines levied by the ethics and campaign review board or as decreed
18 by a court of competent jurisdiction as a condition of probation;

19 ([5]3) Voluntary donations made to the fund;

20 ([6]4) All interest and other income earned from investment of the fund; and

21 ([7]5) Such other appropriations to the fund as may be made by the governing
22 body as necessary to fulfill the requirements of this Section 9-3 SFCC 1987.

23 **Section 3. Subsection 9-3.5 SFCC 1987 (being Ord. #2009-44, §6, as amended)**
24 **is amended to read:**

25 **9-3.5 Eligibility as a Participating Candidate.**

1 ~~[Beginning with the election of 2012, a]~~ Any candidate for municipal office may qualify
2 as a participating candidate eligible to receive payments from the fund pursuant to subsections 9-
3 3.10 and 9-3.12 SFCC 1987 if the candidate:

4 A. Meets the requisites to be listed on the ballot as a certified candidate for
5 municipal office pursuant to the provisions of Section 3-8-27 (B) through (E) NMSA 1978 and
6 Article IV Section 4.03 of the Santa Fe Municipal Charter;

7 B. Has collected ~~[the requisite number of qualifying contributions, as follows]:~~

8 (1) For a candidate running for the office of mayor, six hundred (600)
9 ~~[qualifying]~~ qualified small contributions of no less than five dollars (\$5.00) from
10 separate qualified electors;

11 (2) For a candidate running for the office of city councilor, one hundred fifty
12 (150) ~~[qualifying]~~ qualified small contributions of no less than five dollars (\$5.00) from
13 separate qualified electors registered to vote in the council district in which the candidate
14 is running;

15 (3) For a candidate running for the office of municipal judge, one hundred
16 fifty (150) ~~[qualifying]~~ qualified small contributions of no less than five dollars (\$5.00)
17 from separate qualified electors.

18 C. Submits an application for certification pursuant to subsection 9-3.8 SFCC 1987
19 setting forth the agreement and the averments and accompanied by the forms~~;~~ and reports ~~[and~~
20 ~~payments]~~ that are required by that section.

21 **Section 4. Subsection 9-3.6 SFCC 1987 (being Ord. #2009-44, §7, as amended)**
22 **is amended to read:**

23 **9-3.6 ~~[Seed Money]~~ Qualified Small Contributions.**

24 A. A participating candidate or a candidate seeking to become a participating
25 candidate may solicit and accept ~~[seed money contributions to defray expenses incurred in~~

1 ~~obtaining qualifying contributions and in seeking certification as a participating candidate]~~
2 qualified small contributions.

3 B. The aggregate amount of ~~[seed money]~~ qualified small contributions from any
4 one contributor to any one candidate shall not exceed one hundred dollars (\$100)~~], and the~~
5 ~~aggregate amount of seed money contributions accepted by a candidate shall not exceed ten~~
6 ~~percent (10%) of the amount payable under subsection 9-3.10 SFCC 1987 to a candidate in a~~
7 ~~contested election for the office sought].~~

8 C. Each ~~[seed money]~~ qualified small contribution shall be accompanied by a form
9 signed by the contributor, which shall include the contributor's name, home address, telephone
10 number, occupation and name of employer. The ethics and campaign review board may, by
11 regulation, permit the use of an electronic signature on such forms.

12 D. ~~[All seed money contributions received by a candidate shall be deposited in a~~
13 ~~non-interest-bearing account in a campaign depository to be established by the candidate before~~
14 ~~soliciting or accepting any such contributions. All expenditures of seed money shall be made~~
15 ~~from the campaign depository.]~~ No person shall knowingly make and no candidate shall
16 knowingly receive a qualified small contribution which is not from the person named on the form
17 or for which the person named on the form has been or will be reimbursed or compensated by
18 another person.

19 E. Before soliciting or accepting qualified small contributions, a candidate shall
20 appoint a treasurer and establish a campaign depository in the manner required by subsection 9-
21 2.8 SFCC 1987. All qualified small contributions received by a candidate shall be recorded by the
22 candidate's campaign treasurer, deposited in a separate non-interest-bearing account in the
23 campaign depository and used in the candidate's campaign or disposed of following the election
24 in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be timely
25 reported in a campaign finance statement prepared in the manner and filed on the dates required

1 by subsections 9-2.10 through 9-2.12 SFCC 1987. Campaign finance statements reporting the
2 receipt of qualified small contributions shall be accompanied by copies of the forms signed by
3 each contributor pursuant to paragraph C of this subsection.

4 ~~[E. — Seed money contributions shall be used only for the purposes specified in~~
5 ~~paragraph A. of this subsection, and all seed money contributions that have not been spent or used~~
6 ~~for such purposes by the time the candidate applies for certification as a participating candidate or~~
7 ~~by the end of the qualifying period, whichever is sooner, shall then be paid over to the municipal~~
8 ~~clerk for deposit in the fund; provided, however, that if payment of all of the candidate's unspent~~
9 ~~seed money to the municipal clerk would cause the bank account in the campaign depository to~~
10 ~~be closed, an amount of seed money necessary to keep the account open may be temporarily~~
11 ~~retained in the account and paid over to the municipal clerk at a later time in compliance with~~
12 ~~paragraph C of subsection 9-3.10 SFCC 1987.]~~

13 **Section 5. Subsection 9-3.7 SFCC 1987 (being Ord. #2009-44, §8, as amended)**
14 **is repealed.**

15 **[REPEAL] -- [9-3.7 — Qualifying Contributions.]**

16 ~~[A. — Each qualifying contribution shall be accompanied by a form signed by the~~
17 ~~contributor, which shall include the contributor's name, registered address and telephone number.~~

18 ~~B. — No candidate or person acting on a candidate's behalf shall pay to any other~~
19 ~~person any form of compensation for soliciting or obtaining a qualifying contribution.~~

20 ~~C. — No person shall knowingly make and no candidate shall knowingly receive a~~
21 ~~qualifying contribution which is not from the person named on the form or for which the person~~
22 ~~named on the form has been or will be reimbursed or compensated by another person.~~

23 ~~D. — All qualifying contributions received by a candidate shall be deposited in a non-~~
24 ~~interest bearing account in a campaign depository to be established by the candidate before~~
25 ~~soliciting or accepting any such contributions, and shall be paid over to the municipal clerk for~~

1 deposit in the fund when the candidate applies for certification as a participating candidate or
2 when the qualifying period ends, whichever is sooner.]

3 **9-3.7 Reserved.**

4 **Section 6. Subsection 9-3.8 SFCC 1987 (being Ord. #2009-44, §9, as amended)**
5 **is amended to read:**

6 **9-3.8 Application for Certification as a Participating Candidate.**

7 A. A candidate who wishes to be certified as a participating candidate shall, [before
8 ~~the end of the qualifying period~~] on or before the one hundred and sixth (106th) day preceding the
9 election, file an application for such certification with the municipal clerk on a form prescribed by
10 the [~~municipal~~] city clerk.

11 B. The application shall identify the candidate and the office that the candidate is
12 seeking, and shall set forth:

13 (1) The candidate's averment under oath that the candidate satisfies the
14 requisites for qualification and certification as a participating candidate prescribed by
15 subsection 9-3.5 SFCC 1987;

16 (2) The candidate's averment under oath that the candidate has accepted no
17 contributions to the candidate's current campaign other than [~~qualifying contributions and~~
18 ~~seed money~~]qualified small contributions solicited and accepted pursuant to subsections
19 9-3.6 SFCC 1987 [~~and 9-3.7 SFCC 1987~~];

20 (3) The candidate's averment under oath that the candidate has made no
21 expenditures for his or her current campaign from any source other than [~~seed money~~]
22 qualified small contributions; and

23 (4) The candidate's agreement that his or her current campaign will not
24 solicit, direct, or accept any further contributions other than qualified small contributions
25 or make any further expenditures from any sources other than qualified small

1 contributions and payments received from the fund pursuant to subsections 9-3.10 and 9-
2 3.12 SFCC 1987.

