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City of Gainesville Policy Program Preliminary Research & Analysis

TOPIC: Publicly Funded Campaigns
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REQUESTED BY: Commissioner Ward

EXECUTIVE SUMMARY

Public Campaign Financing is being implemented across the country because of the following positive outcomes:

- Greater racial and class **diversity** among donors and an increase in the overall number of donors;
- More **women** are encouraged to run for office;
- Candidates experience more quality **time with constituents**;¹
- Greater **voter participation** in City, County, and Statewide elections;
- Qualified persons are encouraged to seek statewide, city, or county office who may not otherwise do so;
- Reduced **influence of large contributions** from businesses, political action groups and other large organizations;² and
- **Protected effective competition** by candidates using public office.³

The costs of running an effective campaign for office have reached a level that may tend to discourage people from becoming candidates. Similarly, financial conditions can limit the people running for office to those who have the independent wealth to do so and are supported by political committees that represent special interests. Other municipalities and counties in the United States have adopted their own public campaign financing programs and fair elections funds. Based on the size and structure of a municipality, the local or county government may choose one of the following models as best seems fit:

¹ https://www.demos.org/sites/default/files/publications/Public_Financing_Factsheet_FA%5B5%5D.pdf

² https://www.montgomerycountymd.gov/COUNCIL/public_campaign_finance.html

³ <https://dos.myflorida.com/media/698987/public-campaign-financing-2018.pdf>

- **Grants**
 - A grant model essentially provides full funding for candidates to run their campaigns.
 - Participating candidates receive a lump-sum grant from a public fund and no further fundraising is required (or allowed) so that every participating candidate has equal resources with which to campaign.
 - To qualify, candidates must raise a threshold number of small contributions to demonstrate broad support from the community
- **Matching Funds**
 - A matching funds model matches small contributions to qualifying candidates with the use of public funds.
 - The goal of this model is to amplify the voices of regular voters by incentivizing candidates to seek donations from a broad base of constituents rather than a few wealthy donors.
- **Vouchers**
 - A voucher model provides four vouchers to each registered voter who has applied to the program in an election cycle. Each voter can choose to donate their voucher to a specific candidate. The candidate can then redeem the voucher for campaign funds.

A **matching funds program** may be **most feasible** since Florida State Statutes currently operate this model for statewide elections. Structuring a matching funds program similar to that of the State of Florida could help in the process of creating this system as a Florida municipality. Regardless, **implementation of a public campaign financing program in Gainesville would require further legal research to determine whether the city is preempted by state law.**

HISTORY/BACKGROUND INFORMATION

State of Florida

The State of Florida enacted public campaign financing laws that would be applicable to statewide office campaigns in 1986. Chapter 106 of the Florida State Statutes regulates Campaign Financing for statewide office.⁴ Positions that fall under that category include Governor, Attorney General, Chief Financial Officer, and Corporation Commissioner. The Public Funding Program is designed as a **matching funds** system, and is administered by the Division of Elections of the Florida Department of State. The Florida State Legislature intends to **make candidates more responsive to the voters** of the State of Florida and as insulated as possible from special interest groups by implementing public campaign financing.

While the State Statutes do not explicitly describe regulations for a municipal or county public campaign finance system, Section 106.113 of the Florida State Statutes indicates that a local government may not expend or authorize the expenditure of public funds for a political advertisement or electioneering communication that concerns an issue, referendum or amendment that is subject to a vote of the electors. The statute is silent on public funds being used for political

⁴ http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0106/Sections/0106.31.html

advertisements and electioneering communications concerning candidates. Thus, to create a public campaign finance program in Gainesville, further legal research would be required to ensure the City is not preempted by state law from creating a municipal program.

While Florida voters approved campaign financing for statewide candidates in 1986, there were State Senators wishing to end statewide campaign public financing in March of 2019. Chairman Dennis Baxley of the Senate Ethics and Elections Committee proposed a constitutional amendment that, if passed during the 2019 legislative session, would have gone before voters in the November 2020 election to potentially officially end public financing. In May of 2019, however, the bill was indefinitely postponed and withdrawn from consideration.⁵ For now, there is a chance that the bill may be picked up again for the FY 2020 Legislative session, something which city and county officials may choose keep up to date with.

