CITY OF ALBUQUERQUE

Office of the City Clerk
Amy B. Bailey, City Clerk
(505) 768-3030

AQD Exhibit # 9b

January 25, 2013

I, Amy B. Bailey, City Clerk for the City of Albuquerque, New Mexico, a Municipal Corporation, hereby certify that the attached; **Charter of the City of Albuquerque: Article XII: Code of Ethics; Section 4: Conflict of Interest**; is a true and correct copy of the original document which has been maintained by the office of the City Clerk and of which I am the custodian.

Amy B. Bailey, City Clerk

PO Box 1293

Albuquerque

NM 87103

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provided by the City Attorney and shall cover the ethical responsibility of Board members and the content of the Code of Ethics and the Election Code as those codes relate to the duties of the Board. The training requirement shall not apply to any current Board member, who shall continue to serve their unexpired term, or to any Board member reappointed at the end of a term.

(b) All members shall serve terms of four years, and be eligible for reappointment for additional terms, not to exceed two terms consecutively. Terms are staggered and shall continue with the same term cycle as currently exists. Any vacancy shall be filled for an unexpired term by the same authority that made the original selection and appointment of the member vacating his or her position.

(c) No violation of the Code of Ethics shall be found by the Board of Ethics and Campaign Practices except upon the concurrence of a majority of the Board.

(d) The Board shall have the authority to administer oaths, and power to issue administrative subpoenas to compel witnesses to testify and produce records and documents before the Board. The Board may promulgate rules and regulations establishing procedures for issuance of subpoenas. The Board may request the City Attorney to enforce such subpoenas in a court of proper jurisdiction.

(e) The Board may issue to candidates and officials advisory opinions concerning the Code of Ethics and the Election Code. A request for an advisory opinion and the opinion approved by the Board shall become public records at the time the Board votes on such opinion. Advisory opinions shall only concern prospective matters. Specifically, no advisory opinion shall be issued with respect to an event that has already occurred. Advisory opinions shall only be issued with respect to conduct in which the requestor of the opinion intends to engage. No advisory opinion shall be given unless approved by four members of the Board. Approved opinions shall be kept as permanent records by the City Clerk. The Board may promulgate rules and regulations establishing procedures for issuing advisory opinions and limitations on the use of advisory opinions as a defense to violations of the Code of Ethics or the Election Code. The Board may issue consent orders and may promulgate rules and regulations establishing procedures of issuance of consent orders.

(f) A Board member who has participated in any hearing on a case concerning a complaint alleging a violation of the Code of Ethics or the Election Code shall continue to serve as a Board member on such case until the completion of the case, regardless of the expiration of that Board member's term, but only when the Board has voted on a matter concerning the case. A replacement Board member shall not serve on such cases.

(g) Board members shall not hear complaints involving candidates or Measure Finance Committees to which they have contributed or have participated in their campaign activities nor shall they hear cases involving complaints concerning candidates and Measure Finance Committees who are in opposition to the candidates or Measure Finance Committees to which the Board member contributed or participated in their campaign activities.
(Am. Ord 35-1975; Am. Ord. 77-1978; Am. Ord. 91-1980; Am. Ord. 24-1981; Am. Ord. 34-2006; Am. Ord. 29-2009)

Section 4. CONFLICT OF INTEREST.

(a) No official of the city shall knowingly:

1. Disclose or use confidential information concerning the property, government or affairs of the governmental body by which that official is employed or of which the official is a member without proper authorization in order to advance the direct or indirect private financial or other private interests of said official or others;

2. Vote or otherwise participate in the negotiation or the making of any contract with any business or entity in which the official has a direct or indirect private financial interest;

3. Represent private interests in any action or proceeding before the governmental body by which the official is employed or of which the official is a member or any appeal of a decision of such body;

4. Accept any valuable gift, whether in the form of service, loan, thing or promise, from any employee of or applicant for employment with the City of Albuquerque or from any person, firm or corporation which to the official's knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the governmental body by which the official is employed or of which the official is a member, including donors who are unidentified; provided, however, that this subsection shall not be read as

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prohibiting an incumbent candidate for any elective office from receiving duly disclosed campaign contributions in accordance with the provisions of Article XIII of this Charter or an official who is a candidate for a non-city office from receiving campaign contributions for that non-city office.

(b) No member of the City Council shall:

1. During the term for which he or she was elected, be appointed to or selected for any paid office or employment with the city, nor shall he or she within one year thereafter be appointed to any paid city office or employment which the city created, or the emoluments of which first were established or were increased during such term; nor shall any member of the City Council during the term for which he or she was elected nor within one year thereafter, be interested directly in any contract with the city, which was authorized by any law passed during such term;

2. During their term of office participate in any debate or vote on any matter which will likely result in any benefit to the member which benefit is greater than the benefit to the public in general. A benefit for purposes of this paragraph shall mean a financial benefit or a benefit conferred by the City Council member's employer as a direct result of the member's participation in the matter.

(c) *Disqualification.* An official is disqualified from participating in a matter when: (1) the official has or is in the process of acquiring a direct interest in an enterprise which would be affected by the official's vote on proposed legislation, unless the interest is common to all members of a profession or occupation of which the official is a member or the general public or a large class of the general public, (2) the official benefits financially from a direct or indirect interest with a person whom the official knows has an interest in an enterprise or interest that would be affected by the official taking any action, (3) the official benefits financially from a direct interest with a person who is lobbying for the purpose of influencing any action, or (4) the official solicits, accepts, or agrees to accept a loan, other than a loan from a commercial lender in the normal course of business, from a person who would be affected by or has an interest in an enterprise which would be affected by the official's participation in any action.
(Am. Ord 35-1975; Am. Ord. 29-1976; Am. Ord. 91-1980; Am. Ord. 23-1988; Am. Ord. 33-1989; Am. Ord. 34-2006)

Section 5. DISCLOSURE.

(a) An official of the city who shall have any private financial interest in any contract or other matter pending before or within the governmental body of which the official is employed or of which the official is a member, shall disclose such private financial interest to the governmental body.

(b) Any Councillor who has a direct or indirect interest in any matter pending before the Council shall disclose such interest on the records of the Council. The existence of a direct or indirect private financial interest on any matter coming before the Council, including approval of a contract, shall disqualify a Councillor from debating and voting on the matter. A majority of the remaining members of the Council shall determine whether a Councillor has a direct or indirect interest and whether the Councillor shall be allowed to participate in the decision making process related to the matter and vote on the matter. A Councillor who has a conflict of interest may voluntarily decline to participate in the decision making process related to the matter and vote on such matter.

(c) The Mayor and each City Councillor, during their term of office, shall file disclosure statements on January 15, April 15, July 15, and October 15 of each year setting out all contributions and expenditures, as defined in the City Election Code, during the previous quarter, raised or spent in connection with any campaign or pre-campaign activity for any elected office. Expenditures of public funds in the regular course of the Mayor or Councillor's official duties are not contributions and expenditures subject to such disclosure under this section. The Mayor and Councillors are not required to file a quarterly statement if there have been no campaign or pre-campaign contributions or expenditures during the previous quarter by or for the particular Mayor or Councillor. These reporting requirements shall be in addition to the reporting requirements of the Election Code, provided that any information filed with the City Clerk pursuant to City Charter Article XIII, Section 4(c) need not be included in the subsequent quarterly reports required in this section. The contributions and expenditures identified in quarterly statements that are to be applied to a campaign for election to a city office shall be included in the first campaign disclosure report that the candidate files pursuant to the Election Code.

(d) All elected officials shall file with the City Clerk an annual statement listing all of the changes or