3 C. The application shall be accompanied by:

4 (1) Reports listing all [~~seed money contributions and qualifying~~
5 ~~contributions~~] qualified small contributions received by the candidate [~~and all~~
6 ~~expenditures of seed money contributions made by the candidate,~~] and showing the
7 aggregate amounts of all such contributions [~~and expenditures and the aggregate amounts~~
8 ~~of all contributions received from each contributor~~]; and

9 (2) Copies of forms signed by contributors for all [~~seed money contributions~~
10 ~~and qualifying~~] qualified small contributions received by the candidate. [~~and~~

11 (3) ~~A check or checks issued to the City of Santa Fe from the candidate's~~
12 ~~campaign depository for the amount of all qualifying contributions received by the~~
13 ~~candidate and all seed money contributions received by the candidate except:~~

14 (a) ~~Amounts previously spent for the purposes specified in paragraph A of~~
15 ~~subsection 9-3.6 SFCC 1987; and~~

16 (b) ~~The amount, if any, that has been temporarily retained by the candidate~~
17 ~~for the purpose of keeping open the bank account in the campaign depository pursuant to~~
18 ~~paragraph E of subsection 9-3.6 SFCC 1987.]~~

19 **Section 7. Subsection 9-3.9 SFCC 1987 (being Ord. #2009-44, §10, as amended)**

20 **is amended to read:**

21 **9-3.9 Certification as a Participating Candidate.**

22 A. On or before the eighty-ninth (89th) day before the election the municipal clerk
23 shall make a determination whether the candidate's application complies with the requirements of
24 subsection 9-3.8 SFCC 1987 and whether the candidate satisfies the requisites for certification as
25 a participating candidate prescribed by subsection 9-3.5 SFCC 1987, and shall thereupon issue a

1 decision, in accordance with the determination so made, granting or refusing such certification to
2 the candidate.

3 B. The [~~municipal~~] city clerk may revoke a candidate's certification as a
4 participating candidate for any violation by the candidate of the requirements of this section, and
5 may require that any candidate whose certification has been revoked to pay over to the municipal
6 clerk for deposit in the fund any amounts previously paid to the candidate pursuant to subsection
7 9-3.10 SFCC 1987.

8 C. Qualified small contributions in the campaign depository of a candidate who fails
9 to obtain certification as a participating candidate, whose certification is revoked or who
10 withdraws as a participating candidate may be retained by the candidate to be used in the
11 candidate's campaign and disposed of after the election in the manner required by subsection 9-
12 2.9 SFCC 1987.

13 **Section 8. Subsection 9-3.10 SFCC 1987 (being Ord. #2009-44, §11, as**
14 **amended) is amended to read:**

15 **9-3.10 Payments to Participating Candidates.**

16 A. Within three (3) business days of certifying a candidate as a participating
17 candidate, the municipal clerk shall disburse to the candidate from the fund:

18 (1) Sixty thousand dollars (\$60,000.) for a candidate in a contested race for
19 the office of mayor;

20 (2) Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
21 the office of city councilor;

22 (3) Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
23 the office of municipal judge; or

24 (4) For a candidate in an uncontested race, ten percent (10%) of the amount
25 that would be due to a candidate in a contested race for the same office.

1 B. If the amounts required to be paid to candidates under paragraph A of this
2 subsection exceed the total amount available in the fund, each payment shall be reduced in
3 proportion to the amount of such excess. Any such proportionate reduction in the payment due to
4 any candidate under paragraph A of this subsection shall give the candidate the option to reject
5 the payment and to withdraw as a participating candidate. A candidate who withdraws as a
6 participating candidate pursuant to this paragraph shall file an affidavit with the [municipal] city
7 clerk so stating and shall thenceforth be treated for all purposes as a non-participating candidate
8 relieved of all obligations and restrictions and excluded from all benefits and exemptions imposed
9 or conferred on a participating candidate by this Section 9-3 SFCC 1987.

10 ~~[C. — Within five (5) business days of the candidate's receipt of the amount disbursed
11 under paragraph A of this subsection or the municipal clerk's refusal to certify the candidate as a
12 participating candidate pursuant to paragraph A of subsection 9-3.9 SFCC 1987, whichever is
13 sooner, the candidate shall pay over to the municipal clerk for deposit in the fund any amount of
14 seed money that has been temporarily retained by the candidate for the purpose of keeping open
15 the bank account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC
16 1987.]~~

17 **Section 9. Subsection 9-3.11 SFCC 1987 (being Ord. #2009-44, §12, as**
18 **amended) is amended to read:**

19 **9-3.11 Use of Payments from the Fund[; the Fund as Exclusive Source].**

20 A. All payments received by a participating candidate from the fund shall be
21 deposited in a non-interest-bearing account in the candidate's campaign depository and shall be
22 used exclusively to pay expenses reasonably incurred in furtherance of the candidate's current
23 campaign.

24 B. Payments received from the fund shall not be used for any other purpose,
25 including:

1 (1) The candidate's personal living expenses or compensation to the
2 candidate or the candidate's family;

3 (2) A contribution to another campaign of the candidate or a payment to
4 retire debt from another such campaign;

5 (3) A contribution to the campaign of another candidate or to a political
6 party or political committee or to a campaign supporting or opposing a ballot proposition;

7 (4) An expenditure supporting the election of another candidate or the
8 approval or defeat of a ballot proposition or the defeat of any candidate other than an
9 opponent of the participating candidate;

10 (5) Payment of legal expenses or any fine levied by a court or the ethics and
11 campaign review board.

12 (6) Any gift or transfer for which compensating value is not received.

13 C. All payments from the fund received by a participating candidate which have not
14 been spent or obligated for the purposes specified in paragraph A of this subsection and any
15 tangible assets purchased with such payments remaining in the possession of the campaign as of
16 the date of the election shall be returned by the candidate and shall be conveyed to the municipal
17 clerk within forty-five (45) days after that date. Returned payments shall be deposited in the
18 fund. Tangible assets shall be conveyed to the city for its use or disposition in accordance with
19 the city's procurement code. Proceeds from such disposition shall be deposited in the fund.

20 D. In accordance with the agreement entered into pursuant to subparagraph B(4) of
21 subsection 9-3.8 SFCC 1987, a candidate who has been certified as a participating candidate shall
22 not thereafter accept any contribution to the candidate's campaign other than payments received
23 from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987 and qualified small
24 contributions received pursuant to subsection 9-3.6 SFCC 1987, and shall not make any
25 expenditure in support of the candidate's campaign from any source other than payments and

1 contributions so received and previously deposited in the candidate's campaign depository.

2 **Section 10. A new Subsection 9-3.12 SFCC 1987 is ordained to read:**

3 **9-3.12 [Reserved.] [NEW MATERIAL] Additional Reports of Qualified Small**
4 **Contributions; Additional Matching Payments from the Fund.**

5 A. Those participating candidates who wish to submit for matching payments from the
6 Fund, in addition to the dates specified for the filing of campaign finance statements by
7 subsection 9-2.10 SFCC 1987, may file campaign finance statements reporting the receipt of
8 qualified small contributions on the sixty-second (62nd) day preceding the election and the
9 fifteenth (15th) day preceding the election.

