

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2009-46

INTRODUCED BY

[Handwritten signatures: John J. Baker, John Carter, David Coz, Rosemary Romeo, John W. ...]

AN ORDINANCE

CREATING A NEW ARTICLE 9-3 SFCC 1987 FOR THE PURPOSE OF ESTABLISHING A SYSTEM OF VOLUNTARY PUBLIC FINANCING OF CAMPAIGNS.

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

Section 1. A new Article 9-3 SFCC 1987 is ordained to read:

9-3 [NEW MATERIAL.] PUBLIC CAMPAIGN FINANCE CODE.

Section 2. A new Section 9-3.1 SFCC 1987 is ordained to read:

9-3.1 [NEW MATERIAL.] Short Title. Article 9-3 SFCC 1987 may be cited as the Public Campaign Finance Code.

Section 3. A new Section 9-3.2 SFCC 1987 is ordained to read:

9-3.2 [NEW MATERIAL.] Findings and Purposes.

A. Findings. The Governing Body of the City of Santa Fe finds and declares that the current system of privately financed campaigns for municipal office:

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

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

3 (3) Drives up the cost of campaigns, making it difficult for qualified candidates
4 without access to large contributors to mount competitive campaigns.

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

8 (5) Diminishes elected officials' accountability to their constituents by
9 compelling them to be disproportionately accountable to the contributors who finance their
10 campaigns.

11 (6) Burdens office-holders with the incessant need to raise campaign funds and
12 thus decreases the time available to them to carry out their public responsibilities.

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

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

15 (2) To eliminate the danger of undue influence on elected officials caused by the
16 private financing of campaigns.

17 (3) To restrain the escalating cost of elections and reduce the impact of access to
18 large contributions as a determinant of whether a person becomes a candidate.

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

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

23 (6) To free office-holders from the need to raise campaign money, and thus to
24 allow them more time to carry out their official duties.

25 **Section 4. A new Section 9-3.3 SFCC 1987 is ordained to read:**

1 **9-3.3 [NEW MATERIAL.] Definitions.** As used in this Section, the following terms
2 have the following meanings:

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

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

10 C. *Candidate* means any individual who seeks election to municipal office. An
11 individual shall be a candidate when they:

12 (1) Announce publicly;

13 (2) File for office;

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

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

18 D. *Contested race* means a race in which there are at least two candidates for the office
19 sought.

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

24 (1) The term "contribution" includes:

25 (a) The transfer of funds or anything of value between political

1 committees;

2 (b) The transfer of anything of value, including personal and
3 professional services, for less than full consideration;

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

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

8 (e) The purchase of over twenty-five dollars (\$25.00) of tickets for
9 fundraising events such as dinners, rallies, raffles, etc. and the proceeds of collections
10 at fundraising events which are not otherwise reported.

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

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

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

16 F. *Election* means any regular or special city election.

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

1 H. *Fund* means the public campaign finance fund created by Section 9-3.4 SFCC 1987.

2 I. *Non-participating candidate* means a candidate who is not a participating candidate.

3 J. *Participating candidate* means a candidate who has qualified and has been certified
4 pursuant to Section 9-3.9 SFCC 1987 as eligible to receive payments from the fund.

5 K. *Qualified elector* means a person who is registered to vote in the City of Santa Fe.

6 L. *Qualifying contribution* means a contribution of five dollars (\$5.00) that is received
7 from a qualified elector during the qualifying period by a candidate seeking to become a participating
8 candidate.

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 183 days before the election and ends 56 days before the election.

12 N. *Race* means the electoral process in which one or more candidates run and one
13 candidate is elected to the office of mayor, municipal judge or city councilor for a particular district.

14 O. *Seed money contribution* means a contribution of no more than one hundred dollars
15 (\$100.00) made by an individual adult resident of the city of Santa Fe.

16 P. *Uncontested race* means a race in which there is only one candidate for the office
17 sought.

18 **Section 5. A new Section 9-3.4 SFCC 1987 is ordained to read:**

19 **9-3.4 [NEW MATERIAL.] Public Campaign Finance Fund.**

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

25 B. Beginning with the city budget for fiscal year 2008-2009 and in each fiscal year

1 thereafter, the sum of one hundred and fifty thousand dollars (\$150,000.00) shall be budgeted for and
2 deposited in the fund.

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

5 (1) that the balance in the fund, eighty-four (84) days preceding each election for
6 mayor and four council seats is at least six hundred thousand dollars (\$600,000.00); and

7 (2) that the balance in the fund eighty-four (84) days preceding each election for
8 municipal judge and four council seats is at least three hundred thousand dollars
9 (\$300,000.00).

