

**2014~~9~~ REGULATIONS OF THE ALBUQUERQUE CITY CLERK
FOR THE OPEN AND ETHICAL ELECTIONS CODE**

PURPOSE: ~~PURPOSE:~~ In 2018, following the implementation of the State Local Election Act, the City Council passed Election Code Reform. In addition to bringing the City in line with the Local Election Act, the Election Reforms seek to update and modernize the City’s public financing program, and to reflect changes in policy that have emerged since the 2011 Regulation for the Open and Ethical Elections Code was implemented. The purpose of these Regulations is to establish procedures that candidates shall follow under the Open and Ethical Elections Code, Albuquerque City Charter Article XVI (Hh) hereinafter referred to as “the ~~Code~~,” “~~OEEC~~,” with all citations referring to the ~~Code~~ ~~OEEC~~ unless otherwise noted). The City Clerk shall create forms, election calendars, timelines and all other documents necessary to implement these Regulations. In conformance with the ~~Code~~ ~~OEEC~~ and these Regulations, the documents and forms created by the City Clerk are not part of these Regulations. These Regulations should be read in concert with the 2019 Election Code Regulations, which apply to all candidates unless the Regulation specifies otherwise.

AUTHORITY: Section 19 of the ~~Code~~ ~~OEEC~~ authorizes the City Clerk to adopt rules to insure the effective administration of the ~~Code~~ ~~OEEC~~.

APPLICABILITY: These Regulations apply to all candidates for the offices of Mayor and City Council who seek eligibility to receive public funds or become Participating Candidates under the ~~Code~~ ~~OEEC~~. These Regulations do not apply to candidates who are ~~Nonparticipating~~ ~~Non-Participating~~ Candidates.

EFFECTIVE DATE: These Regulations shall be effective upon the approval and signature of the Chief Administrative Officer. Once effective, the City Clerk shall publish these Regulations on the Office of the City Clerk website.

DATES AND DEADLINES: Should a deadline fall on a City observed holiday or a weekend, the deadline is automatically moved to the next City working day, unless otherwise published by the City Clerk.

GENERAL CAMPAIGN REPORTING: Both Applicant and Participating Candidates under the ~~Code~~ ~~OEEC~~ shall follow all requirements and obligations of ~~non-participating candidates~~ ~~Non-Participating Candidates~~ and shall file any and all campaign financing reports pursuant to City Charter Articles XII and XIII and other applicable state and local laws. ~~Code~~ ~~OEEC~~ § 9.

PART A DEFINITIONS

All terms utilized herein shall have the same meaning as defined by the ~~Code~~ ~~OEEC~~, unless the regulation specifically notes otherwise. This Part also contains new definitions as well as ~~and~~ clarified definitions for terms contained within the ~~Code~~ ~~OEEC~~.

Applicable Spending Limit: For a ~~regular municipal election~~Regular Local Election, an amount that is equal to the ~~sum of total~~ revenue distributed to the Participating Candidate from the Fund, ~~allowable Seed Money contributions received by the Participating Candidate and any matching funds.~~ The Applicable Spending Limit for a runoff election means only the total revenue distributed to the Participating Candidate. ~~for a run-off from the Fund.~~ See ~~Code~~OEEC §§ 3(R), 6(C) and (E), 12 (B) and (C), 14, and 16.

~~The applicable spending limit for a runoff election means an amount that consists only of the Participating Candidate's pro rata share of the available funds paid to the Participating Candidate and any matching funds distributed to the Participating Candidate of the Open and Ethical Elections Code. See Code §§ 15 and 16.~~

~~**Broadly Distributed:** any communication delivered by a campaign,~~**Applicant Candidate:** A candidate, Measure Finance Committee or their agents that is sent, delivered or transmitted to more than one hundred people.

~~**Campaign Materials:** any Electioneering Communications as defined by the Code (§ 2(E)) as well as any published, printed or broadly distributed advertising or communications including but not limited to paid or donated advertisements, handbills, petitions, circulars, letters, radio, television or internet broadcasts, cable distributions, electronic or telephonic transmissions, or similar communication materials or methods used a write-in in a campaign either for or against any candidate. See Charter Article XIII, § 2(e), running for a Covered Office and who is seeking to be a Participating Candidate.~~

~~**Contribution:** ~~in~~In addition to the definition in City Charter Article XIII, § 2(g), ~~contributions also include In-Kind Contributions,~~ please see the 2019 Election Code Regulations regarding the term "Contribution."~~

~~Coordinated Expenditure: any expenditure made with~~ Please see 2019 Election Code Regulations regarding the ~~cooperation, consultation~~ term "Coordinated Expenditure."

~~**Covered Office:** City Council or coordination with, or at~~Mayor.

~~**Disclosure Reports:** The statements filed in the request or suggestion~~electronic campaign finance report software system of, a candidate, a candidate's authorized committee or an agent thereof. Any expenditure that is coordinated within the meaning of this paragraph is an Applicant Candidate's Seed Money and In-Kind Contribution~~Contributions pursuant to the candidate or candidate's committee with whom or with~~OEEC as well as other required reporting pursuant to the Election Code.

~~**Expenditure:** In addition to the definitions included in Article XVI, Section 3(F), please see 2019 Election Code Regulations regarding the term "Expenditure."~~

~~**Exploratory Period:** The timeframe in which it was coordinated and the candidate must report the Coordinated Expenditure as an~~Applicant Candidate may begin to collect Seed Money and In-Kind Contribution.~~Contributions and may file the Declaration of Intent to Seek Public Financing. Applicant Candidates may not collect Qualifying Contributions during this timeframe.~~

Fund: ~~†~~The Open and Ethical Elections Fund required ~~Code~~by OEEC § 10, and may be designated as the “ABQ OEE FUND”. Payments to the Fund shall be made payable to the “ABQ OEE FUND” or the “CAOEE Fund.”

~~**Independent Expenditure:** an expenditure by any person on Express Advocacy or Electioneering Communications that is made without the cooperation, consultation or coordination with, or at the request or suggestion of, a candidate, a candidate's authorized committee or an agent thereof. An Independent Expenditure may include materials already distributed to the public or broadcast by a candidate, the candidates authorized committee or an agent thereof. Code § 3 (J).~~

~~**In-Kind Contribution:** goods or services, other than money, having a monetary value that does not exceed more five percent of the annual salary for such office being sought at the time of filing the Declaration of Candidacy, but does not include the value of personal services volunteered by individuals. (Code § 3(K)) This contribution cap applies to individual In-Kind Contributions. The aggregate amount of In-Kind Contributions received by an Applicant Candidate shall not exceed an amount equal to 10% of the applicable spending limit. (Code § 6(E)).~~

Immediate Family: "Immediate Family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent, stepgrandparent, stepchild, stepgrandchild, stepsister, stepbrother, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, guardian, former guardian, domestic partner, the Immediate Family of the candidate's spouse or domestic partner.

Independent Expenditure: Please see 2019 Election Code Regulations regarding the term “Independent Expenditure.”

~~**In-Kind Contribution:** In addition to the definition in City Charter Article XVI, § 3(K), “In-Kind Contributions” are goods and services that are donated or provided to the campaign at no cost or at a cost that is less than the usual and customary charge, but do not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee. They are subject to the Contribution limits detailed in the OEEC. Please see 2019 Election Code Regulations regarding the term “In-Kind Contributions.”~~

Participating Candidate: a candidate for ~~Mayor or City Council~~a Covered Office who chooses to obtain financing pursuant to the ~~Code~~OEEC and who is certified to participate by the City Clerk.