10 B. Within two business days after the filing of a campaign finance statement by a
11 participating candidate reporting the receipt of qualified small contributions and accompanied by
12 copies of the forms signed by the contributors as required by paragraph C of subsection 9-3.6
13 SFCC 1987, the municipal clerk shall disburse to the candidate an additional payment from the
14 fund equal to four times the total amount of the qualified small contributions reported in the
15 campaign finance statement; provided, that no such additional matching payments shall be made
16 for contributions reported in a campaign finance statement filed after the Tuesday preceding the
17 election; and provided further that additional matching payments for contributions listed in a
18 report filed with the candidate's application for certification under subsection 9-3.8 SFCC 1987
19 shall not be made until two business days after such contributions have been listed anew in a
20 campaign finance statement filed under paragraph E of subsection 9-3.6 SFCC 1987 or paragraph
21 A of this subsection.

22 C. Additional payments made to a participating candidate pursuant to paragraph B
23 of this subsection shall be deposited in the separate account in the candidate's campaign
24 depository that was established by the candidate for the deposit of payments received from the
25 fund pursuant to paragraph A of subsection 9-3.11.

1 D. The aggregate amount of additional payments made to a participating candidate
2 pursuant to paragraph B of this subsection shall not exceed two hundred percent (200%) of the
3 amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC 1987.

4 E. If the amounts required to be paid to candidates under paragraph B of this
5 subsection exceed the total amount available in the fund, each payment shall be reduced in
6 proportion to the amount of such excess.

7 ~~[(Former subsection 9-3.12, Reports of Expenditures by Non-Participating Candidates~~
8 ~~and Other Persons, previously codified herein and containing portions of Ordinance No. 2009-44,~~
9 ~~was repealed in its entirety by Ordinance No. 2011-28, §17.)]~~

10 **Section 11. Subsection 9-3.14 SFCC 1987 (being Ord. #2009-44, §15, as**
11 **amended) is amended to read:**

12 **9-3.14 Reports of Expenditures[; ~~Exemption from Certain Reporting~~**
13 **Requirements].**

14 A. A participating candidate shall file with the municipal clerk reports under oath of
15 expenditures made from the payments received from the fund, indicating that the expenditures
16 were made from that source and showing the date and amount of each such expenditure, the name
17 and address of the person or organization to whom it was made, the purpose of the such
18 expenditure, the aggregate amount of such expenditures made to each person or organization and
19 the aggregate amount of all expenditures made by the candidate or by his or her campaign.
20 Receipts for all such expenditures shall be preserved for a period of two (2) years from the date of
21 the expenditure.

22 B. The reports required by paragraph A of this subsection shall be filed on each of
23 the days prescribed for the filing of campaign finance statements by subsection 9-2.10 SFCC
24 1987.

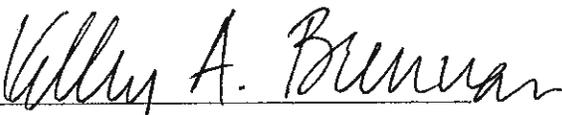
25 C. A signed campaign finance statement filed by a participating candidate to report

1 qualified small contributions pursuant to paragraph E of subsection 9-3.6 SFCC 1987 or
2 paragraph A of subsection 9-3.12 SFCC 1987 shall also include a report of all expenditures made
3 during the period covered by the statement from the separate account established by the candidate
4 for the deposit of such contributions pursuant to paragraph D of subsection 9-3. SFCC 1987. The
5 statement shall show that the expenditures were made from that source and shall contain all the
6 information concerning the expenditures, account balances and funds on hand that is required for
7 campaign finance statements filed pursuant to subsection 9-2.11 SFCC 1987. Receipts for all
8 such expenditures shall be preserved for a period of two (2) years from the date of expenditure.

9 [E]D.. Except as provided in paragraph A [~~and B~~] through C of this subsection [~~and~~],
10 paragraph E of subsection 9-3.6 SFCC 1987, paragraph C of subsection 9-3.8 SFCC 1987[;]and
11 paragraph A of subsection 9-3.12 SFCC 1987, participating candidates are exempt from the
12 requirement to file campaign finance statements imposed by subsections 9-2.10 SFCC 1987
13 through 9-2.12 SFCC 1987 and from the requirements to file campaign records with the
14 municipal clerk imposed by paragraph C of subsection 9-2.9 SFCC 1987; provided, however, that
15 campaign records shall be maintained in the manner required by the applicable provisions of the
16 Campaign Code (Section 9-2 SFCC 1987) and shall be made available upon request to the
17 municipal clerk and the ethics and campaign review board.

18 [D]E. [~~A seed money and qualifying contribution report and an~~] Campaign finance
19 statements and contribution and expenditure reports of a candidate for municipal judge are not
20 required to be signed or acknowledged by the candidate.

21 APPROVED AS TO FORM:

22 
23 _____
24 KELLEY A. BRENNAN, CITY ATTORNEY

25 *Legislation/Bills 2015/Campaign Code 9-3 Bill*

**City of Santa Fe
Fiscal Impact Report (FIR)**

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X Resolution: _____

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): AN ORDINANCE AMENDING THE PUBLIC CAMPAIGN FINANCE CODE, SECTION 9-3 SFCC 1987 TO MODIFY THE DEFINITIONS OF "CONTRIBUTION" AND "EXPENDITURE", DELETE THE DEFINITION OF "QUALIFYING CONTRIBUTION" AND CREATE A DEFINITION FOR "COORDINATED EXPENDITURE" AND "QUALIFIED SMALL CONTRIBUTION"; TO MODIFY THE REQUIREMENTS TO QUALIFY AS A PARTICIPATING CANDIDATE; TO DELETE PROVISIONS RELATED TO SEED MONEY CONTRIBUTIONS AND ESTABLISH PROVISIONS FOR QUALIFIED SMALL CONTRIBUTIONS; TO DELETE PROVISIONS RELATED TO "QUALIFYING CONTRIBUTIONS"; TO MODIFY PROVISIONS RELATED TO "REPORTS OF EXPENDITURE" TO EXPAND REPORTING REQUIREMENTS; TO ADD PROVISIONS FOR "ADDITIONAL REPORTING OF QUALIFIED SMALL CONTRIBUTIONS AND ADDITIONAL MATCHING PAYMENTS FROM FUND"; AND TO MAKE SUCH OTHER CHANGES AS ARE NECESSARY TO CLARIFY THE PROVISIONS OF THE PUBLIC CAMPAIGN FINANCE CODE.

Sponsor(s): Councilor Peter Ives

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Zack Shandler Date: 6/18/15 Phone: 955-6303

Reviewed by City Attorney: Valley A. Beerman Date: 6/19/15
(Signature)

Reviewed by Finance Director: _____ Date: 6-19-2015
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The purpose of the bill is to:

- modify the definitions of "contribution" and "expenditure" in Section 9-3.3
- create a definition for "coordinated expenditure" in Section 9-3.3
- delete the definition of "qualifying contribution" in Section 9-3.3
- create a definition for "qualified small contribution" in Section 9-3.3
- delete provisions related to seed money contributions in Sections 9-3.4 to 9-3.11
- establish provisions for qualified small contributions in Sections 9-3.4 to 9-3.11
- delete provisions related to qualifying contributions in Sections 9-3.4 to 9-3.11
- modify provisions related to reports of expenditure in Sections 9-3.4 to 9-3.11
- modify the requirements to qualify as a participating candidate in Section 9-3.8
- additional matching payments from fund in Section 9-3.12
- add provisions for additional reporting of qualified small contributions in Section 9-3.14

Finance Director: 

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
Expenditure Classification	FY 2016	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY 2018	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected	

Personnel*	\$ TBA <u>(If the bill is adopted in its entirety, the City Clerk may have to review the additional workload and determine whether temporary workers need to be hired)</u>	N	NR	\$ TBA	N	NR	<u>General Fund</u>
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____

Professional Services \$ _____ \$ _____

All Other Operating Costs \$ TBA (See Narrative below) N NR \$ TBA (see narrative below) N NR Public Campaign Finance Fund _____

Total: \$ _____ \$ _____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
Type of Revenue	FY 2016	"R" Costs Recurring or "NR" Non-recurring	FY 2018	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected	
_____	\$0	_____	\$ 0	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____	_____
Total:	\$ _____	_____	\$ _____	_____	_____	_____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

***Under a system where a mayoral candidate could raise money and could get a 4 X1 match (capped at 200% of the initial grant)?**

Mayor Candidate A would get \$60,000 in the initial city grant and if they raised \$30,000 in small contributions and they would get a city match of \$120,000.