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

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

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

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

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

20 (5) Voluntary donations made to the fund;

21 (6) All interest and other income earned from investment of the fund; and

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

24 **Section 6. A new Section 9-3.5 SFCC 1987 is ordained to read:**

25 **9-3.5 [NEW MATERIAL.] Eligibility as a Participating Candidate.** Beginning with the

1 election of 2012, any candidate for municipal office may qualify as a participating candidate eligible
2 to receive payments from the fund pursuant to Sections 9-3.10 and 9-3.13 SFCC 1987 if the
3 candidate:

4 A. Has been certified as a candidate for municipal office pursuant to the provisions of
5 Section 3-8-27 NMSA 1978 and Article IV Section 4.03 of the Santa Fe Municipal Charter;

6 B. Has collected the requisite number of qualifying contributions, as follows:

7 (1) Six hundred (600) qualifying contributions from separate qualified electors
8 for a candidate running for the office of mayor;

9 (2) One hundred and fifty (150) qualifying contributions from separate qualified
10 electors for a candidate running for the office of city councilor;

11 (3) One hundred and fifty (150) qualifying contributions from separate qualified
12 electors for a candidate running for the office of municipal judge; and

13 C. Submits an application for certification pursuant to Section 9-3.8 SFCC 1987 setting forth
14 the agreement and the averments and accompanied by the forms, reports and payments that are
15 required by that Section.

16 **Section 7. A new Section 9-3.6 SFCC 1987 is ordained to read:**

17 **9-3.6 [NEW MATERIAL.] Seed Money Contributions.**

18 A. A candidate seeking to become a participating candidate may solicit and accept seed
19 money contributions to defray expenses incurred in obtaining qualifying contributions and in seeking
20 certification as a participating candidate.

21 B. No seed money contribution shall exceed one hundred dollars (\$100.00) per
22 contributor, and the aggregate amount of seed money contributions accepted by a candidate shall not
23 exceed ten per cent of the initial amount payable to a candidate in a contested election for the office
24 sought under Section 9-3.10 SFCC 1987.

25 C. Each seed money contribution shall be accompanied by a form signed by the

1 contributor, which shall include the contributor's name, home address and telephone number. The
2 form for a contribution exceeding twenty-five dollars (\$25.00) shall also state the contributor's
3 occupation and name of employer.

4 D. All seed money contributions received by a candidate shall be deposited in a
5 campaign depository to be established by the candidate before soliciting or accepting any such
6 contributions. All expenditures of seed money shall be made from the campaign depository.

7 E. Seed money contributions shall be used only for the purposes specified in paragraph
8 A of this Section, and all seed money contributions that have not been spent or used for such purposes
9 by the time the candidate applies for certification as a participating candidate or by the end of the
10 qualifying period, whichever is sooner, shall then be paid over to the city clerk for deposit in the fund.

11 **Section 8. A new Section 9-3.7 SFCC 1987 is ordained to read:**

12 **9-3.7 [NEW MATERIAL.] Qualifying Contributions.**

13 A. Each qualifying contribution shall be accompanied by a form signed by the
14 contributor, which shall include the contributor's name, home address and telephone number.

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

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

20 D. All qualifying contributions received by a candidate shall be deposited in a campaign
21 depository to be established by the candidate before soliciting or accepting any such contributions,
22 and shall be paid over to the city clerk for deposit in the fund when the candidate applies for
23 certification as a participating candidate or when the qualifying period ends, whichever is sooner.

24 **Section 9. A new Section 9-3.8 SFCC 1987 is ordained to read:**

25 **9-3.8 [NEW MATERIAL.] Application for Certification as a Participating**

1 **Candidate.**

2 A. A candidate who wishes to be certified as a participating candidate shall, before the
3 end of the qualifying period, file an application for such certification with the city clerk on a form to
4 be specified by the city clerk.

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

7 (1) the candidate's averment under oath that the candidate satisfies the requisites
8 for qualification and certification as a participating candidate prescribed by Section 9-3.5
9 SFCC 1987;

10 (2) the candidate's averment under oath that the candidate has accepted no
11 contributions to the candidate's current campaign other than qualifying contributions and
12 seed money contributions solicited and accepted in full compliance with Sections 9-3.6 SFCC
13 1987 and 9-3.7 SFCC 1987;

14 (3) the candidate's averment under oath that the candidate has made no
15 expenditures for his or her current campaign from any source other than seed money
16 contributions; and

17 (4) the candidate's agreement to accept no further contributions and make no
18 further expenditures for his or her current campaign from any source other than payments
19 received from the fund pursuant to Sections 9-3.10 SFCC 1987 and 9-3.13 SFCC 1987.

20 C. The application shall be accompanied by:

21 (1) reports listing all seed money contributions and qualifying contributions
22 received by the candidate and all expenditures of seed money contributions made by the
23 candidate, and showing the aggregate amounts of all such contributions and expenditures;

24 (2) copies of forms signed by contributors for all seed money contributions and
25 qualifying contributions received by the candidate; and

1 (3) a check or checks drawn from the candidate's campaign depository for the
2 amount of all qualifying contributions received by the candidate and all seed money
3 contributions received by the candidate and not yet spent for the purposes specified in
4 paragraph A of Section 9-3.6 SFCC 1987.

