



**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2015-\_\_\_\_\_**

**INTRODUCED BY:**

**AN ORDINANCE**

**AMENDING THE CAMPAIGN CODE AND PUBLIC CAMPAIGN FINANCE CODE TO DEFINE “COORDINATED EXPENDITURE” AND TO ENCOURAGE PARTICIPATION IN PUBLIC CAMPAIGN FINANCING BY ALLOWING PUBLICLY FINANCED CANDIDATES TO RAISE QUALIFIED SMALL CONTRIBUTIONS, MANDATING MATCHING PAYMENTS OF PUBLIC FUNDS FOR SUCH CONTRIBUTIONS AND AMENDING THE PUBLIC CAMPAIGN FINANCE CODE IN CERTAIN ADDITIONAL RESPECTS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. Section 9-2.3 SFCC 1987 (being Ord. #1998-41, §3, as amended) is amended to amend the following definitions:**

**1. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not these items are legally enforceable, made directly or indirectly, to a candidate or political committee for the purpose of influencing the outcome of a municipal election.**

1 (1) The term "contribution" includes:

2 (a) The transfer of funds or anything of value between political  
3 committees;

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

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

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

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

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

15 K. Coordinated Expenditure means an expenditure by an individual or entity other than  
16 a candidate or the candidate's political committee that is made in cooperation, consultation or concert  
17 with, or at the request or suggestion of, a candidate or the candidate's political committee, including  
18 but not limited to, the following examples in 9-2.3(K)(1)(A) – (G).

19 (1) An expenditure that is made by an individual or entity to urge the election or  
20 defeat of a candidate, or that is susceptible to no other reasonable interpretation than as an  
21 appeal to vote for or against a clearly identified candidate, shall be presumed to be  
22 "coordinated expenditure" when an individual or entity makes an expenditure and:

23 (a) There has been substantial discussion between the individual or  
24 entity and the candidate, candidate's political committee or his/her representatives or  
25 agents. Substantial discussion includes, but is not limited to, an exchange of

1 campaign strategies, polling information, voter lists or any other similar information  
2 that would facilitate the election or defeat of a clearly identifiable candidate.

3 (b) The expenditure is made at the request or suggestion of the  
4 candidate, candidate's political committee or his/her representatives or agents.

5 (c) The individual or entity suggests making an expenditure to the  
6 candidate, candidate's political committee or his/her representatives or agents and the  
7 candidate, candidate's political committee or his/her representatives or agents assents  
8 to the suggestion.

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

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

19 (f) If the individual or entity disseminates, distributes or republishes an  
20 advertisement that, in whole or in part, any broadcast or any written, graphic, or other  
21 form of campaign material prepared by the candidate, candidate's political committee  
22 or his/her representatives or agents.

23 (g) If the individual or entity has employed, has in a leadership position,  
24 or has accepted a donation of the professional services of any person, who, during the  
25 twelve-month period preceding the date of the expenditure, has been an employee of,

1 has advised, or provided or is providing services to the candidate or candidate's  
2 political committee. These services, include but are not limited to, any services in  
3 support of the candidate's or candidate's political committee's campaign activities,  
4 such as advertising, message, strategy or policy services, polling, allocation of  
5 resources, fundraising or campaign operations.

6 (2) An expenditure will not be presumed to be a coordinated expenditure when  
7 an individual or entity makes an expenditure and:

8 (a) The individual or entity and a candidate and candidate's political  
9 committee use the same vendor to provide polling services, printing services or  
10 physical space provided that the vendor have in place prior to the expenditure a  
11 firewall to insure that there is no exchange of information between individual or  
12 entity and the candidate and campaign committee.

13 (b) Evidence of an adequate firewall is a vendor's formal written policy  
14 prohibiting the exchange of information between the individual or entity and the  
15 candidate and candidate's political committee and which policy is distributed to all  
16 relevant employees, consultants and clients affected by the policy.

17 (c) The firewall shall be designed and implemented to prohibit the flow  
18 of information between employees and consultants providing services to the  
19 individual and entity and to those currently or previously providing services to the  
20 candidate and candidate's political committee. Coordination will be presumed in the  
21 absence of such a firewall.