(The candidate could raise more than \$30,000, but only the first \$30,000 would be eligible for the match).

In 2014, there were three mayor candidates under the public financing system:

2014 cost to the Public Campaign Finance Fund: \$180,000

Under the bill, the cost to the Fund (if they all raised \$30,000 in small contributions): \$540,000 (\$180,000 and \$360,000 in matching funds)

Under a system where council or judge candidates could raise money and could get a 4 X1 match (capped at 200% of the initial grant)?

Candidate A would get \$15,000 in the initial grant, and if they raised \$7,500 in small contributions and get a match of \$30,000.

(The candidate could raise more than \$7,500, but only the first \$7,500 would be eligible for the match).

In 2014, there were 7 council candidates under the public financing system:

2014 cost with 7 candidates to the Fund: \$105,000

Under the bill, the cost to the Fund (if they all seven raised \$7,500 in small contributions): \$315,000 (\$105,000 in grant funds and \$210,000 in matching funds)

Notes:

*The proposed 200% cap on the initial city grant of fund creates a known cap on the city match. For example, Mayoral Candidate A could never get more than \$120,000 in matching funds. A council candidate can never get more than \$30,000 in matching funds.

*There is an annual distribution from the General Fund to the Public Campaign Finance Fund. The current code in Section 9-3.4B provides that "each fiscal year...the sum of one hundred fifty thousand shall be budgeted for and deposited in the fund."

*There is a current floor of the minimum amount of \$ that needs to be in the fund. The current code in Section 9-3.4C provides that "beginning with the election of 2014, the governing body shall appropriate and deposit in the fund such additional sums, if any, as many be necessary to ensure that the balance ... [during a mayoral election year] is at least six hundred thousand dollars...[and] that the balance in the fund ... [during a council and judge year] is at least three hundred thousand dollars...."

*The current balance in the Public Campaign Finance Fund at the end of FY 2015 is \$493,000. The annual distribution from the general fund of \$150,000 is distributed to the fund on a proportional quarterly basis (\$37,500 per quarter). This means the balance of the fund should be \$568,000 at the end of Calendar Year 2015.

*There is a process where unopposed publicly funded candidates get less public money. The current code in Section 9-3.10A4 provides that "a candidate in an uncontested race, ten percent of the amount that would be due to a candidate in a contested race for the same office" shall be disbursed.

*There is a current process that reduces the allotment of funds to candidates to avoid a "run on the bank" scenario. The current code in Section 9-3.10B provides that "if the amount to be paid to candidates ...exceed the total amount available in the fund, each payment shall be reduced in proportion to the amount of such excess. Any such proportionate reduction in the payment due to any candidate ... shall give the candidate the option to reject the payment and to withdraw as a participating candidate."

*In 2014, approximately \$30,000 was replenished back into the Fund by the return of seed money and qualifying contributions. The bill deletes this process.

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

No

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

Status quo

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

If the City Council wishes to adopt all portions of the bill, then staff may have amendments—i.e. to reconcile dates with the election calendar and dates when election packets are handed out to candidates.

If the City Council adopts only portions of the bill, then staff may have amendments to clarify outstanding issues from the last election (i.e. if the change to qualifying small contributions is not adopted, then Council may need to adopt language instructing the clerk to create a form for candidates to fill out to state when they are going to be publicly funded candidates)

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

Since last year's election, the ECRB has been engaged in an effort to develop recommendations to improve the ordinances. The Board has met monthly, and sometimes twice a month, for the last seven months. The Board has drafted and debated various proposals; invited experts in the field to advise the Board; received testimony from candidates about first hand experiences with the campaign finance laws; and discussed ideas with a variety of dedicated citizens.

The Board voted in favor of a final set of recommendations on May 20, 2015. The proposed changes address four major areas of concern to the Board and to the public: (1) coordination between candidates and independent groups; (2) transparency of campaign financing and independent expenditures; (3) revising the process by which a candidate qualifies for public financing; and (4) providing for a matching fund process regarding the ability of publicly financed candidates to run campaigns.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

1 **9-3 PUBLIC FINANCE CODE**

2 **Section 1. Section 9-3 SFCC 1987 PUBLIC CAMPAIGN FINANCE CODE**

3 **(Ord. #2009-44, §2, as amended) is amended to read:**

4 **9-3.1 Short Title.**

5 Section 9-3 SFCC 1987 may be cited as the Public Campaign Finance Code. (Ord. #2009-
6 44, §2; Ord. #2011-28, §6)

7 **9-3.2 Findings and Purposes.**

8 A. *Findings.* The governing body of the City of Santa Fe finds and declares that the
9 current system of privately financed campaigns for municipal office:

10 (1) Undermines public confidence in the democratic process and democratic
11 institutions.

12 (2) Creates a danger of undue influence by encouraging elected officials to
13 take money from private interests that are directly affected by governmental actions.

14 (3) Forces candidates to raise increasing amounts of money from interest
15 groups that have a financial stake in matters before Santa Fe city government in order to
16 keep pace with escalating campaign costs.

17 (4) Diminishes elected officials' accountability to their constituents by
18 compelling them to be disproportionately accountable to the contributors who finance
19 their campaigns.

20 (5) Burdens officeholders with the incessant need to raise campaign funds
21 and thus decreases the time available to them to carry out their public responsibilities.

22 B. *Purposes.* The purposes of the Public Campaign Finance Code are:

23 (1) To strengthen public confidence in the governmental and election
24 processes.

25 (2) To eliminate the danger of undue influence on elected officials caused by

1 the private financing of campaigns.

2 (3) To provide candidates with sufficient resources to communicate with
3 voters without the need to resort to private fund-raising.

4 (4) To increase the accountability of elected officials to the constituents who
5 elect them, as opposed to the contributors who fund their campaigns.

6 (5) To free officeholders from the need to raise campaign money, and thus to
7 allow them more time to carry out their official duties.

8 (Ord. #2009-44, §3; Ord. #2011-28, §7)

9 **9-3.3 Definitions.**

10 As used in this section, the following terms have the following meanings:

11 A. *Campaign depository* means a bank, mutual savings bank, savings and loan
12 association or credit union doing business in this state under which a campaign account or
13 accounts are maintained.

14 B. *Campaign materials* means any published communication, electronic or
15 otherwise, disseminated to more than one hundred (100) persons that either supports the election
16 or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot
17 proposal, other than communications to, or editorials, reports, or commentary by news media.

18 C. *Candidate* means any individual who seeks election to a Santa Fe municipal
19 office. An individual shall be a candidate when they:

20 (1) Announce publicly;

21 (2) File for office;

22 (3) When contributions are accepted or expenditures made; or when

23 (4) Any activity is held to promote an election campaign of an individual if
24 that activity is endorsed or supported by that person or if the benefits of such activity are
25 later accepted by such person.