Alachua County & Gainesville

The Alachua County Code of Ordinances has a section on Campaign Finance Regulation which establishes contribution limitations and financial report filing requirements.⁶ According to the Code, candidates shall not accept campaign contributions in an amount exceeding \$250 per election from individuals, political committees, and committees of continuous existence. The limit does not apply to contributions from political parties. The City of Gainesville Code of Ordinances is nearly identical, with some differences in reporting requirements. Currently, public campaign financing is not explicitly permitted by either jurisdiction.

PRELIMINARY RESEARCH AND FINDINGS

This section will highlight how other jurisdictions have approached publicly funded campaigns. Cities or counties may wish to have a fund that operates through grants, matched funds, or vouchers.

Grants

A grant model essentially provides full funding for candidates to run their campaigns. Participating candidates receive a lump-sum grant from a public fund and no further fundraising is required (or allowed) so that every participating candidate has **equal resources** with which to campaign. In some cases, candidates must raise a threshold number of small contributions to demonstrate broad support from the community and to qualify for funds, but in others only certain signed agreements are required.

Austin, Texas

The Austin Fair Campaign Finance Fund (AFCFF) is a grant-type public campaign financing program that was approved by Austin City Council members in 1994. The program is administered by the City Clerk that can be used to support eligible candidates running for Mayor or City Council.⁷ The process for establishing a fund and funding candidates can be described as follows:

⁵ <https://www.flsenate.gov/Session/Bill/2019/00270/?Tab=RelatedBills>

⁶ https://library.municode.com/fl/alachua_county/codes/code_of_ordinances?nodeId=PTIHORUCH_ARTICRP_OORHORUCHGO_S1.6CAFIRE

⁷ https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT2AD_CH2-2CAFI_ART7AUFACAFIFU

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Candidate Funding

Once deemed eligible and to the extent that there are funds available, only in a **runoff** election can a qualifying candidate receive an **equal distribution of the available funds** in the AFCFF through the following procedures:

- The city clerk shall review the "30-day before election", "8-day before election" and "pre-election" campaign finance reports and any supporting materials filed by qualifying candidates seeking public funds to verify compliance with the expenditure limits of the candidate's campaign contract.
- Funds for a city runoff election shall be made available as soon as practicable after the results of the city general election are certified.

Candidate Eligibility

In order to qualify for the public campaign financing program, candidates must:

- Sign a campaign contract which entails that the candidate must participate in a series of candidate forums, whether or not they qualify for funds, and
- Agree to participate in specified debates arranged by the City Ethics Review Commission.

Fund Structure

The public campaign financing program receives its revenues from:

- The registration fee paid by compensated lobbyists;
- Donations from individuals and business entities;
- Liquidated damages and criminal fines collected for violations of campaign contracts;
- A \$1 voluntary donation via a check-box on City utility bills; and
- All filing fees paid to the City by candidates for mayor and city council.

Matching Funds

This model matches small contributions from voters to qualifying candidates with the use of public funds.

Denver, Colorado

The City of Denver, Colorado adopted an Ordinance in August of 2018 that established a Fair Elections Fund.⁸ The program has not yet been used in an election and will go into effect beginning with the 2021 municipal election. The goals of the fund are to provide public financing for certified participating candidates and pay for the administrative costs of city staff related to the Fair Elections Act public campaign funding program. The process for establishing a fund and funding candidates can be described as follows:

Candidate Funding

Once deemed eligible, in order to receive funding candidates must maintain separate bank accounts for public funds and all other campaign monies and follow the program's other reporting

⁸https://library.municode.com/co/denver/codes/code_of_ordinances?nodeId=TITIIREMUCO_CH15EL_ARTII_ICAFI_DIV2DEFAELAC_S15-51FAELFU

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requirements. Then, each qualifying contribution shall be acknowledged by a receipt to the contributor, with a copy retained by the candidate for a period of two (2) years after the election. The receipt from each contributor shall indicate their understanding that the purpose of the contribution is to help the candidate qualify for fair elections campaign funding, and that each contribution up to fifty dollars (\$50.00) will be matched by the Fund by 900 %. So, a contribution of \$50 would result in a matching fund of \$450.

Candidate Eligibility

In order to qualify for the public campaign financing program, candidates must:

- Be running for Mayor, City Council, Clerk and Recorder, Judge, or Auditor.
- Follow specified qualifying procedures with the clerk to be certified as a participating candidate and certify receipt and approval of campaign finance reports.
- Receive qualifying contributions from unique contributors in the amount of 250 contributions for Mayor Candidates and 100 contributions for office of city council, auditor, judge, or clerk and recorder candidates.