5 **Section 10. A new Section 9-3.9 SFCC 1987 is ordained to read:**

6 **9-3.9 [NEW MATERIAL.] Certification as a Participating Candidate.**

7 A. No more than three business days after a candidate applies for certification as a
8 participating candidate, the city clerk shall make a determination whether the candidate's application
9 complies with the requirements of Section 9-3.8 SFCC 1987 and whether the candidate satisfies the
10 requisites for certification as a participating candidate prescribed by Section 9-3.5 SFCC 1987, and
11 shall thereupon issue a decision, in accordance with the determination so made, granting or refusing
12 such certification to the candidate.

13 B. The city clerk may revoke a candidate's certification as a participating candidate for
14 any violation by the candidate of the requirements of this Article, and may require that any candidate
15 whose certification has been revoked shall repay to the fund any amounts previously paid to the
16 candidate pursuant to Sections 9-3.10 SFCC 1987 and 9-3.13 SFCC 1987.

17 **Section 11. A new Section 9-3.10 SFCC 1987 is ordained to read:**

18 **9-3.10 [NEW MATERIAL.] Initial Payments to Participating Candidates.**

19 A. Immediately upon certifying a candidate as a participating candidate, the city clerk shall
20 disburse to the candidate from the fund:

- 21 1. Sixty thousand dollars (\$60,000.00) for a candidate in a contested race for
22 the office of mayor;
- 23 2. Fifteen thousand dollars (\$15,000.00) for a candidate in a contested race for
24 the office of City Councilor;
- 25 3. Fifteen thousand dollars (\$15,000.00) for a candidate in a contested race for

1 the office of Municipal Judge; or

2 4. For a candidate in an uncontested race, ten per cent of the amount that would
3 be due to a candidate in a contested race for the same office.

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

12 **Section 12. A new Section 9-3.11 SFCC 1987 is ordained to read:**

13 **9-3.11 [NEW MATERIAL.] Use of Payments from the Fund; the Fund as Exclusive**
14 **Source.**

15 A. All payments received by a participating candidate from the fund shall be deposited
16 in the candidate's campaign depository and shall be used exclusively to pay expenses reasonably
17 incurred in furtherance of the candidate's current campaign.

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

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

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

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

25 (4) An expenditure supporting the election of another candidate or the passage or

1 defeat of a ballot proposition or the defeat of any candidate other than an opponent of the
2 participating candidate;

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

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

6 C. All payments from the fund received by a participating candidate which have not
7 been spent or obligated for the purposes specified in paragraph A of this Section as of the date of the
8 election shall be returned by the candidate to the fund within ten days after that date.

9 D. In accordance with the agreement entered into pursuant to subparagraph B(4) of
10 Section 9-3.8 SFCC 1987, a candidate who has been certified as a participating candidate shall not
11 thereafter accept any contribution to the candidate's campaign other than payments received from the
12 fund pursuant to Sections 9-3.10 SFCC 1987 and 9-3.13 SFCC 1987, and shall not make any
13 expenditure in support of the candidate's campaign from any source other than payments so received
14 and previously deposited in the candidate's campaign depository.

15 **Section 13. A new Section 9-3.12 SFCC 1987 is ordained to read:**

16 **9-3.12 [NEW MATERIAL.] Reports of Expenditures by Non-Participating**
17 **Candidates and Other Persons.**

18 A. For any race in which a participating candidate is one of the candidates, every non-
19 participating candidate shall, in addition to filing the campaign finance statements required by Section
20 9-2.10 SFCC 1987, file with the city clerk by 12:00 noon on each of the last six Thursdays before the
21 election, a report under oath stating the aggregate amounts of the contributions received and the
22 expenditures made or obligated to be made by the candidate or by the candidate's campaign through
23 the date of the report.

24 B. For any race in which a participating candidate is one of the candidates, any person
25 or entity, other than a candidate, who spends over two hundred fifty dollars (\$250.00) in the aggregate

1 to disseminate campaign materials within one hundred eight (180) days before the election for the
2 purpose of influencing the race in favor of an identifiable candidate or candidates shall, in addition to
3 filing any reports required by Sections 9-2.6 SFCC 1987 or 9-2.10 SFCC 1987, file with the city
4 clerk, by 12:00 noon on each of the last six Thursdays before the election, a report under oath stating
5 the aggregate amounts of the contributions received and the expenditures made or obligated to be
6 made for such purpose through the date of the report.