1 D. *Contested race* means a race in which there are at least two (2) candidates for the
2 office sought.

3 E. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract,
4 agreement or promise of money or anything of value or other obligation, whether or not legally
5 enforceable, made directly or indirectly, to a candidate or political committee, or to a person
6 obligated to file a report under section 9-2.6 SFCC 1987, for the purpose of [influencing the
7 outcome of a municipal election] supporting or opposing the election of a candidate or the
8 approval or defeat of a ballot proposition.

9 (1) The term "contribution" includes:

10 (a) The transfer of funds or anything of value between political
11 committees;

12 (b) The transfer of anything of value for less than full consideration;

13 (c) Interest, dividends or other income derived from the investment
14 of campaign funds;

15 (d) The payment for the services of an individual serving on behalf
16 of a candidate or political committee, which payments are made by a third party;
17 and

18 (e) The purchase of tickets for fundraising events such as dinners,
19 rallies, raffles, etc. and the proceeds of collections at fundraising events.

20 (f) Coordinated expenditure. ~~[An expenditure by a person other than~~
21 ~~a candidate or the candidate's political committee that is made in cooperation,~~
22 ~~consultation or concert with, or at the request or suggestion of, a candidate or the~~
23 ~~candidate's political committee.]~~

24 (2) The term "contribution" does not include:

25 (a) A volunteer's personal services provided without compensation

1 or the travel or personal expenses of such a campaign worker; and

2 (b) The cost of an event held in honor of or on behalf of a candidate
3 when the total cost of the event amounts to no more than two hundred dollars
4 (\$200.).

5 F. Coordinated Expenditure means an expenditure that is made:

6 (1) by an individual or entity other than a candidate or the candidate's
7 political committee; and

8 (2) that is made in cooperation, consultation or concert with, or at the request
9 or suggestion of, a candidate, his/her representatives or agents or the candidate's political
10 committee, including but not limited to, the following examples in 9-3.3(F)(2)(a)-(d):

11 (a) there has been substantial discussion between the individual or
12 entity and the candidate, candidate's political committee or his/her
13 representatives or agents. Substantial discussion includes, but is not limited to, an
14 exchange of campaign strategies, polling information, voter lists or any other
15 similar information that would facilitate the election or defeat of a candidate;

16 (b) an entity is directly or indirectly formed or established by or at
17 the request or suggestion of, or with the encouragement of the candidate,
18 candidate's political committee or his/her representatives or agents;

19 (c) the candidate, candidate's political committee or his/her
20 representatives or agents has solicited funds or engaged in other fundraising
21 activities on behalf of the person or entity making the expenditure during the
22 twelve-month (12) period preceding the date of the expenditure. Fundraising
23 activities, include but are not limited to, exchanging names of potential donors or
24 other lists to be used in engaging in fundraising activity, regardless of whether or

1 not the individual or entity pays fair market value for the names or lists provided;
2 or being a featured guest or speaker at a fundraising event;

3 (d) if the individual or entity has employed, has in a leadership
4 position, or has accepted a donation of the campaign related professional services
5 of any person, who, during the twelve-month (12) period preceding the date of
6 the expenditure, has been an employee of, has advised, or provided or is
7 providing services to the candidate or candidate's political committee. These
8 services include, but are not limited to, any services in support of the candidate's
9 or candidate's political committee's campaign activities, such as advertising,
10 message, strategy or policy services, polling, allocation of resources, fundraising
11 or campaign operations.

12 (e) an expenditure is not a coordinated expenditure solely because:

13 (i) the individual or entity and a candidate or candidate's
14 political committee use the same vendor to provide polling services,
15 printing or distribution services or physical space, provided that the
16 vendor has in place prior to the expenditure a firewall to ensure that there
17 is no exchange of information between the individual or entity and the
18 candidate or campaign committee. Evidence of an adequate firewall is a
19 vendor's formal written policy or a contractual agreement with the
20 vendor prohibiting the exchange of information between the individual
21 or entity and the candidate or candidate's political committee, which
22 policy or contract is distributed to all relevant employees, consultants
23 and clients affected by the policy or contract. The firewall shall be
24 designed and implemented to prohibit the flow of information between
25 employees and consultants providing services to the individual and entity

1 and to those currently or previously providing services to the candidate
2 or candidate's political committee. Coordination will be presumed in the
3 absence of such a firewall.

4 (ii) the individual or entity making the expenditure
5 interviews a candidate; has endorsed a candidate; has obtained from the
6 candidate a biography of the candidate or a position paper, press release,
7 or similar material about the candidate; has invited the candidate to make
8 an appearance before the person's members, employees or shareholders;
9 or has shared space with a candidate or candidate's political committee
10 for one or more single events of limited duration.

11 [F]G. *Election* means any regular or special Santa Fe municipal election.

12 [G]H. *Expenditure* means a payment or transfer of anything of value in exchange for
13 goods, services, property, facilities or anything of value for the purpose of ~~[assisting, benefiting~~
14 ~~or honoring any public official or candidate, or assisting in furthering or opposing any election~~
15 ~~campaign for]~~ supporting or opposing the election of a candidate or the approval or defeat of a
16 ballot proposition. This includes contributions, subscriptions, distributions, loans, advances,
17 deposits, or gifts of money or anything of value, and includes a contract, a promise or agreement,
18 whether or not legally enforceable, to make an expenditure. The term "expenditure" also means
19 the transfer of funds or anything of value between political committees. ~~[In determining the dollar~~
20 ~~value of an expenditure, only that proportion of a payment or transfer of anything of value that is~~
21 ~~directly related to the campaign shall be considered an expenditure.]~~

22 [H]I. *Fund* means the public campaign finance fund created by subsection 9-3.4 SFCC
23 1987.

24 [I]J. *Non-participating candidate* means a candidate who is not a participating
25 candidate.

1 [J]K. *Participating candidate* means a candidate who has qualified and has been
2 certified pursuant to subsection 9-3.9 SFCC 1987 as eligible to receive payments from the fund.

3 [K]L. *Qualified elector* means a person who is registered to vote in the City of Santa
4 Fe.

5 [L]M. [~~Qualifying contribution means a contribution of no more or no less than five~~
6 ~~dollars (\$5.00) that is received from a qualified elector during the qualifying period by a~~
7 ~~candidate seeking to become a participating candidate. A candidate for councilor shall only~~
8 ~~receive qualifying contributions from qualified electors registered to vote in the council district in~~
9 ~~which the candidate is running.] *Qualified small contribution* means a contribution of no more
10 than one hundred dollars (\$100) made and accepted in compliance with the provisions of
11 subsection 9-3.6 SFCC 1987.~~

12 [M]N. *Qualifying period* means the period during which a candidate seeking to become
13 a participating candidate is permitted to collect [~~qualifying~~] qualified small contributions and to
14 apply for certification as a participating candidate. It begins one hundred eighty-three (183) days
15 before the election and ends one hundred six (106) days before the election.

16 [N]O. *Race* means the electoral process in which one (1) or more candidates run and
17 one (1) candidate is elected to the office of mayor, municipal judge or city councilor for a
18 particular district.

19 O. — ~~Seed money contribution means a contribution of no more than one hundred~~
20 ~~dollars (\$100.) made and accepted in compliance with the provisions of subsection 9-3.6 SFCC~~
21 ~~1987 and used exclusively for the purposes specified in that section.~~

22 P. *Uncontested race* means a race in which there is only one (1) candidate for the
23 office sought.

24 (Ord. #2009-44, §4; Ord. #2011-28, §8; Ord. #2013-28, §7; Ord. #2014-2 §2)

1 **9-3.4 Public Campaign Finance Fund.**

2 A. A dedicated public campaign finance fund ("the fund") is established to be
3 administered by the [municipal]city clerk for the purpose of providing public financing for the
4 election campaigns of participating candidates. Monies in the fund and disbursed from the fund to
5 participating candidates are public monies entrusted to the candidates to be used solely for the
6 public purposes specified in this Section 9-3 SFCC 1987.