Regular ~~Municipal~~Local Election: ~~an~~An election that is held on the first Tuesday after the first Monday in ~~October~~November in odd numbered years. ~~For the purpose of calculating when a communication becomes an Electioneering Communication, the period of time that begins the first day a voter may cast a ballot, thirty five days prior to Election Day, the first day the Clerk may mail absentee ballots. This date is five days earlier than provided for in the Code.~~

Qualifying Contribution: a~~A~~ donation of ~~exactly~~ \$5.00 to the Fund in support of an Applicant Candidate and given pursuant to the Code~~OEEC~~ and these Regulations. A Qualifying Contribution is not a prohibited e~~C~~ontribution pursuant to Article XIII Section 4 (f) of the City Charter. Qualifying e~~C~~ontributions in the form of checks or money orders shall contain the name of the Qualifying Applicant Candidate on the face of the check or money order. Qualifying Contributions made via credit or debit card or electronically must be made through the Clerk's Qualifying Contribution webpage. Applicant Candidates may accept donations in excess of \$5.00 for credit/debit card processing fees, however the fees shall be deducted from the candidate's distribution. The City Clerk will provide the exact number of Qualifying Contributions needed for qualification as a Participating Candidate to candidates ~~within no later than~~ three (3) working days ~~of~~after the candidate ~~filing their files~~ his/her Declaration. Code~~OEEC~~ §§ 3(P) and 5.

Qualifying Period: ~~†~~The timeframe in which an Applicant Candidate must receive Qualifying Contributions from a minimum of 1% of applicable registered City voters. See Code~~OEEC~~ §§ 3(Q) and 5.

Seed Money: ~~cumulative contributions~~Cumulative Contributions received by an Applicant Candidate of no more than \$100 per person and no more than \$500 of the Applicant Candidate's own money raised for the primary purpose of enabling the Applicant Candidate to collect Qualifying Contributions and petition signatures. ~~Seed Money may not exceed 10% of the applicable spending limit~~Applicable Spending Limit and may be raised only during the Exploratory and Qualifying Periods. See Code~~OEEC~~ §§3(R) and 6.

PART B— THE EXPLORATORY PERIOD

1. Timeframe: For Mayoral candidates, the Exploratory Period is from January 1st through February 15th -of the year in which a Mayoral election is held. For City Council candidates, the Exploratory Period is from March 15th through April 30th of the year in which a City Council election is held. Code~~OEEC~~ § 3(G).

2. Seed Money: Applicant Candidates may raise Seed Money during the Exploratory Period and the Qualifying Period but not thereafter. Contributors of Seed Money shall be Persons as defined by § 3(O) of the Code.

~~Because the City Clerk cannot determine the applicable spending limit at the time Applicant Candidates must report Seed Money, the OEEC. The City Clerk will provide estimates~~the amount of the Applicable Spending Limits to Applicant Candidates at the

beginning of [the](#) Exploratory Period. ~~Any Seed Money received by a candidate or their representative(s) shall be deducted from any [Fund](#) distributions to the Applicant Candidate. Any Seed Money in excess of ~~the~~ 10% of the ~~applicable spending limit (the~~ [“Applicable Spending Limit \(“Excess Seed Money”\)](#) at the time of the distribution of revenue from the Fund by the City Clerk shall also be deducted from the amount of the distribution. Any Seed Money collected in excess of the 10% limit may also be a violation of the [CodeOEEC](#). See [CodeOEEC](#) §§ 3(R), 6(C), (D), and (F), and 12(C).~~

3. In-Kind Contributions: Applicant Candidates may receive In-Kind Contributions from the beginning of the Exploratory Period through the day the ~~regular municipal election~~[Regular Local Election](#) is held, or day of the runoff election, if applicable. ~~The total~~ In-Kind Contributions cannot exceed 10% of the ~~applicable spending limit.~~ [CodeApplicable Spending Limit and any individual In-Kind Contribution cannot exceed 5% of the annual salary for the office being sought. OEEC § 6](#)

In the event any disclosure report shows the cumulative value of In-Kind Contributions exceeds 10-% of the ~~applicable spending limit~~[Applicable Spending Limit](#), the candidate shall pay such excess to the City Clerk. Candidates shall also pay to the City Clerk the excess of any individual In-Kind Contribution that exceeds 5% of the annual salary for the office being sought (~~the~~ [“Excess In-Kind Contribution”](#)). Any In-Kind Contributions in excess of those allowed in the ~~Code~~ [may also OEEC will](#) result in a violation of the ~~Code.~~ [PeopleOEEC](#).

[Persons, as defined in Art. XVI, Sec. 3\(O\)](#), making In-Kind Contributions are not required to reside in the City of Albuquerque nor are they required to be registered to vote in the City of Albuquerque. [For additional guidance regarding In-Kind Contributions, please see 2019 Election Code Regulations.](#)

4. Expenditures During Exploratory Period The only funding sources that Applicant Candidates may use during the Exploratory Period for ~~e~~[Expenditures](#) related to campaign activities for the City office being sought are Seed Money and In-Kind Contributions. ~~An Expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.~~

5. Reporting

a. Training: All campaign finance reporting is done electronically. Applicant Candidates and/or their designated representative(s) shall attend a reporting procedures training class conducted by the City Clerk prior to submitting the First Disclosure Report. ~~All individuals~~[All candidates and representatives](#) completing the training shall execute an Acknowledgement of Training following the course which the City Clerk shall keep on file. The training received as an Applicant Candidate shall also serve as training for reporting under the Election Code.

b. ~~Candidates~~**Affirmation of Accuracy:** When filing their electronic reports, candidates shall ~~attest to~~affirm the accuracy of their ~~electronic reports~~reports under penalty of perjury by clicking the Affirmation of Accuracy box in the electronic filing system, or by executing and ~~hand~~-delivering a notarized Affidavit, in the form provided by the City Clerk, by ~~noon~~5:00 p.m. on the day the first Disclosure Report is due.

c. ~~The~~**First Disclosure Report for Seed Money and In-Kind Contributions:**~~Applicant Candidates shall submit a Declaration of Intent (“Declaration”) prior to collecting any Qualifying Contributions. Applicant Candidates may file the Declaration from the beginning of the Exploratory Period through the Qualifying Period.~~ The First Disclosure Report for Seed Money and In-Kind Contributions and Expenditures is due simultaneously with the Declaration of Intent. The reporting period for the first report is from the first day of the Exploratory Period until 5:00 p.m. on the day prior to the day the first disclosure report is filed with the City Clerk. ~~Code~~OEEC § 4.

d. ~~The~~ **Second Disclosure Report:** The second report disclosing eContributions and eExpenditures of Seed Money and In-Kind Contributions is due simultaneously with the final Qualifying Contributions, for Mayoral candidates, ~~–~~April 1st and for City Council candidates, June 1st. The reporting period for the second report begins at 5:01 p.m. from the end of the reporting period for the first report until 5:00 p.m. on the day prior to the day ~~in~~on which the Second Disclosure Report is required to be filed. ~~Code~~OEEC § 7(C)

e. **Subsequent Reports:** All campaign finance reports made pursuant to the Election Code §4(c) shall include eExpenditures of Seed Money and the receipt of In-Kind Contributions not included in the reporting period for the first and second ~~disclosure reports~~. ~~Code~~Disclosure Reports. OEEC § 9 (B) and (C)

f. **Deadlines for Reports:** All financial reports are due at ~~12~~5:00 p.m. (~~noon~~) on the day the report is due. This includes filing the electronic report and the papers~~forms~~ to the Office of the City Clerk.

6. **Required Information for Reporting Seed Money and In-Kind Contributions:** Disclosure Reports for Seed Money shall list the contributor's name, street address, phone number, occupation, employer ~~of the contributor~~, and the employer's address. Self ~~–~~employed contributors must indicate a physical business address or state “same” if they share a business and personal address. Retired or unemployed contributors may indicate “none” for their business address.

_____ If a eContribution of Seed Money is from an organization, corporation or other entity; not prohibited from contributing under The Election Code, the City Clerk may request additional information from the Applicant Candidate showing membership ownership or control of the entity and where business is conducted. See CodeOEEC § 3(O)(3).