7 **Section 14. A new Section 9-3.13 SFCC 1987 is ordained to read:**

8 **9-3.13 [NEW MATERIAL.] Additional Matching Payments to Participating**
9 **Candidates.**

10 A. By 5:00 p.m. on each of the last six Thursdays before the election, the city clerk shall
11 calculate:

12 (1) for each participating candidate, the sum of:

13 (a) the aggregate amounts previously paid to the candidate pursuant to
14 Section 9-3.10 SFCC 1987 and this Section; and

15 (b) the contributions received or the expenditures made or obligated to
16 be made, whichever is greater, to disseminate campaign materials within one hundred
17 eighty (180) days before the election for the purpose of influencing the race in favor
18 of the candidate by every other person or entity who has spent over two hundred fifty
19 dollars (\$250.00) for such purpose.

20 (2) for each non-participating candidate in any contested race in which a participating
21 candidate is one of the candidates, the sum of:

22 (a) the contributions received or the expenditures made or obligated to
23 be made, whichever is greater, by the candidate or by the candidate's campaign; and

24 (b) the contributions received or the expenditures made or obligated to
25 be made, whichever is greater, to disseminate campaign materials within one hundred

1 eight (180) days before the election for the purpose of influencing the race in favor of
2 the candidate by every other person or entity who has spent over two hundred fifty
3 dollars (\$250.00) for such purpose.

4 B. For any race in which a participating candidate is one of the candidates, if the
5 greatest of the sums calculated for each candidate pursuant to paragraph A of this Section exceeds the
6 sum calculated for any participating candidate pursuant to subparagraph A(1) of this Section, the city
7 clerk shall immediately make an additional payment from the fund to such participating candidate in
8 the amount of such excess.

9 C. The aggregate amount of additional payments made to any participating candidate
10 pursuant to paragraph B of this Section shall not exceed two hundred percent (200%) of the amount
11 initially paid to the candidate pursuant to Section 9-3.10 SFCC 1987.

12 D. If the amounts required to be paid to candidates under paragraph B of this Section
13 exceed the total amount available in the fund, each payment shall be reduced in proportion to the
14 amount of such excess. Any such proportionate reduction in the payment due to any candidate under
15 paragraph B of this Section shall give the candidate the option to reject the payment and to withdraw
16 as a participating candidate. A candidate who withdraws as a participating candidate pursuant to this
17 paragraph may retain any amounts previously paid to the candidate from the fund and shall
18 thenceforth be treated for all purposes as a non-participating candidate relieved of all obligations and
19 restrictions and excluded from all benefits and exemptions imposed or conferred on a participating
20 candidate by this Article 9-3 SFCC 1987.

21 **Section 15. A new Section 9-3.14 SFCC 1987 is ordained to read:**

22 **9-3.14 [NEW MATERIAL.] Reports of Expenditures; Exemption from Certain**
23 **Reporting Requirements.**

24 A. A participating candidate shall file with the city clerk reports under oath of
25 expenditures made from the payments received from the fund, showing the amount of each

1 expenditure, the name and address of the person or organization to whom it was made, the purpose of
2 the expenditure, the aggregate amount of expenditures made to each person or organization and the
3 aggregate amount of all expenditures made by the candidate or by his or her campaign.

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

6 C. Except as provided in paragraphs A and B of this Section and paragraph C of Section
7 9-3.8 SFCC 1987, participating candidates are exempt from the requirement to file campaign finance
8 statements imposed by Sections 9-2.10 SFCC 1987 through 9-2.12 SFCC 1987 and from the
9 requirement to file campaign records with the city clerk imposed by paragraph C of Section 9-2.9
10 SFCC 1987; provided, however, that campaign records shall be maintained in the manner required by
11 the applicable provisions of the Campaign Code (Article 9-2 SFCC 1987) and shall be made available
12 upon request to the city clerk and the ethics and campaign review board.

13 **Section 16. A new Section 9-3.15 SFCC 1987 is ordained to read:**

14 **9-3.15 NEW MATERIAL. Contributions and Expenditures to Retire Debt from**
15 **Previous Campaigns.** Notwithstanding any other provision of this Article, a candidate shall not be
16 considered ineligible for certification as a participating candidate and shall not be deemed to have
17 violated the provisions of paragraph D of Section 9-3.11 SFCC 1987 solely by reason of contributions
18 received or expenditures made to retire debt incurred in the course of a previous campaign in which
19 the candidate was not a participating candidate, provided that any such contribution or expenditure
20 has been made and duly reported in full compliance with the requirements of the Campaign Code
21 (Article 9-2 SFCC 1987).

22 **Section 17. A new Section 9-3.16 SFCC 1987 is ordained to read:**

23 **9-3.16 NEW MATERIAL. Rules and Educational Materials.** The city clerk and the
24 ethics and campaign review board may adopt and publish rules and educational materials explaining
25 and applying the provisions of this Article.