22 (3) An expenditure will not be presumed to be a coordinated expenditure when:

23 (a) The individual or entity making the expenditure interviews a  
24 candidate.

25 (b) The individual or entity making the expenditure has endorsed a

1 candidate.

2 (c) The individual or entity making the expenditure has obtained from  
3 the candidate a biography of the candidate or a position paper, press release, or  
4 similar material about the candidate;

5 (d) The individual or entity making the expenditure has invited the  
6 candidate to make an appearance before the person's members, employees or  
7 shareholders.

8 (e) The individual or entity making the expenditure has shared space  
9 with a candidate or candidate's political committee for single events of limited  
10 duration.

11 (4) The Ethics and Campaign Review Board shall establish procedural rules for  
12 how citizens and entities may file or respond to complaints which involve these above-cited  
13 presumptions and any necessary required evidentiary matters.

14 [Remaining sections shall be re-lettered accordingly.]

15 **Section 2. Section 9-2.6 SFCC 1987 (being Ord. #2005-14, §29, as amended) is**  
16 **amended to read:**

17 **9-2.6 Independently Sponsored Campaign Materials.**

18 Any person or entity that ~~contracts for or initiates the dissemination of campaign materials~~  
19 ~~supporting the election or defeat of an identifiable candidate or of a ballot proposition, and that~~  
20 ~~spends in the aggregate~~ makes an expenditure or expenditures of two hundred fifty dollars (\$250.) or  
21 more for such purpose in the aggregate during a single election for the purpose of supporting or  
22 opposing an identifiable candidate or ballot proposition shall thereafter, on each of the days  
23 prescribed for the filing of campaign finance statements of political committees, file with the city  
24 clerk a report of all expenditures made and all contributions received for such purpose on or before  
25 the date of the report and which have not been previously reported. Each report shall be submitted on

1 a form prescribed by the city clerk. Contributions shall be specified by date, amount of contribution,  
2 name, address and occupation of the person or entity from whom the contribution was made.  
3 Expenditures shall be specified by date, the amount of the expenditure, the name and address of the  
4 person or entity where an expenditure was made and the purpose of the expenditure.

5 **Section 3. Section 9-3.3 SFCC 1987 (being Ord. #2009-44, §4, as amended) is**  
6 **amended to amend the following definitions:**

7 D. Contribution means a loan, loan guarantee, gift, advance, pledge, contract, agreement  
8 or promise of money or anything of value or other obligation, whether or not legally enforceable,  
9 made directly or indirectly, to a candidate or political committee for the purpose of influencing the  
10 outcome of a municipal election.

11 (1) The term "contribution" includes:

12 (a) The transfer of funds or anything of value between political  
13 committees;

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

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

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

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

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

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

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

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

5 F. Coordinated Expenditure means an expenditure by an individual or entity other than  
6 a candidate or the candidate's political committee that is made in cooperation, consultation or concert  
7 with, or at the request or suggestion of, a candidate or the candidate's political committee, including  
8 but not limited to, the following examples in 9-3.3(F)(1)(A) – (G).

9 (1) An expenditure that is made by an individual or entity to urge the election or  
10 defeat of a candidate, or that is susceptible to no other reasonable interpretation than as an  
11 appeal to vote for or against a clearly identified candidate, shall be presumed to be  
12 "coordinated expenditure" when an individual or entity makes an expenditure and:

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

18 (b) The expenditure is made at the request or suggestion of the  
19 candidate, candidate's political committee or his/her representatives or agents.

20 (c) The individual or entity suggests making an expenditure to the  
21 candidate, candidate's political committee or his/her representatives or agents and the  
22 candidate, candidate's political committee or his/her representatives or agents assents  
23 to the suggestion.

24 (d) A entity is directly or indirectly formed or established by or at the  
25 request or suggestion of, or with the encouragement of the candidate, candidate's

1 political committee or his/her representatives or agents.

2 (e) The candidate, candidate's political committee or his/her  
3 representatives or agents has solicited funds or engaged in other fundraising activities  
4 on behalf of the person or entity making the expenditure during the twelve-month  
5 period preceding the date of the expenditure. Fundraising activities, include but are  
6 not limited to, exchanging names of potential donors or other lists to be used in  
7 engaging in fundraising activity, regardless of whether or not the individual or entity  
8 pays fair market value for the names or lists provided.