_____ For In-Kind Contributions, the report shall show all of the information required for Seed Money as well as a detailed description of the goods and/or services provided along with the fair market value of the goods or services at the time the In-Kind Contribution was made. ~~Contributions from business entities and city contractors are prohibited by The Election Code, § 4 (f).~~

_____ Contributions from city contractors are prohibited by the Election Code, § 4 (f).

7. **Limitation on Contributions**_____: The aggregate amount of In-Kind Contributions shall not exceed ten percent (10%) of the ~~applicable spending limit~~Applicable Spending Limit. The aggregate amount of Seed Money Contributions shall not exceed ten percent (10%) of the applicable distribution to a Participating Candidate. These aggregate eContribution limitations shall apply to both the regular and runoff elections.

~~Part C~~

PART C QUALIFYING PERIOD AND QUALIFYING CONTRIBUTIONS

1. Timeframe: For Mayoral candidates the Qualifying Period is February 16th through March 31st of the year in which a Mayoral election is held. For City Council candidates, the Qualifying Period is May 1st through May 31st of the year in which a City Council election is held. ~~Code~~OEEC § 3(Q). The Qualifying Period is the only time during which a candidate may ~~solicit and receive~~collect Qualifying Contributions. ~~Solicitation and collection~~Collection of Qualifying Contributions during any other timeframe may result in a finding of violations by the Board of Ethics.

2. The Declaration of Intent: Applicant Candidates shall submit a Declaration of Intent (“Declaration”), on the form provided by the City Clerk, prior to collecting any Qualifying Contributions. ~~The~~ Office of the City Clerk will begin accepting Declarations at 8:00 a.m. on the first day of the Exploratory Period. The deadline to submit a Declaration is 5:00 p.m. on the last day of the Qualifying Period. Applicant Candidates shall file a detailed ~~e~~Contribution and ~~e~~Expenditure report regarding Seed Money and In-Kind Contributions with the City Clerk at the time of filing a Declaration of Intent. ~~Code~~OEEC § 4(B) and (C). Applicant Candidates may begin to solicit and accept Qualifying Contributions immediately after the City Clerk accepts the Applicant Candidate’s Declaration and the Qualifying Period has begun.

3. Determining the Required Number of Qualifying Contributions: The City Clerk shall calculate the number of ~~qualifying contributions~~Qualifying Contributions required for Applicant Candidates based upon the number of registered voters within the City of Albuquerque as shown on the voter registration rolls of the New Mexico Secretary of State and the Bernalillo County Clerk. In the event that there is a conflict between the number of registered voters listed of the rolls of the New Mexico Secretary of State and the Bernalillo County Clerk, the City Clerk shall determine which roll will be used. For Mayoral candidates, the City Clerk will base the total on the number of voters registered city-wide as of February 1st of the year in which the election for Mayor is held. For City Council candidates, the number is based upon the number of registered voters within the applicable district as of April 15th of the year in which the election for the City Council position is held. ~~Code~~OEEC § 5 (A) & (B). The City Clerk will provide the number of required Qualifying Contributions to Applicant Candidates within ~~three (3)~~five (5) working days of the ~~marker day or upon~~Applicant Candidate submitting their Declaration, ~~whichever occurs later.~~

4. The Qualifying Contribution Books: The City Clerk shall provide Applicant Candidates with ~~the~~ Qualifying Contribution ~~form books~~Books (“Books”) containing either 10 or 25 ~~three-part~~ receipts for contributions. Applicant Candidates shall submit all Qualifying Contributions with ~~the~~corresponding Books; containing the required information ~~of~~about the ~~e~~corresponding contributors and the required signatures.

_____ The Books ~~are~~shall be pre-printed ~~and~~with all receipts containing the necessary notices to the contributor, except for the name of the Applicant Candidate and the candidate’s district, which candidates and their representatives must fill in after receiving the Books from the City Clerk. ~~Code § 3(P).~~OEEC § 3(P). The three parts include the

white original for the City Clerk, a yellow copy for the candidate, and a pink copy for the contributor.

Applicant Candidates shall obtain Books from only the Office of the City Clerk and. The candidate or the candidate's designated representative must sign an Acknowledgement for the number of Books received each and every time Books are provided to at the candidate's campaign. Candidates-The City Clerk shall not remove pages from the Books except to provide receipts to contributors which is the the candidate with partial Books.

Candidates shall submit Books with both the white original and the yellow copy intact. The pink form copies may be removed and provided to the contributor.

At the end of the Qualifying Period, Applicant Candidates shall return all Books to the Office of the City Clerk regardless of whether they are used or unused. The City Clerk willshall accept partially used Books but will not provide campaigns with partially used Books. Applicant Candidates are strongly urged to turn in completed fully use Books before submitting them whenever possible. It is the responsibility of the Applicant Candidate to assure that all Books are returned to the Office of the City Clerk. A failure to return Books may result in a finding of violations of the CodeOEEC by the Board of Ethics.

All bBooks containing signatures with corresponding Qualifying Contributions are dueshall be submitted to the City Clerk byno later than noon on April 1st for Mayoral Applicant Candidates and noon on June 1st for City Council Applicant Candidates. AHCandidates shall return all unused books are on April 15th and June 15th. Books within ten (10) days after the applicable deadline. The City Clerk willshall report unreturned books to the Board of Ethics.

55. Qualifying Contribution Website: The City Clerk shall develop a Qualifying Contribution website, which may be used as an alternative, electronic method for collecting Qualifying Contributions. The Clerk will issue additional guidance regarding use of the website once it has launched.

6. Soliciting and Accepting Qualifying Contributions: Applicant Candidates and their representatives may solicit and accept Qualifying Contributions from all applicable City voters registered voters-in the district the Applicant Candidates and their agents shall solicit contributions in person and may not solicit contributions by mail, telephone or other medium. Candidate seeks to represent. Applicant Candidates are responsible for assuring that the receipts are fully and correctly filled out, including with signatures, and that the contributor's name and address are legible. Names, dates, and addresses on the receipts may be filled out by someone other than the contributor, but the contributor himself or herself must sign the receipt. The Applicant Candidate's campaign may not cross out, white out, or otherwise remove any information the contributor has provided for the receipt, however, explanatory information may be added to the receipt if the information is legible-necessary to validate the contribution. For example, if the contributor fills out his or her name illegibly, the campaign may print that name on the receipt, but may not cross out or remove the information provided by the contributor. All

\$5 Qualifying Contributions must be paid by the contributor; if the funds are provided by any person other than the contributor who is listed on the receipt, the Qualifying Contribution will be deemed fraudulent. The City Clerk will not certify Qualifying Contributions toward the required number of Qualified Contributions necessary to qualify an Applicant Candidate as a Participating Candidate ~~which~~that do not meet the requirements of this paragraph. ~~Code~~OEEC § 3(P)

a. The Minimum Requirements For Qualifying Contributions: A Qualifying Contribution will not be certified toward the required number of Qualified Contributions necessary to qualify an Applicant Candidate as a Participating Candidate unless it:

- i. is made by a registered City voter residing in the district in which the Applicant Candidate desires to represent;
- ii. is made during the designated Qualifying Period;
- iii. is obtained through efforts made with the knowledge and approval of the Applicant Candidate;
- iv. is acknowledged by a receipt that identifies the contributor's name and physical address as shown on the New Mexico Secretary of State's voter registration rolls on forms provided by the Clerk;
- v. is signed by the contributor;
- vi. identifies which Applicant Candidate the City resident supports; and
- vii. is sent to the City Clerk.