7 B. Beginning with the city budget for fiscal year 2009-2010 and in each fiscal year
8 thereafter, the sum of one hundred fifty thousand dollars (\$150,000.) shall be budgeted for and
9 deposited in the fund.

10 C. Beginning with the election of 2014, the governing body shall appropriate and
11 deposit in the fund such additional sums, if any, as may be necessary to ensure:

12 (1) That the balance in the fund one hundred nineteen (119) days preceding
13 each election for mayor and four (4) council seats is at least six hundred thousand dollars
14 (\$600,000.); and

15 (2) That the balance in the fund one hundred nineteen (119) days preceding
16 each election for municipal judge and four (4) council seats is at least three hundred
17 thousand dollars (\$300,000.).

18 D. In addition to the deposits required by paragraphs B. and C. of this subsection,
19 the following shall also be deposited in the fund:

20 ~~[(1) All seed money contributions received by candidates seeking to become~~
21 ~~certified as participating candidates which remain unspent;~~

22 ~~— (2) All qualifying contributions received by candidates seeking to become~~
23 ~~certified as participating candidates;]~~

24 ~~[(3)]~~ All amounts paid from the fund to participating candidates which have
25 not been spent or obligated as of the date of the election;

1 ([4]2) All fines levied by the ethics and campaign review board or as decreed
2 by a court of competent jurisdiction as a condition of probation;

3 ([5]3) Voluntary donations made to the fund;

4 ([6]4) All interest and other income earned from investment of the fund; and

5 ([7]5) Such other appropriations to the fund as may be made by the governing
6 body as necessary to fulfill the requirements of this Section 9-3 SFCC 1987.

7 (Ord. #2009-44, §5; Ord. #2011-28, §9)

8 **9-3.5 Eligibility as a Participating Candidate.**

9 [Beginning with the election of 2012, a]Any candidate for municipal office may qualify
10 as a participating candidate eligible to receive payments from the fund pursuant to subsections 9-
11 3.10 and 9-3.12 SFCC 1987 if the candidate:

12 A. Meets the requisites to be listed on the ballot as a certified candidate for
13 municipal office pursuant to the provisions of Section 3-8-27 (B) through (E) NMSA 1978 and
14 Article IV Section 4.03 of the Santa Fe Municipal Charter;

15 B. Has collected [the requisite number of qualifying contributions, as follows]:

16 (1) For a candidate running for the office of mayor, six hundred (600)
17 [qualifying] qualified small contributions of no less than five dollars (\$5.00) from
18 separate qualified electors;

19 (2) For a candidate running for the office of city councilor, one hundred fifty
20 (150) [qualifying] qualified small contributions of no less than five dollars (\$5.00) from
21 separate qualified electors registered to vote in the council district in which the candidate
22 is running;

23 (3) For a candidate running for the office of municipal judge, one hundred
24 fifty (150) [qualifying] qualified small contributions of no less than five dollars (\$5.00)
25 from separate qualified electors.

1 C. Submits an application for certification pursuant to subsection 9-3.8 SFCC 1987
2 setting forth the agreement and the averments and accompanied by the forms^[s] and reports [and
3 payments] that are required by that section.

4 (Ord. #2009-44, §6; Ord. #2011-28, §11)

5 **9-3.6 [Seed Money] Qualified Small Contributions.**

6 A. A participating candidate or a candidate seeking to become a participating
7 candidate may solicit and accept [seed money contributions to defray expenses incurred in
8 obtaining qualifying contributions and in seeking certification as a participating candidate]
9 qualified small contributions.

10 B. The aggregate amount of [seed money] qualified small contributions from any
11 one contributor to any one candidate shall not exceed one hundred dollars (\$100)], and the
12 aggregate amount of seed money contributions accepted by a candidate shall not exceed ten
13 percent (10%) of the amount payable under subsection 9-3.10 SFCC 1987 to a candidate in a
14 contested election for the office sought].

15 C. Each [seed money] qualified small contribution shall be accompanied by a form
16 signed by the contributor, which shall include the contributor's name, home address, telephone
17 number, occupation and name of employer. The ethics and campaign review board may, by
18 regulation, permit the use of an electronic signature on such forms.

19 D. [All seed money contributions received by a candidate shall be deposited in a
20 non-interest-bearing account in a campaign depository to be established by the candidate before
21 soliciting or accepting any such contributions. All expenditures of seed money shall be made
22 from the campaign depository.] No person shall knowingly make and no candidate shall
23 knowingly receive a qualified small contribution which is not from the person named on the form
24 or for which the person named on the form has been or will be reimbursed or compensated by
25 another person.

1 E. Before soliciting or accepting qualified small contributions, a candidate shall
2 appoint a treasurer and establish a campaign depository in the manner required by subsection 9-
3 2.8 SFCC 1987. All qualified small contributions received by a candidate shall be recorded by the
4 candidate's campaign treasurer, deposited in a separate non-interest-bearing account in the
5 campaign depository and used in the candidate's campaign or disposed of following the election
6 in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be timely
7 reported in a campaign finance statement prepared in the manner and filed on the dates required
8 by subsections 9-2.10 through 9-2.12 SFCC 1987. Campaign finance statements reporting the
9 receipt of qualified small contributions shall be accompanied by copies of the forms signed by
10 each contributor pursuant to paragraph C of this subsection.

11 ~~[E. — Seed money contributions shall be used only for the purposes specified in~~
12 ~~paragraph A. of this subsection, and all seed money contributions that have not been spent or used~~
13 ~~for such purposes by the time the candidate applies for certification as a participating candidate or~~
14 ~~by the end of the qualifying period, whichever is sooner, shall then be paid over to the municipal~~
15 ~~clerk for deposit in the fund; provided, however, that if payment of all of the candidate's unspent~~
16 ~~seed money to the municipal clerk would cause the bank account in the campaign depository to~~
17 ~~be closed, an amount of seed money necessary to keep the account open may be temporarily~~
18 ~~retained in the account and paid over to the municipal clerk at a later time in compliance with~~
19 ~~paragraph C of subsection 9-3.10 SFCC 1987.]~~

20 (Ord. #2009-44, §7; Ord. #2011-28, §11; Ord. #2013-28, §8)

21 ~~[9-3.7 Qualifying Contributions.]~~ **9-3.7 Reserved.**

22 ~~[— A. — Each qualifying contribution shall be accompanied by a form signed by the~~
23 ~~contributor, which shall include the contributor's name, registered address and telephone number.~~

24 ~~— B. — No candidate or person acting on a candidate's behalf shall pay to any other~~
25 ~~person any form of compensation for soliciting or obtaining a qualifying contribution.~~

1 ~~C. No person shall knowingly make and no candidate shall knowingly receive a~~
2 ~~qualifying contribution which is not from the person named on the form or for which the person~~
3 ~~named on the form has been or will be reimbursed or compensated by another person.~~

4 ~~D. All qualifying contributions received by a candidate shall be deposited in a non-~~
5 ~~interest bearing account in a campaign depository to be established by the candidate before~~
6 ~~soliciting or accepting any such contributions, and shall be paid over to the municipal clerk for~~
7 ~~deposit in the fund when the candidate applies for certification as a participating candidate or~~
8 ~~when the qualifying period ends, whichever is sooner.~~

9 (Ord. #2009-44, §8; Ord. #2011-28, §12; Ord. #2013-28, §9)]

10 **9-3.8 Application for Certification as a Participating Candidate.**

11 A. A candidate who wishes to be certified as a participating candidate shall, [before
12 ~~the end of the qualifying period]~~ on or before the 106th day preceding the election, file an
13 application for such certification with the municipal clerk on a form prescribed by the [municipal]
14 city clerk.