9 (f) If the individual or entity disseminates, distributes or republishes an  
10 advertisement that, in whole or in part, any broadcast or any written, graphic, or other  
11 form of campaign material prepared by the candidate, candidate's political committee  
12 or his/her representatives or agents.

13 (g) If the individual or entity has employed, has in a leadership position,  
14 or has accepted a donation of the professional services of any person, who, during the  
15 twelve-month period preceding the date of the expenditure, has been an employee of,  
16 has advised, or provided or is providing services to the candidate or candidate's  
17 political committee. These services, include but are not limited to, any services in  
18 support of the candidate's or candidate's political committee's campaign activities,  
19 such as advertising, message, strategy or policy services, polling, allocation of  
20 resources, fundraising or campaign operations.

21 (2) An expenditure will not be presumed to be a coordinated expenditure when  
22 an individual or entity makes an expenditure and:

23 (a) The individual or entity and a candidate and candidate's political  
24 committee use the same vendor to provide polling services, printing services or  
25 physical space provided that the vendor have in place prior to the expenditure a

1 firewall to insure that there is no exchange of information between individual or  
2 entity and the candidate and campaign committee.

3 (b) Evidence of an adequate firewall is a vendor's formal written policy  
4 prohibiting the exchange of information between the individual or entity and the  
5 candidate and candidate's political committee and which policy is distributed to all  
6 relevant employees, consultants and clients affected by the policy.

7 (c) The firewall shall be designed and implemented to prohibit the flow  
8 of information between employees and consultants providing services to the  
9 individual and entity and to those currently or previously providing services to the  
10 candidate and candidate's political committee. Coordination will be presumed in the  
11 absence of such a firewall.

12 (3) An expenditure will not be presumed to be a coordinated expenditure when:

13 (a) The individual or entity making the expenditure interviews a  
14 candidate.

15 (b) The individual or entity making the expenditure has endorsed a candidate.

16 (c) The individual or entity making the expenditure has obtained from the  
17 candidate a biography of the candidate or a position paper, press release, or similar  
18 material about the candidate;

19 (d) The individual or entity making the expenditure has invited the candidate  
20 to make an appearance before the person's members, employees or shareholders.

21 (4) The individual or entity making the expenditure has shared space with a  
22 candidate or candidate's political committee for single events of limited duration.

23 (5) The Ethics and Campaign Review Board shall establish procedural rules for  
24 how citizens and entities may file or respond to complaints which involve these above-cited  
25 presumptions and any necessary required evidentiary matters.

1 [Remaining sections shall be re-lettered accordingly.]

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

4 [~~L. Qualifying contribution means a contribution of no more [or] and no less than five~~  
5 ~~dollars (\$5.00) that is received from a qualified elector during the qualifying period by a candidate~~  
6 ~~seeking to become a participating candidate. A candidate for councilor shall only receive qualifying~~  
7 ~~contributions from qualified electors registered to vote in the council district in which the candidate is~~  
8 ~~running.~~]

9 [~~M. Qualifying period means the period during which a candidate seeking to become a~~  
10 ~~participating candidate is permitted to collect qualifying contributions and to apply for certification as~~  
11 ~~a participating candidate. It begins one hundred eighty three (183) days before the election and ends~~  
12 ~~one hundred six (106) days before the election.~~]

13 [~~N.~~] M. Race means the electoral process in which one (1) or more candidates run and  
14 one (1) candidate is elected to the office of mayor, municipal judge or city councilor for a particular  
15 district.

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

19 [Remaining sections shall be re-lettered accordingly.]

20 **Section 4. Section 9-3.4 SFCC 1987 (being Ord. #2009-44, §5, as amended) is**  
21 **amended to read:**

22 **9-3.4 Public Campaign Finance Fund.**

23 A. A dedicated public campaign finance fund ("the fund") is established to be  
24 administered by the municipal clerk for the purpose of providing public financing for the election  
25 campaigns of participating candidates. Monies in the fund and disbursed from the fund to

1 participating candidates are public monies entrusted to the candidates to be used solely for the public  
2 purposes specified in this Section 9-3 SFCC 1987.