a.b. Date the Qualifying Contribution Was Received: The date the ~~e~~Contribution was received must be on or after the Applicant Candidate fileds his or her Declaration of Intent and within the Qualifying Period. The date stated in the contribution Book as the date the Contribution was received by the ~~Qualifying Candidate or his/her representatives as stated in the contribution book~~Applicant Candidate's campaign shall be the date attributed to the ~~contribution in the Book~~Contribution, regardless of the date written on the check or money order.

b.c. The Name and Residential Registered Address of the Contributor: The contributor must provide ~~the same~~their name and ~~physical residential~~ address as shown on the ~~contributor's~~ New Mexico Secretary of State's voter registration rolls. ~~It~~Although this requirement must be pre-printed on each receipt as a notice to the contributor, it is the responsibility of the ~~individual soliciting the contribution to inform the contributor. A post office box address does not meet the requirements of the Code. Applicant Candidate's campaign to ensure that this requirement is met. If the contributor provides an address other than their address as shown on the New Mexico Secretary of State's voter registration rolls, the campaign may print the correct registered address on the receipt, but may not cross out or remove the information provided by the contributor.~~

d. Qualifying Contributions Made Via The Clerk's Qualifying Contribution Website: Guidance specific to Qualifying Contributions

made via the City Clerk's Qualifying Contribution website shall be provided once the website has launched.

e. Simultaneous Collection of Petition Signatures. Applicant Candidates may choose to gather petition signatures ~~along~~simultaneously with Qualifying Contributions. If a candidate chooses to collect Qualifying Contributions along with petition signatures, both the petition form and the Qualifying Contribution receipt must be completed in their entirety. The Office of the City Clerk will not accept petition forms or Books with indications to see the other form for voter information. Candidates need not ~~turn in~~submit petition forms ~~and Qualifying Contribution books with~~at the same time they submit Books for the same voters ~~in at the same time.~~

67. Contribution Reporting: ~~On~~With the exception of March 1, on each Friday of the applicable Qualifying Period ~~after March 1, for Mayoral~~. Applicant Candidates ~~and each Friday in the Qualifying Period, for City Council Applicant Candidates, the candidates~~ shall report their Qualifying Contributions by ~~turning in~~submitting their Books and the corresponding ~~contributions~~Qualifying Contributions to the City Clerk.

- a. The receipts and eContributions are due at the Clerk's Office by 12:00 p.m. (noon) of each Friday.
- b. If no Qualifying Contributions have been received by the Applicant Candidate by the filingFriday reporting deadline, Applicant Candidates shall report to the City Clerk that no Qualifying Contributions have been received by submitting the form supplied by the City Clerk.
- c. Applicant Candidates must report and submit all eContributions received to the City Clerk on the Friday reporting deadline following receipt of the eContribution.
- d. The final Qualifying Contribution disclosurereport is due no later than noon on the City working day immediately following the expiration of the Qualifying Period. ~~Code, which is April 1st for Mayoral Applicant Candidates and June 1st for City Council Applicant Candidates.~~ OEEC § 9.
- e. ~~Each contribution book shall have the correct~~ For each Book submitted, a corresponding amount of \$5.00 ~~contributions to correspond with the number of signatures in the book~~ Contributions shall be attached to the Book and submitted (i.e., if the ~~b~~Book contains 8 ~~filled out completed white original~~ receipts, then ~~there \$40.00 in contributions~~ must be payment equalattached to \$40.00 attached to the book coverBook).
- f. Applicant Candidates shall ~~hand deliver~~submit a signed, notarized affidavit, in the form provided by the City Clerk ~~and signed by the Applicant Candidate along with the original, with each~~ Qualifying Contribution ~~books signed by the contributors and Applicant Candidate or his/her representative and all corresponding report.~~

g. Guidance specific to Contribution Reporting for Contributions made via the City Clerk's Qualifying Funds before the filing deadlines. Contribution website shall be provided once the website has launched.

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8. Verification of Qualifying Contributions: The Office of the City Clerk will verify each and every Qualifying Contribution to assure the contributions meet Contribution meets all requirements. The City Clerk will assure that the verifying staff is adequately trained in the verification process. Using the New Mexico Secretary of State's and Bernalillo County Clerk's Voter Registration System, clerks will physically verify each contribution by comparing the contributor's name, address, name and signature on the receipt to the voter registration information, rolls, and ensuring that the requirements noted above in Subpart C(6)(a) are met.

Receipts Qualifying Contributions are accepted, rejected or left pending by the verifying clerk-staff. The City Clerk will notify Applicant Candidates of the number of accepted, rejected, and pending Qualifying Contributions each Friday of the Qualifying Period. Pending receipts Qualifying Contributions are reviewed by a supervisor and the City Clerk to determine whether the receipt- Qualifying Contribution is accepted or rejected. In the case of a rejected receipt Qualifying Contribution, if there is some evidence of intentional wrong doing such as forged signatures, or multiple receipts being signed by a single person for one candidate or under different addresses doing the City Clerk will notify the City Attorney for further investigation. The City Clerk will consider any receipt Qualifying Contribution submitted to the City Attorney as rejected until receiving an opinion or court order that the signature Qualifying Contribution is acceptable.

8. Guidance specific to Qualifying Contribution verification for Contributions made via the City Clerk's Qualifying Contribution website shall be provided once the website has launched.

9. Certification of Participating Candidates for Public Financing: The City Clerk shall certify Applicant Candidates who meet the requirements of the ~~Open and Ethical Elections Code~~OEEC and who submit an Application for Certification as a Participating Candidate ~~as Participating Candidates~~. Mayoral candidates must submit the Application for Certification by April 1st and City Council Candidates by June 1st. The City Clerk shall provide notice to all Applicant Candidates regarding whether they have been certified as a Participating Candidate by posting a list of certified Participating Candidates in the Office of the City Clerk, on the City Clerk's website, and by Certified Mail to each Applicant Candidate. Certification as a Participating Candidate does not eliminate or modify candidate qualification requirements of the City Charter or under New Mexico law. CodeOEEC § 7.

- a. In addition to the criteria for certification listed in Art. XVI, Section 7(A), upon receipt of a final Qualifying Contribution report from an Applicant Candidate, the Clerk shall determine whether the Applicant Candidate has:
- i. been found to have accepted Contributions in excess of the pre-and post-Exploratory Period limitations set forth in the OEEC, and has otherwise complied with Seed Money and In-Kind restrictions;
 - ii. run for the same office as a Non-Participating Candidate in the same election year;
 - iii. been found to have made a material false statement in a report or other document submitted to the City Clerk;
 - iv. failed to pay any civil penalty assessed by the City Clerk or Board of Ethics, except that a candidate has three (3) working days from the date of the request for certification to pay the outstanding penalty and remain eligible for certification; and
 - v. been found to have submitted any fraudulent Qualifying Contributions or any falsified acknowledgement forms for Qualifying Contributions or Seed Money Contributions, where the Applicant Candidate knew or should have known of the fraudulence or falsification.
- b. If the Clerk makes any of the findings above, the Clerk shall not certify the Applicant Candidate as a Participating Candidate.
- c. An Applicant Candidate whose certification has been denied may appeal the Clerk's determination as provided in Art. XVI, Section 20.

10. Unsuccessful Applicant Candidates: The Qualifying Contributions submitted by Applicant Candidates who fail to obtain a sufficient number of Qualifying Contributions or otherwise fail to qualify as a Participating Candidate shall be deposited in the Open and Ethical Elections Fund. ~~No refund of~~ Qualifying Contributions to the

Applicant Candidate ~~or contributors to an Applicant Candidate~~ shall not be ~~allowed~~ refunded.