15 B. The application shall identify the candidate and the office that the candidate is
16 seeking, and shall set forth:

17 (1) The candidate's averment under oath that the candidate satisfies the
18 requisites for qualification and certification as a participating candidate prescribed by
19 subsection 9-3.5 SFCC 1987;

20 (2) The candidate's averment under oath that the candidate has accepted no
21 contributions to the candidate's current campaign other than [qualifying contributions and
22 ~~seed money]~~ qualified small contributions solicited and accepted pursuant to subsections
23 9-3.6 SFCC 1987 [and 9-3.7 SFCC 1987];

24 (3) The candidate's averment under oath that the candidate has made no
25 expenditures for his or her current campaign from any source other than [~~seed money~~

1 qualified small] contributions; and

2 (4) The candidate's agreement that his or her current campaign will not
3 solicit, direct, or accept any further contributions other than qualified small contributions
4 or make any further expenditures from any sources other than qualified small
5 contributions and payments received from the fund pursuant to subsections 9-3.10 and 9-
6 3.12 SFCC 1987.

7 C. The application shall be accompanied by:

8 (1) Reports listing all [~~seed money contributions and qualifying~~
9 ~~contributions~~] qualified small contributions received by the candidate [~~and all~~
10 ~~expenditures of seed money contributions made by the candidate,~~] and showing the
11 aggregate amounts of all such contributions [~~and expenditures and the aggregate amounts~~
12 ~~of all contributions received from each contributor]; and~~

13 (2) Copies of forms signed by contributors for all [~~seed money contributions~~
14 ~~and qualifyin]g qualified small contributions received by the candidate.]; and~~

15 ~~(3) A check or checks issued to the City of Santa Fe from the candidate's~~
16 ~~campaign depository for the amount of all qualifying contributions received by the~~
17 ~~candidate and all seed money contributions received by the candidate except:~~

18 ~~(a) Amounts previously spent for the purposes specified in paragraph A of~~
19 ~~subsection 9-3.6 SFCC 1987; and~~

20 ~~(b) The amount, if any, that has been temporarily retained by the candidate~~
21 ~~for the purpose of keeping open the bank account in the campaign depository pursuant to~~
22 ~~paragraph E of subsection 9-3.6 SFCC 1987.]~~

23 (Ord. #2009-44, §9; Ord. #2011-28, §13; Ord. #2013-28, §10)

24 **9-3.9 Certification as a Participating Candidate.**

25 A. On or before the eighty-ninth (89th) day before the election the municipal clerk

1 shall make a determination whether the candidate's application complies with the requirements of
2 subsection 9-3.8 SFCC 1987 and whether the candidate satisfies the requisites for certification as
3 a participating candidate prescribed by subsection 9-3.5 SFCC 1987, and shall thereupon issue a
4 decision, in accordance with the determination so made, granting or refusing such certification to
5 the candidate.

6 B. The [~~municipal~~] city clerk may revoke a candidate's certification as a
7 participating candidate for any violation by the candidate of the requirements of this section, and
8 may require that any candidate whose certification has been revoked to pay over to the municipal
9 clerk for deposit in the fund any amounts previously paid to the candidate pursuant to subsection
10 9-3.10 SFCC 1987.

11 C. Qualified small contributions in the campaign depository of a candidate who fails
12 to obtain certification as a participating candidate, whose certification is revoked or who
13 withdraws as a participating candidate may be retained by the candidate to be used in the
14 candidate's campaign and disposed of after the election in the manner required by subsection 9-
15 2.9 SFCC 1987.

16 (Ord. #2009-44, §10; Ord. #2011-28, §14)

17 **9-3.10 Payments to Participating Candidates.**

18 A. Within three (3) business days of certifying a candidate as a participating
19 candidate, the municipal clerk shall disburse to the candidate from the fund:

20 (1) Sixty thousand dollars (\$60,000.) for a candidate in a contested race for
21 the office of mayor;

22 (2) Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
23 the office of city councilor;

24 (3) Fifteen thousand dollars (\$15,000.) for a candidate in a contested race for
25 the office of municipal judge; or

1 (4) For a candidate in an uncontested race, ten percent (10%) of the amount
2 that would be due to a candidate in a contested race for the same office.

3 B. If the amounts required to be paid to candidates under paragraph A of this
4 subsection exceed the total amount available in the fund, each payment shall be reduced in
5 proportion to the amount of such excess. Any such proportionate reduction in the payment due to
6 any candidate under paragraph A of this subsection shall give the candidate the option to reject
7 the payment and to withdraw as a participating candidate. A candidate who withdraws as a
8 participating candidate pursuant to this paragraph shall file an affidavit with the [municipal] city
9 clerk so stating and shall thenceforth be treated for all purposes as a non-participating candidate
10 relieved of all obligations and restrictions and excluded from all benefits and exemptions imposed
11 or conferred on a participating candidate by this Section 9-3 SFCC 1987.

12 ~~[C. Within five (5) business days of the candidate's receipt of the amount disbursed~~
13 ~~under paragraph A of this subsection or the municipal clerk's refusal to certify the candidate as a~~
14 ~~participating candidate pursuant to paragraph A of subsection 9-3.9 SFCC 1987, whichever is~~
15 ~~sooner, the candidate shall pay over to the municipal clerk for deposit in the fund any amount of~~
16 ~~seed money that has been temporarily retained by the candidate for the purpose of keeping open~~
17 ~~the bank account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC~~
18 ~~1987.]~~

19 (Ord. #2009-44, §11; Ord. #2011-28, §15; Ord. #2013-28, §11)

20 **9-3.11 Use of Payments from the Fund[; the Fund as Exclusive Source].**

21 A. All payments received by a participating candidate from the fund shall be
22 deposited in a non-interest-bearing account in the candidate's campaign depository and shall be
23 used exclusively to pay expenses reasonably incurred in furtherance of the candidate's current
24 campaign.

25 B. Payments received from the fund shall not be used for any other purpose,

1 including:

2 (1) The candidate's personal living expenses or compensation to the
3 candidate or the candidate's family;

4 (2) A contribution to another campaign of the candidate or a payment to
5 retire debt from another such campaign;

6 (3) A contribution to the campaign of another candidate or to a political
7 party or political committee or to a campaign supporting or opposing a ballot proposition;

8 (4) An expenditure supporting the election of another candidate or the
9 approval or defeat of a ballot proposition or the defeat of any candidate other than an
10 opponent of the participating candidate;

11 (5) Payment of legal expenses or any fine levied by a court or the ethics and
12 campaign review board.

13 (6) Any gift or transfer for which compensating value is not received.

14 C. All payments from the fund received by a participating candidate which have not
15 been spent or obligated for the purposes specified in paragraph A of this subsection and any
16 tangible assets purchased with such payments remaining in the possession of the campaign as of
17 the date of the election shall be returned by the candidate and shall be conveyed to the municipal
18 clerk within forty-five (45) days after that date. Returned payments shall be deposited in the
19 fund. Tangible assets shall be conveyed to the city for its use or disposition in accordance with
20 the city's procurement code. Proceeds from such disposition shall be deposited in the fund.

21 D. In accordance with the agreement entered into pursuant to subparagraph B(4) of
22 subsection 9-3.8 SFCC 1987, a candidate who has been certified as a participating candidate shall
23 not thereafter accept any contribution to the candidate's campaign other than payments received
24 from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987 and qualified small
25 contributions received pursuant to subsection 9-3.6 SFCC 1987, and shall not make any

1 expenditure in support of the candidate's campaign from any source other than payments and
2 contributions so received and previously deposited in the candidate's campaign depository.