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

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

8 (1) That the balance in the fund one hundred nineteen (119) days preceding each  
9 election for mayor and four (4) council seats is at least six hundred thousand dollars  
10 (\$600,000.); and

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

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

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

18 [~~(2) All qualifying contributions received by candidates seeking to become~~  
19 ~~certified as participating candidates;~~]

20 [~~(3)~~] (1) All amounts paid from the fund to participating candidates which  
21 have not been spent or obligated as of the date of the election;

22 [~~(4)~~] (2) All fines levied by the ethics and campaign review board or as  
23 decreed by a court of competent jurisdiction as a condition of probation;

24 [~~(5)~~] (3) Voluntary donations made to the fund;

25 [~~(6)~~] (4) All interest and other income earned from investment of the fund; and

1                    ~~(7)~~ (5)        Such other appropriations to the fund as may be made by the  
2 governing body as necessary to fulfill the requirements of this Section 9-3 SFCC 1987.

3                    **Section 5. Section 9-3.5 SFCC 1987 (being Ord. #2009-44, §6, as amended) is amended**  
4 **to read:**

5                    **9-3.5 Eligibility as a Participating Candidate.**

6                    Beginning with the election of 2012, any candidate for municipal office may qualify as a  
7 participating candidate eligible to receive payments from the fund pursuant to subsections 9-3.10 and  
8 9-3.12 SFCC 1987 if the candidate:

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

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

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

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

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

23                    C.            Submits an application for certification pursuant to subsection 9-3.8 SFCC 1987  
24 setting forth the agreement and the averments and accompanied by the forms<sup>[5]</sup> and reports [~~and~~  
25 ~~payments~~] that are required by that section.

1           Section 6. Section 9-3.6 SFCC 1987 (being Ord. #2009-44, §7, as amended) is  
2 amended to read:

3           9-3.6 ~~[Seed Money.]~~ Qualified Small Contributions.

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

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

12           C. Each ~~[seed money]~~ qualified small contribution shall be accompanied by a form signed  
13 by the contributor, which shall include the contributor's name, home address, telephone number,  
14 occupation and name of employer. The Ethics and Campaign Review Board may, by regulation,  
15 permit the use of an electronic signature on such forms.

16           D. No person shall knowingly make and no candidate shall knowingly receive a  
17 qualified small contribution which is not from the person named on the form or for which the person  
18 named on the form has been or will be reimbursed or compensated by another person.

19           ~~[D.]~~ E. ~~[All seed money contributions received by a candidate shall be deposited in a non-~~  
20 ~~interest bearing account in a campaign depository to be established by the candidate before soliciting~~  
21 ~~or accepting any such contributions. All expenditures of seed money qualified small contributions~~  
22 ~~shall be made from the campaign depository.]~~ Before soliciting or accepting qualified small  
23 contributions, a candidate shall appoint a treasurer and establish a campaign depository in the manner  
24 required by subsection 9-2.8 SFCC 1987. All qualified small contributions received by a candidate  
25 shall be recorded by the candidate's campaign treasurer, deposited in a separate non-interest-bearing

1 account in the campaign depository and used in the candidate's campaign or disposed of following  
2 the election in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be  
3 timely reported in a campaign finance statement prepared in the manner and filed on the dates  
4 required by subsections 9-2.10 through 9-2.12 SFCC 1987. Campaign finance statements reporting  
5 the receipt of qualified small contributions shall be accompanied by copies of the forms signed by  
6 each contributor pursuant to paragraph C of this subsection.