11. Revocation of Certification. The certification of a Participating Candidate may be revoked at any time if the City Clerk determines that the candidate or an agent of the candidate:

- a. Did not submit the required number of valid Qualifying Contributions;
- b. Failed to qualify as a candidate by petition or other means;
- c. Submitted any fraudulent Qualifying Contributions or Qualifying Contributions that were not made by the named contributor, and the Participating Candidate knew or should have known of the fraudulence;
- d. Misrepresented to a contributor the purpose of the Qualifying Contribution or obtaining the contributor's signature on the receipt and acknowledgement form and the Participating Candidate knew or should have known of the misrepresentation;
- e. Failed to fully comply with the Seed Money and In-Kind restrictions;
- f. Knowingly made a false statement or material misrepresentation in any report or other document required to be filed under the OEEC or the Election Code; or
- g. Otherwise substantially violated the provisions of the OEEC or the Election Code.

The determination to revoke the certification of a candidate must be made by a vote of the members of the Board of Ethics after an opportunity for a hearing. A candidate whose certification is revoked shall return all unspent funds to the City Clerk within three (3) working days of the Board of Ethics' decision and may be required to return all funds distributed to the candidate. In addition to the requirement to return funds, the candidate may be subject to a civil penalty.

Notwithstanding Article XVI, Section 20, the candidate may appeal the Board of Ethics' decision to revoke certification in the same manner provided in Article XII, Section 8, subsection (f) of the City Charter.

PART D PARTICIPATING CANDIDATES

- 1. Reporting:** All Participating Candidates must fully comply with all aspects of campaign finance reporting pursuant to the City Charter, Revised Ordinances of Albuquerque and any and all Rules and Regulations of the Board of Ethics.
- 2. Distribution of Funds to Participating Candidates**
 - a. Electronic payment:** The City Clerk, with the assistance of the City's Treasury Department shall distribute all payments from the Fund

electronically. Participating Candidates shall provide all necessary information for electronic transfers on the forms prescribed by the City Clerk.

- b. **Timing of Distribution:** Upon certification of the Participating Candidates, and calculation of the funds owed to Participating Candidates, the City Clerk shall provide the necessary information to the Treasury Department to initiate the electronic transfer of the funds constituting the first distribution of monies from the Fund. The transfer of funds is subject to banking regulations and will typically occur one business day after the transfer is initiated. CodeOEEC § 14.
- c. **Initial Distribution:** Subject to availability of funds, the City Clerk shall distribute funds as outlined in CodeOEEC §12. Qualifying Contributions, Seed Money and In-Kind Contributions that exceed the allowable limits and that are not paid to the City Clerk shall be deducted from the Fund distribution. The Clerk will determine the total funds available for distribution and apply an equation utilized to calculate fund distribution to individual ~~participating candidates.~~Participating Candidates. The equation is: \$1.00 per ~~applicableregistered~~ voter in the district, minus the ~~sum of the candidate's total Seed Money; collected by the candidate.~~ Funding in addition to the initial distribution is subject to availability of funds. CodeOEEC §§ 12 and 14.

d. Payment of Matching Funds

- ~~i. The City Clerk will notify Participating Candidates qualifying for Matching Funds in the most expeditious manner available and confirm such notice in writing.~~
- ~~ii. Payment of Matching Funds pursuant to Code § 16 is dependent upon the availability of funds. Matching Funds payments are also dependent upon all candidates, both participating and non-participating, filing campaign finance reports timely and completely. The Clerk will determine on a case by case basis whether a Participating Candidate is owed Matching Funds if reporting is incomplete when the reporting period closes.~~

~~The City Clerk may also distribute Matching Funds to Participating Candidates if it is determined that funds are owed based upon evidence that a non-participating candidate or Measure Finance Committee have made Coordinated~~

~~iii. 3. Expenditures.~~

- ~~iv. **Timing:** The City Clerk shall provide the calculation of Matching Funds to the Treasury Department as soon as practicable, but within two business days after determining that the expenditures of non-participating candidates and Measure Finance Committees require such payment pursuant to Code § 16. The City Clerk will make such determinations after each of the pre election finance disclosure reports are due pursuant to the Election Code. Payments may be made in two increments. Electronic payment of matching funds after the campaign finance report required by the Election Code on the Friday before the election shall be paid on the~~

~~same Friday, when possible. If the Clerk determines a participating candidate is owed matching funds on the Friday, Saturday, Sunday or Monday before the election, or on Election Day, a participating candidate may incur an expense equal to the amount of matching funds owed him/her. The Clerk shall make the payment for Matching Funds to the Participating Candidate as soon as possible, even if the payment is made after Election Day.~~

~~v. **Matching Funds and Independent:** The guidelines regarding Expenditures: When Matching Funds are calculated by including Independent detailed below are in addition to the guidelines and restrictions on Expenditures that are used to oppose a Participating Candidate, such calculation shall apply only to the Participating Candidate to whom such opposition is clearly directed contained in Article XVI, Section 8 of the City Charter.~~

PERMISSIBLE EXPENDITURES.

~~3. **Inclusion of Independent Expenditures:** An Independent Expenditure, whether supportive or opposing, may effect payment of Matching Funds. The City Clerk shall consider Independent Expenditures supportive of an opposing candidate or in opposition to a Participating Candidate in the calculation of opposing funds. The following are examples of Independent Expenditures that would constitute "Opposing Funds" under the Open and Ethical Elections Code:~~

- ~~a. Group A pays for and distributes radio ads that say, "Vote for Candidate X." If this is not a Coordinated Expenditure then Group A has made a supportive Independent Expenditure on behalf of Candidate X. This statement in support of a candidate constitutes "Express Advocacy", as defined by the Code § 3(H).~~
- ~~b. Example 2: City Councilor Y is up for re-election. More than 30 days before the Election Day when Councilor Y is on the ballot, Group B pays for and distributes mailings that are critical of City Councilor Y's vote on an issue. The cost of the mailings is not a Coordinated Expenditure with any candidate opposing City Councilor Y. Group B's mailings do not mention an election, any candidates, or any actions around voting. Under these facts, there has not been an Independent Expenditure because the mailing does not constitute Express Advocacy and is not an includable Electioneering Communication because of its timing. However, under the same facts, if Group B distributes the mailing within 30 days of the election, the mailings become Electioneering Communications, and thus are opposing Independent Expenditures and the funds spent on the mailing are Opposing Funds under the Open and Ethical Elections Code.~~
- ~~c. Example 3: Group C develops a radio commercial stating, "vote for candidates that supported/opposed the bill to raise property taxes." If not a Coordinated Expenditure, the commercial is a supportive/opposing Independent Expenditure and the funds spent constitute Opposing Funds under the Open and Ethical Elections Code. This communication constitutes~~

~~Express Advocacy since the commercial asks the public to vote for or against identifiable candidates.~~

- ~~d. Example 4: If any of the above examples, including both parts of Example 2, was made as a Coordinated Expenditure then the action is an In-kind Contribution to that candidate's campaign and is Opposing Funds on that basis. The action is not a supportive or opposing Independent Expenditure.~~

~~4. **Unreported expenditures:** The public may submit evidence of unreported expenditures by candidates and Measure Finance Committees to the City Clerk by submitting a complaint as described in § F(2) herein. The City Clerk may investigate and use such information as a basis for finding that a Participating Candidate is eligible for additional matching funds. Such Matching Funds are subject to reallocation to the Fund if a City Hearing Officer or the Board of Ethics overrules the City Clerk's finding.~~

~~a. Expenditures for "campaign-related purposes" are those which are traditionally accepted as necessary to promote the election of a candidate to political office. Candidates using OEEC funds must also take into account the public nature of the funds, the underlying objectives of the OEEC, and the reasonableness of the Expenditures under the circumstances. In the City of Albuquerque, traditional campaign expenses have included, but are not limited to:~~