3 (Ord. #2009-44, §12; Ord. #2011-28, §16; Ord. #2013-28, §12)

4 **9-3.12 [Reserved;][NEW MATERIAL] Additional Reports of Qualified Small**
5 **Contributions; Additional Matching Payments from the Fund.**

6 A. Those participating candidates who wish to submit for matching payments from the
7 Fund, in addition to the dates specified for the filing of campaign finance statements by
8 subsection 9-2.10 SFCC 1987, may file campaign finance statements reporting the receipt of
9 qualified small contributions on, the sixty-second (62nd) day preceding the election and the
10 fifteenth (15th) day preceding the election.

11 B. Within two business days after the filing of a campaign finance statement by a
12 participating candidate reporting the receipt of qualified small contributions and accompanied by
13 copies of the forms signed by the contributors as required by paragraph C of subsection 9-3.6
14 SFCC 1987, the municipal clerk shall disburse to the candidate an additional payment from the
15 fund equal to four times the total amount of the qualified small contributions reported in the
16 campaign finance statement; provided, that no such additional matching payments shall be made
17 for contributions reported in a campaign finance statement filed after the Tuesday preceding the
18 election; and provided further that additional matching payments for contributions listed in a
19 report filed with the candidate's application for certification under subsection 9-3.8 SFCC 1987
20 shall not be made until two business days after such contributions have been listed anew in a
21 campaign finance statement filed under paragraph E of subsection 9-3.6 SFCC 1987 or paragraph
22 A of this subsection.

23 C. Additional payments made to a participating candidate pursuant to paragraph B
24 of this subsection shall be deposited in the separate account in the candidate's campaign
25 depository that was established by the candidate for the deposit of payments received from the

1 fund pursuant to paragraph A of subsection 9-3.11.

2 D. The aggregate amount of additional payments made to a participating candidate
3 pursuant to paragraph B of this subsection shall not exceed two hundred percent (200%) of the
4 amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC 1987.

5 E. If the amounts required to be paid to candidates under paragraph B of this
6 subsection exceed the total amount available in the fund, each payment shall be reduced in
7 proportion to the amount of such excess.

8 ~~[(Former subsection 9-3.12, Reports of Expenditures by Non-Participating Candidates~~
9 ~~and Other Persons, previously codified herein and containing portions of Ordinance No. 2009-44,~~
10 ~~was repealed in its entirety by Ordinance No. 2011-28, §17.)]~~

11 **9-3.13 Reserved.**

12 (Former subsection 9-3.13, Additional Matching Payments to Participating Candidates,
13 previously codified herein and containing portions of Ordinance No. 2009-44, was repealed in its
14 entirety by Ordinance No. 2011-28, §18.)

15 **9-3.14 Reports of Expenditures; Exemption from Certain Reporting**
16 **Requirements].**

17 A. A participating candidate shall file with the municipal clerk reports under oath of
18 expenditures made from the payments received from the fund, indicating that the expenditures
19 were made from that source and showing the date and amount of each such expenditure, the name
20 and address of the person or organization to whom it was made, the purpose of the such
21 expenditure, the aggregate amount of such expenditures made to each person or organization and
22 the aggregate amount of all expenditures made by the candidate or by his or her campaign.
23 Receipts for all such expenditures shall be preserved for a period of two (2) years from the date of
24 the expenditure.

25 B. The reports required by paragraph A of this subsection shall be filed on each of

1 the days prescribed for the filing of campaign finance statements by subsection 9-2.10 SFCC
2 1987.

3 C. A signed campaign finance statement filed by a participating candidate to report
4 qualified small contributions pursuant to paragraph E of subsection 9-3.6 SFCC 1987 or
5 paragraph A of subsection 9-3.12 SFCC 1987 shall also include a report of all expenditures made
6 during the period covered by the statement from the separate account established by the candidate
7 for the deposit of such contributions pursuant to paragraph D of subsection 9-3. SFCC 1987. The
8 statement shall show that the expenditures were made from that source and shall contain all the
9 information concerning the expenditures, account balances and funds on hand that is required for
10 campaign finance statements filed pursuant to subsection 9-2.11 SFCC 1987. Receipts for all
11 such expenditures shall be preserved for a period of two (2) years from the date of expenditure.

12 [E]D. Except as provided in paragraph A [and B] through C of this subsection [and],
13 paragraph E of subsection 9-3.6 SFCC 1987, paragraph C of subsection 9-3.8 SFCC 1987[5] and
14 sparagraph A of subsection 9-3.12 SFCC 1987, participating candidates are exempt from the
15 requirement to file campaign finance statements imposed by subsections 9-2.10 SFCC 1987
16 through 9-2.12 SFCC 1987 and from the requirements to file campaign records with the
17 municipal clerk imposed by paragraph C of subsection 9-2.9 SFCC 1987; provided, however, that
18 campaign records shall be maintained in the manner required by the applicable provisions of the
19 Campaign Code (Section 9-2 SFCC 1987) and shall be made available upon request to the
20 municipal clerk and the ethics and campaign review board.

21 [D]E. [A seed money and qualifying contribution report and an] Campaign finance
22 statements and contribution and expenditure reports of a candidate for municipal judge are not
23 required to be signed or acknowledged by the candidate.

24 (Ord. #2009-44, §15; Ord. #2011-28, §19; Ord. #2013-28, §13; Ord. #2013-31 §3)

25 **9-3.15 Contributions and Expenditures to Retire Debt from Previous Campaigns.**

1 Notwithstanding any other provision of this section, a candidate shall not be considered
2 ineligible for certification as a participating candidate and shall not be deemed to have violated
3 the provisions of paragraph D of subsection 9-3.11 SFCC 1987 solely by reason of contributions
4 received or expenditures made to retire debt incurred in the course of a previous campaign in
5 which the candidate was not a participating candidate, provided that any such contribution or
6 expenditure has been made and duly reported in full compliance with the requirements of the
7 Campaign Code (Article 9-2 SFCC 1987). (Ord. #2009-44, §16; Ord. #2011-28, §20)

8 **9-3.16 Rules and Educational Materials.**

9 The municipal clerk and the ethics and campaign review board may adopt and publish
10 rules and educational materials explaining and applying the provisions of this section. (Ord.
11 #2009-44, §17; Ord. #2011-28, §21)

12 **9-3.17 Enforcement and Review.**

13 This section shall be enforced by the ethics and campaign review board pursuant to the
14 provisions of Section 6-16 SFCC 1987. Any decision of the municipal clerk under this section is
15 reviewable by the ethics and campaign review board on petition of an aggrieved party. This
16 provision shall not be construed to prevent the enforcement of any otherwise applicable state
17 criminal or civil statutes, laws or municipal ordinances. (Ord. #2009-44, §18; Ord. #2011-28,
18 §22)

19 **9-3.18 Reports and Forms.**

20 A. All reports and forms that are required by Section 9-3 SFCC 1987 shall be signed
21 under oath and on forms prescribed by the municipal clerk.

22 B. The municipal clerk is authorized to reject any incomplete report or form. The
23 municipal clerk shall notify a participating candidate that the report or form is incomplete.

24 C. The municipal clerk shall assess a fine of one hundred dollars (\$100.00) for
25 unexcused late filing of reports or forms.

1 (Ord. #2009-44, §19; Ord. #2011-28, §23)

2 **9-3.19 Severability.**

3 The provisions of this section and each of its subsections, paragraphs, subparagraphs,
4 sentences and clauses are severable. In the event that any such provision is held to be invalid or
5 unenforceable by any judicial or administrative tribunal, it is the intent of the governing body that
6 all other provisions thereof shall remain in full force and effect. (Ord. #2009-44, §20; Ord.
7 #2011-28, §24)

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25