7           **Section 7.       Section 9-3.7 SFCC 1987 (being Ord. #2009-44, §8, as amended) is**  
8 **repealed.**

9           **Section 8.       Section 9-3.8 SFCC 1987 (being Ord. #2009-44, §9, as amended) is**  
10 **amended to read:**

11           **9-3.8 Application for Certification as a Participating Candidate.**

12           A.       A candidate who wishes to be certified as a participating candidate shall, on or before  
13 the 106<sup>th</sup> day preceding the election [~~before the end of the qualifying period~~], file an application for  
14 such certification with the municipal clerk on a form prescribed by the municipal 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 requisites  
18 for qualification and certification as a participating candidate prescribed by subsection 9-3.5  
19 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 subsection[s] 9-  
23 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 solicit,  
3 direct or accept any further contributions other than qualified small contributions or make any  
4 further expenditures from any sources other than qualified small contributions and payments  
5 received from the fund pursuant to subsections 9-3.10 and 9-3.12 SFCC 1987.

6 C. The application shall be accompanied by:

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

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

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

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

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

22 **Section 9. Section 9-3.9 SFCC 1987 (being Ord. #2009-44, §10, as amended) is**  
23 **amended to read:**

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 shall

1 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 a  
3 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 the  
5 candidate.

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

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

14 **Section 10. Section 9-3.10 SFCC 1987 (being Ord. #2009-44, §11, as amended) is**  
15 **amended to read:**

16 **9-3.10 Payments to Participating Candidates.**

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

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

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

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

25 (4) For a candidate in an uncontested race, ten percent (10%) of the amount

1 that would be due to a candidate in a contested race for the same office.

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

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

17 **Section 11. Section 9-3.11 SFCC 1987 (being Ord. No. 2009-44, §12) is amended to**  
18 **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 deposited in  
21 a separate non-interest-bearing account in the candidate's campaign depository and shall be used  
22 exclusively to pay expenses reasonably incurred in furtherance of the candidate's current campaign.

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

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

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

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

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

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

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

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

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

25          **Section 12.     A new section 9-3.12 SFCC 1987 is ordained to read:**

1           **9-3.12 [NEW MATERIAL] Additional Reports of Qualified Small Contributions;**  
2 **Additional Matching Payments from the Fund**

3           A.     In addition to the dates specified for the filing of campaign finance statements by  
4 subsection 9-2.10 SFCC 1987, campaign finance statements reporting the receipt of qualified small  
5 contributions may also be filed by participating candidates on the eighty-third day preceding the  
6 election, the sixty-second day preceding the election and the fifteenth day preceding the election.

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

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

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

25           E.     If the amounts required to be paid to candidates under paragraph B of this subsection

1 exceed the total amount available in the fund, each payment shall be reduced in proportion to the  
2 amount of such excess.

3 **Section 13. Section 9-3.14 SFCC 1987 (being Ord. No. 2009-44, §15) is amended to**  
4 **read:**

5 **9-3.14 Reports of Expenditures; Exemption from Certain Reporting Requirements.**

6 A. A participating candidate shall file with the municipal clerk reports under oath of  
7 expenditures made from the payments received from the fund, indicating that the expenditures were  
8 made from that source and showing the date and amount of each such expenditure, the name and  
9 address of the person or organization to whom it was made, the purpose of the expenditure, the  
10 aggregate amount of such expenditures made to each person or organization and the aggregate  
11 amount of all such expenditures made by the candidate or by his or her campaign. Receipts for all  
12 such expenditures shall be preserved for a period of two (2) years from the date of the expenditure.

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

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

24 [~~C.~~] D. Except as provided in paragraphs A [~~and B~~] through C of this subsection [~~and~~],  
25 paragraph E of subsection 9-3.6 SFCC 1987, paragraph C of subsection 9-3.8 SFCC 1987[;] and

1 paragraph A of subsection 9-3.12 SFCC 1987, participating candidates are exempt from the  
2 requirement to file campaign finance statements imposed by subsections 9-2.10 SFCC 1987 through  
3 9-2.12 SFCC 1987 and from the requirements to file campaign records with the municipal clerk  
4 imposed by paragraph C of subsection 9-2.9 SFCC 1987; provided, however, that campaign records  
5 shall be maintained in the manner required by the applicable provisions of the Campaign Code  
6 (Section 9-2 SFCC 1987) and shall be made available upon request to the municipal clerk and the  
7 ethics and campaign review board.

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

11 APPROVED AS TO FORM:

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13 \_\_\_\_\_  
14 KELLEY A. BRENNAN, CITY ATTORNEY  
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