- ~~i. Political advertising expenses;~~
- ~~ii. Campaign communications such as signs, bumper stickers, T-shirts, or caps with campaign slogans, etc.;~~
- ~~iii. Campaign events (e.g., invitations, food, tent or hall rental, etc.);~~
- ~~iv. Printing and mailing costs;~~
- ~~v. Campaign staff expenses;~~
- ~~vi. An entry fee for an event organized by a committee, charity, or community organization or an ad in an event publication, as long as the Expenditure benefits the candidate's campaign;~~
- ~~vii. Candidate's campaign-related childcare, provided it is not provided by a member of the candidate's Immediate Family; and~~
- ~~viii. Campaign operational and travel expenses, such as fuel and tolls, websites, office rental, telecommunications, equipment, or office supplies.~~

~~**b. PROHIBITED EXPENDITURES.** Candidates may not use OEEC funds for personal expenses or for invalid political expenses, as detailed below. This means candidates may not borrow from or use OEEC funds for personal or other non-campaign expenses, even if temporarily and with the intention of repaying the funds.~~

- ~~i. Personal expenses are for goods and services that the candidate would otherwise purchase independently of the campaign, including but not limited to:~~

- 1) Day-to-day household expenses and supplies;
- 2) Mortgage, rent, or utility payments for the candidate's personal residence, even if part of the residence is being used by the campaign;
- 3) Vehicle repair and maintenance;
- 4) Non-campaign transportation expenses;
- 5) Clothing, including attire for political functions such as business suits or shoes.

ii. OEEC funds also may not be spent to:

- 1) Pay a consultant, vendor, or campaign staff for anything other than campaign goods or services;
- 2) Compensate the candidate for services provided by the candidate;
- 3) Make Independent Expenditures supporting or opposing any candidate, ballot question, or political committee;
- 4) Assist in any way the campaign of any candidate other than the candidate for whom the funds were originally designated;
- 5) Contribute to another candidate, a political committee, a measure finance committee, or a party committee other than in exchange for goods and services;
- 6) Make a donation to a charity or a community organization, other than in exchange for campaign goods or services;
- 7) Promote political or social positions or causes other than the candidate's campaign;
- 8) Make a thank-you gift (including a gift card) to a volunteer or supporter; or
- 9) Pay civil penalties, fines, or forfeitures to the Board of Ethics.

c. Ballot Questions. Candidates may state their position with respect to a ballot question in a communication financed with OEEC funds. Candidates may not use OEEC funds for a paid communication that primarily supports or opposes a ballot measure, referendum or citizen initiative.

d. Campaign Training. Candidates may use OEEC funds for tuition or registration costs for campaign or policy issues training.

e. Car Travel. OEEC campaigns may reimburse the candidate or campaign workers for their car travel, as long as the person reimbursed has kept a *contemporaneous* travel log. The campaign may make a travel reimbursement up to the number of miles traveled as reported in the log multiplied by the current standard IRS mileage rate for a business. Campaigns must keep the travel logs for three years.

and provide them to the Board of Ethics or City Clerk if requested. Candidates and their spouses/domestic partners may spend any amount of their personal funds for campaign travel without seeking reimbursement. Other individuals may spend up to \$250 of their personal funds to pay for travel without making a Contribution to the campaign.

f. Food. Candidates may spend reasonable amounts of OEEC funds on food for campaign events or to feed volunteers while they are working, but must take into account the public nature of OEEC funding. Candidates may not use OEEC funds to purchase food that is consumed *only* by the candidate and/or members of the candidate's Immediate Family. Generally, reasonable amounts for food should not exceed \$25 per person per event. If candidates wish to spend greater amounts per person for food, the City Clerk recommends that the candidate contact the City Clerk for guidance.

g. Lodging. Candidates may use OEEC funds to pay for lodging other than the candidate's primary residence or the residence of the candidate's Immediate Family, if necessary for campaign purposes, but must keep lodging expenses reasonable and may not exceed fair market values. OEEC candidates may use personal funds for lodging, provided that they are not reimbursed by others.

h. Office Supplies. Candidates may spend OEEC funds for office supplies that they reasonably anticipate will be used for campaign purposes only. OEEC funds may not be spent for office supplies to be used for constituent communications or for other expenses associated with service as a public official. The Board of Ethics may require candidates to repay their campaign for any office supplies with a value of \$500 or more that were not used for campaign purposes or were used minimally for campaign purposes

i. Post-Election Notes and Parties. Candidates may spend up to \$1,000.00 maximum amounts of OEEC funds on post-election parties, post-election thank you notes, or post-election advertising to thank supporters or voters. Candidates may also use personal funds for these purposes.

j. Property and Equipment. Goods purchased with OEEC funds for \$50 or more that could be converted to personal use after the campaign (e.g., computers, cell phones) must be sold in an arms length transaction and the proceeds returned to the Fund no later than 45 days after the final report for the campaign. If the campaign sells the property or equipment to the candidate or a member of the candidate's Immediate Family or campaign staff, the campaign must receive at least 75% of the original purchase price paid by the campaign. Candidates are welcome to lease electronic and other equipment.

k. Salary and Compensation. Candidates may use OEEC funds to pay for campaign-related services by staff or consultants, provided that compensation is made at fair market value and sufficient records are maintained to show what services were received. Documentation must include a description of the labor performed by the staff member or consultant, and an itemization of any goods or services purchased from other vendors including date, vendor, and amount. In any documentation that provides for the sale of goods or service to or by a campaign, a sale for nominal consideration is presumed to be a donation.

4. Paying Campaign Funds to Family Members:

a. Disclosing A Payment To A Member Of The Candidate's Family Or Household

i. If a candidate uses OEEC funds to pay or reimburse a member of the candidate's "Immediate Family" (defined above), a member of the candidate's household, or a business or nonprofit entity affiliated with a member of the candidate's Immediate Family, the candidate must disclose the family or household relationship (e.g., "spouse," "domestic partner," "brother," "roommate," or "business owned by daughter") in the campaign finance report.

b. Additional Restrictions For OEEC Candidates

i. A candidate may not pay OEEC funds to:

- 1)** The candidate or a sole proprietorship owned by the candidate,
- 2)** A member of the candidate's Immediate Family or household,
- 3)** A business entity in which the candidate or a member of the candidate's Immediate Family or household holds a significant proprietary or financial interest, or
- 4)** A nonprofit entity in which the candidate or a member of the candidate's Immediate Family or household is a director, officer, executive director or equivalent, or chief financial officer or equivalent.

ii. There are two narrow exceptions to this prohibition:

1) Permitted Payments to the Candidate and Household Members.

A candidate may use OEEC funds to pay a member of the candidate's Immediate Family or household, a business entity in which the candidate or a member of the candidate's Immediate Family or household holds a significant proprietary or financial interest, or a nonprofit entity in which the candidate or a member of the candidate's Immediate Family or household is a director, officer, executive director or chief financial officer only if the Expenditure is made:

A. For a legitimate campaign-related purpose; to an individual or business that provides the goods or services being purchased in the normal course of their occupation or business, and in an amount that is reasonable taking into consideration current market value and other factors the Board of Ethics may choose to consider; and

B. The candidate provides documentary evidence that the Expenditure qualifies for the exception at the time the Expenditure is reported or when the City Clerk or Board of Ethics requests such evidence, whichever is sooner. This evidence must consist of documentation that the payee currently is employed by or engaged in a business that provides the goods or services provided; justification for the amount of the Expenditure including the usual price paid by other clients; and an explanation of why the Expenditure is campaign-related. Occasional or sporadic employment on political campaigns (e.g., field work, public relations, or organizing volunteers) will be insufficient to demonstrate a normal course of business.

2) Reimbursements. Reimbursements, including travel reimbursements, that are made in accordance with the City Clerk and Board of Ethics rules and guidelines are exempt from this restriction. However, the candidate must disclose the family or household relationship when reporting the reimbursement as described above. If an OEEC candidate or a family or household member uses personal funds or a personal credit card to pay a vendor for campaign goods or services, the candidate must reimburse the individual with OEEC funds.

5. Payment of Funds to City: Participating Candidates shall return all funds that are unspent or unencumbered as of the date of the Regular Municipal/Local Election to the City Clerk for deposit into the Fund. The date of the Regular Municipal/Local Election is the last day that candidates may spend or encumber funds. Candidates shall return the funds within two (2) weeks of Election Day. The final campaign disclosure report filed by the Participating Candidate shall show the amount of unspent Seed Money and any unspent distributions from the Fund as well as the amounts refunded by the candidate to the City Clerk. CodeOEEC § 8(C)

56. Runoff Elections: Participating Candidates who are part of a Runoff Election remain Participating Candidates as described herein.

a. Candidates involved in a runoff election are not exempt from returning funds pursuant to CodeOEEC § 8(C). Runoff candidates shall return and report

funds as required and shall receive payment from the ~~F~~und pursuant to ~~the~~ CodeOEEC for runoff elections: within three working days after certification of the local election.

b. Within ~~two~~three (3) working days after a runoff election, Participating Candidates shall pay to the City Clerk all revenues provided for the ~~R~~unoff election from the Fund that are not encumbered or spent.

c. **Final Campaign Disclosure Report:** The final campaign disclosure report filed by the Participating Candidate after the runoff election shall show the amount of all unspent and unencumbered Seed Money and revenues from the ~~Open and Ethical Elections~~Fund and shall disclose all payments of refund payments to the City Clerk required by the ~~Open and Ethical Elections~~ CodeOEEC and these Regulations.

d. **Spending Limits** In the event of a runoff election, the aggregate ~~e~~Contributions for In-Kind Contributions shall be based on the spending limit for the runoff election. Spending limits for the runoff election shall be based on the amount of Fund revenues provided by the City Clerk to Participating Candidates for the runoff election. ~~[SectionsOEEC §§ 3 (R) and 6 (D) and (E)].~~

e. **Runoff Election Funds:** Participating Candidates may opt out of public funding if they are involved in a runoff election. ~~However, candidates who opt out are subject to the same spending limits as if they were a Participating Candidate. Those spending limits are in an amount equal to the revenues to which Participating Candidates is entitled to receive from the Fund for the runoff, which is equal to \$0.33 per registered voter in the Council District for a City Council election and \$0.33 per registered City voter for a Mayoral election. If a candidate desires to opt out for a run off they must give the Clerk written notice of their decision to opt out within one (1) working day of certification of the election.~~

f. **Runoff Election Reports:** The reporting requirements for Participating Candidates in a runoff election include filing campaign ~~disclosure reports by noon on the following dates:~~Disclosure Reports as follows:

~~i. The Friday of the fourth week preceding the runoff election;~~

i. beginning on the first Monday following the regular election, by 5:00 p.m. on every Monday before the run-off election candidates shall file a report of all Expenditures made and Contributions received on or before the previous Friday and not previously reported;

~~ii. beginning on the Friday of the second week preceding the runoff election;~~

The

~~iii.ii. Daily campaign disclosure statements are due from any candidate incurring any expenditure or receiving a contribution of over \$500.00 any time after 5:00 p.m. the Tuesday preceding the run-off election. Such expenditures and contributions require, any Contribution or pledge to contribute that the candidate file a disclosure statement withis for five hundred dollars (\$500) or more shall be reported to the City Clerk by 5:00 p.m. of the following day;in a supplemental report on a prescribed form within twenty-four hours of receipt; and~~

~~iv. The Friday immediately precedingby 5:00 p.m. on the runoff election;~~

~~v. The Monday immediately preceding the runoff election;~~

~~vi. The sevenththirtieth day after thea run-off election (which may also be the, a final statement);report of all Expenditures made and;~~

~~vii.iii. A final statement Contributions not earlier than the seventh day or later than the forty fifth day after the election. previously reported.~~

67. Unopposed Participating Candidates: An Unopposed Participating Candidate is a Participating Candidate who has been certified as a candidate by the City Clerk pursuant to §3-8-27 NMSA 1978 and who has no opponent who has been certified as a candidate on the ballot pursuant to § 3-8-27(H) NMSA 1978 and who has no write-in opponent who has been certified as a write-in candidate pursuant § 3-8-27 (L) NMSA 1978; or a certified candidate whose certified opponents and certified write-in opponents withdraw their candidacy pursuant to § 3-8-27 NMSA 1978.

a. Notice and Payment: At the time a Participating Candidate becomes an Unopposed Participating Candidate, the City Clerk shall give such candidate written notice that he or she is unopposed. Within three (3) businessworking of days of the date of the notice, the Unopposed Participating Candidate shall return all funds he or she has received from the Fund, minus any legitimate eExpenditures made prior to notice that the candidate is unopposed. These eExpenditures include any encumbrances that were incurred prior to notice.

b. Accounting: The Unopposed Participating Candidate shall submit a detailed accounting of all eExpenditures made or eExpenditures for which the candidate is contractually obligated through the day the Participating Candidate becomes unopposed, specifying outstanding obligations. The accounting is due concurrent with the second campaign finance disclosure report required pursuant to the Election Code. Unopposed Candidates shall provide supplemental accountings at the time each subsequent campaign finance disclosure report is due, with a final accounting due no later than the

date the final campaign financing disclosure report is due. Such accounting shall include any credits or refunds to which the Participating Candidate may be entitled. The refund shall include all funds not yet spent by the Participating Candidate less amounts that the Participating Candidate is contractually obligated to pay. Unopposed Participating Candidates shall pay the received credits and refunds for cancelled orders or contracts for goods and services within three (3) businessworking days of receipt.

~~PART E — PERMISSIBLE CAMPAIGN RELATED EXPENDITURES~~

~~1. Code § 8 (D) and (E) clearly outlines expenditures that are prohibited for Participating Candidates. However, several of the prohibited expenditures are permitted under specific circumstances. Candidates shall review the provisions of Code § 8 (D) and (E) and contact the Office of the City Clerk with questions, prior to requesting an Advisory Opinion from the Board of Ethics in the event that the City Clerk can clarify the provisions of this section. Participating Candidates may use fund revenues for the following expenditures:~~

- ~~a. **Salaries and other forms of compensation** for persons providing bona fide services to the campaign, including but not limited to consulting, polling, communication, and advertising services to the campaign, provided that such person is compensated at a fair market value.~~
- ~~b. **Admission fees** to sporting events, concerts, theater or other forms of entertainment for the purpose of conducting a specific campaign activity.~~
- ~~c. **Dues or fees** for parking or gratuities at a country club, health club or other recreational facilities where such costs are a result of a specific campaign activity.~~

~~c. **Purchases of food, beverages and/or supplies** used exclusively for a Fundraising After Return of Funds: Once all unencumbered funds have been returned to the Fund, and Unopposed Candidate ceases to be a Participating Candidate, and is not subject to the contribution and Expenditure limits applicable to Participating Candidates.~~

8. Liquidation of Property and Equipment. Property and equipment that is not exclusive to use in a campaign (e.g., computers and associated equipment, etc.) that has been purchased with OEEC funds loses its campaign-related purpose following the election. Such property and equipment purchased for \$50 or more must be liquidated at in an arms length transaction, and the proceeds thereof reimbursed to the OEEC Fund as unspent fund revenues in accordance with Article XVI, Section 8(C) of the City Charter. Candidates may not return unsold property or equipment to the City Clerk.

- a. The liquidation of campaign property and equipment may be done by sale to another person or purchase by the candidate.
- b. Liquidation must be at the fair market value of the property or equipment at the time of disposition. Fair market value is determined by what is fair, economic, just, equitable, and reasonable under normal market conditions based upon the value of items of similar description, age, and condition as determined by acceptable evidence of value. A campaign's sale of property or equipment through an on-line commercial auction shall be considered by the Board of Ethics as a factor in favor of determining that the campaign has recovered the fair market value of the property or equipment.

- ~~d. If the campaign activity.~~
- ~~e. **Clothing** when it has a campaign message as part of the clothing or is used as a uniform for sells the property or equipment to the candidate or a member of the candidate's Immediate Family or campaign staff and/or volunteers.~~
- ~~f. **Minor Cost Items** of de minimus value used in, the campaign.~~
- ~~g. **Campaign Materials** as defined herein. Candidates may utilize surplus Campaign Materials from previous campaigns. Candidates must report such utilization of surplus materials, but it is not considered an In-Kind Contribution.~~
- ~~h. **Compensation to Campaign Staff** for services to receive at least 75% of the campaign.~~
- ~~i. **Communication Systems**, including expenditures for the purchase or lease of computers, telephone systems, telephones, internet service, and other related communication devices used in campaign activities.~~
- ~~j. **Mortgage, rent or other payment** for Campaign headquarters and/or offices as well as expenditures related to such headquarters and/or offices such as, security deposits, utilities, television reception, furniture, office equipment, office supplies, and janitorial services.~~

~~c. 2. **Property Purchased from Fund Distribution:** Participating Candidates who original purchase property pursuant to these Regulations, may retain such property for the term of the election, including a run-off election, if one becomes necessary. Following the election, the Participating Candidate may retain any single item of property having a fair market value of less than \$100.00. The Participating Candidate shall dispose of each single item of property worth more than \$100.00 by selling the items at fair market value, with the proceeds being returned to the Clerk and deposited back into the Fund or the property given to the Clerk for sale at auction with the proceeds deposited back into the Fund. Participating Candidates must dispose of all property prior to the filing of final campaign finance disclosure reports and report the items retained, disposed of, or given to the Office of the City Clerk. price.~~

~~PART F — COORDINATED AND INDEPENDENT EXPENDITURES~~

~~1. **Correct Reporting:** It is acceptable for Participating Candidates to partake in Coordinated Expenditures, so long as the expenditures are reported as such by all persons and entities involved with the expenditure. Any person or entity may allege a Coordinated Expenditure if they receive reasonably credible information that any person or entity claiming to make an Independent Expenditure has received in cooperation, consultation or concert with, or at the request or suggestion of a candidate, a candidate's authorized committee or an agent thereof, photographs, position statements, scheduling of campaign events, campaign advertising materials, information, schedules or other materials from the candidate or campaign for whom the expenditures benefit or for expenditures that oppose such candidate's opponent(s). Independent Expenditures may consist of materials previously made public by the campaign without implying coordination by the campaign.~~

~~2. **Allegations and Complaints:** Persons wishing to report an allegation of a suspected Coordinated Expenditure must file a Complaint with the City Clerk. The Complaint must contain:~~

- ~~a. The name, address and telephone number of the party or entity making the allegation;~~
- ~~b. The name of the Participating Candidate, person or entity that is the subject of the allegation;~~
- ~~c. The facts, with reasonable particularity, which lead the alleging party to file the Complaint; and~~
- ~~d. The signature of the alleging party or spokesperson of the entity making the allegation, along with a verified statement that the contents of the complaint are true and correct to the knowledge and belief of the alleging party.~~

~~The City Clerk may also obtain information of a suspected Coordinated Expenditure independent of a formal complaint. Upon receipt of allegations or information that suspected Coordinated Expenditure exists, the City Clerk shall submit such allegations to a City Hearing Officer.~~

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~~4. — **Hearing:** — Upon receipt of a Complaint alleging that a purported Independent Expenditure is a Coordinated Expenditure, or upon obtaining such information independently of a formal complaint, the City Clerk shall submit such charges to a City Hearing Officer. The Hearing Officer shall review the information, schedule a hearing and provide notice to all relevant parties, including the Participating Candidate, the person or entity making the suspected Coordinated Expenditure and the alleging party. The hearing shall take place within 30 calendar days of the date of Notice. Notice shall include a copy of the Complaint, the date, time and place of the hearing and a certification of the date and method of notice.~~

~~Those people or entities receiving such notice may retain legal counsel to represent them at the hearing and shall have ten calendar days from the date of certification to file an answer with the Hearing Officer.~~

~~Hearsay is permitted in the hearing. In the event the hearing officer finds that the expenditure was coordinated with a Participating Candidate, the hearing officer shall order that the amount of expenditure be treated as a contribution to such candidate and be deducted from the amount of funds made available from the Fund. In the event the Participating Candidate has received all revenues from the Open and Ethical Elections Fund for which he/she is eligible, then the Participating Candidate shall remit payment in the amount of such expenditure(s) to the City Clerk within three (3) days. The hearing officer shall not make a ruling concerning any allegation that an expenditure exceeded campaign contribution limits. The City Clerk will refer such allegations to the Board of Ethics and Campaign Practices as specified hereafter. Any party who disputes the ruling of the hearing officer shall follow the procedures provided in the Open and Ethical Elections Code.~~

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~~5. — **Board of Ethics** — If the City Clerk determines that the expenditures(s) before the hearing officer exceeds the contribution limits established in the Election Code of the City Charter, then, in addition to the requirements described in this subsection, the City Clerk shall submit to the Board of Ethics and Campaign Practices any evidence of excess contributions. An appeal of the hearing officer's ruling shall not stay the consideration of excess contribution charges before the Board of Ethics and Campaign Practices.~~

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~~PART G~~ **PART E** WITHDRAWAL OF PARTICIPATION

1. Applicant Candidates: An Applicant Candidate may withdraw as an Applicant Candidate, by filing their written withdrawal of their Declaration of Intent on the form approved by the City Clerk. Withdrawal as an Applicant Candidate must occur prior to the deadline for submitting the Application for Certification as a Participating Candidate. At the time the statement of withdrawal is submitted, the Applicant Candidate shall report all Qualifying Contributions, In-Kind Contributions and Seed Money received by the Applicant Candidate to date. Withdrawing Applicant Candidates shall also submit all Qualifying Contributions, used and unused Books and all unspent Seed Money to the City Clerk. Withdrawing Applicant Candidates shall also file all reports necessary for the returned monies. Applicant Candidates who withdraw or do not qualify as a Participating Candidate are not subject to spending limits as outlined in the [Code OEEC](#) if they continue as a non-~~participating candidate~~ Participating Candidate.

2. Participating Candidates: A Participating Candidate may withdraw their participation as a publicly financed candidate ~~at any time~~ up to thirty (30) days after being certified as a Participating Candidate by filing the statement of withdrawal with the City Clerk on the approved form. Withdrawn Participating Candidates may continue their campaign as a ~~nonparticipating candidate~~ non-Participating Candidate or withdraw from a race completely as stated in ~~Code~~ OEEC § 12 (D), (E), and (G). All received monies from the Fund and corresponding reports are due to the City Clerk at the time the withdrawal is filed.

3. Participating Candidates who do not qualify as Candidates: A Participating Candidate who does not qualify as a candidate pursuant to § 3-8-27 G. NMSA 1978 shall deliver to the City Clerk the funds as outlined in ~~Code~~ OEEC § 12 (F) within five (5) days from the date of notice that they have not qualified as candidates. All received monies from the Fund and corresponding reports are due to the City Clerk at the time the withdrawal is filed.

4. Use of refunded money: The City Clerk will not redistribute funds returned to the Open and Ethical Elections Fund pursuant to this ~~section~~ Part to other Participating Candidates in the present election cycle for the ~~regular municipal election~~ Regular Local Election. However, the City Clerk may use the returned funds to ~~pay matching funds or to~~ correct a distribution reduction caused by Section 14-~~(B)~~ of the ~~Code~~ OEEC.

Approved:

Robert J. Perry Sarita Nair, Chief Administrative Officer

Date

Recommended:

~~Amy B. Bailey~~ Katy Duhigg, City Clerk

Date