Fund Structure

The amount of revenue in the Fair Elections Fund is not to exceed \$8,000,000. In the event that revenue is set to exceed that amount, it would be deposited into the general fund. Additionally, in times of declared fiscal emergency, the amount of annual appropriation to the fund can be **suspended** or **reduced** for no more than one year. The Fund is annually appropriated by assessing \$2.88 per City of Denver resident per year from the city general fund to the Fair Elections Fund. Other funding sources may include:

- Unspent funds distributed to any participating candidate who does not remain a candidate until the election for which they were distributed, or such funds that remain unspent by a participating candidate,
- Unexpended campaign contributions from any candidate or political committee, and
- Any interest generated by the Fund.

The success of this movement has been credited to a citizen-led petition known as the Democracy for the People Proposal which drove community interest in improving Denver’s campaign and voting practices.

Montgomery County, Maryland

Maryland State Law authorizes counties to establish their own system of public campaign financing.⁹ In September, 2014, the Montgomery County Council established a Public Election Fund for County Executive and County Council candidates. The bill also established the Public Election Finance Committee to recommend funding for the Public Election Fund. This Committee must report to the Council by March 1 of each year and estimate the funding necessary to implement the campaign finance system and recommend an appropriation for the Public Election Fund for the following year.

⁹ https://www.montgomerycountymd.gov/COUNCIL/public_campaign_finance.html

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Candidate Funding

Once deemed eligible, candidates can receive matching funds through the following metrics;

- County Executive candidates - \$6 for each dollar of the first \$50 of a qualifying contribution received from a County resident, \$4 for each dollar for the second \$50 and \$2 for each remaining dollar received up to the maximum contribution.
- County Council candidates - \$4 for each dollar of the first \$50 received from a County resident, \$3 for each dollar for the second \$50 and \$2 for each remaining dollar received up to the maximum contribution.
- The **maximum limits** on public funds per candidate for either the primary election or the general election are \$750,000 for a County Executive candidate, \$250,000 for a Council at-large candidate and \$125,000 for a district Council candidate.
- Matching funds will only be disbursed to a certified candidate in a contested election and will not be distributed for self/spouse contributions to candidates running unopposed.

Candidate Eligibility

Any candidate wishing to qualify for public funding must:

- File a Notice of Intent prior to collecting qualifying contributions;
- Establish a publicly funded campaign account;
- Only accept contributions from an individual between \$5 and \$150;
- Refuse to accept a contribution from any group or organization including a political action committee, a corporation, a labor organization or a State or local central action committee of a political party;
- Collect a qualifying number of contributions from County residents: at least 500 for County Executive candidates, 250 for at-large Council candidates and 125 for district Council candidates; and
- Meet qualifying dollar thresholds (\$40,000 for County Executive, \$20,000 for at-large Councilmember and \$10,000 for a district Councilmember).

Fund Structure

- The Maryland State Board of Elections is responsible for certifying candidates and generally administering the public campaign financing system.
- The County's Director of Finance is responsible for establishing a Public Election Fund and distributing the public contributions to certified candidates.
- The Council is responsible for appropriating funds. As of January 2017, the Council has appropriated \$6 million to the Public Election Fund.

A candidate who wins the nomination after receiving County matching funds up to the maximum for the office during the primary may continue to receive matching funds from the County, up to the maximum amount for that office during a contested general election for additional qualifying contributions received. Public contributions to certified candidates must be used for primary or general election expenses. Candidates must return any unspent public campaign funds after withdrawing as a candidate, losing in a primary election or at the conclusion of the general election.

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This effort was experimented with in the County's 2018 primary election and ultimately proved to have varying effects.¹⁰ To summarize, all four winners of the at-large Montgomery County Council race participated in the public campaign finance program whereas candidates who won the county executive and District 1 races did not participate in the program. After spending by candidates and PAC's was totaled, the results showed that more campaign spending had transpired than ever before for the office of the county executive. Additionally, the target for the full \$750,000 match was difficult to reach for some candidates seeking the position of county executive. That being said, raising the individual donor limit from the existing dollar amount of \$150 to a higher value or increasing the matching value for each donation may be helpful for candidates to achieve the target.

Another observed downside of the existing program is that candidates who successfully pass the primary election cannot receive donations from supporters who contributed \$150 to their campaign prior to the primary. By not allowing nominees to receive support from previous donors, they are put at a disadvantage next to any opponents who are likely to be well-funded in the general election. Given the lessons learned, changes may be considered before the next election cycle.

Tucson, Arizona

Tucson has a matching funds Public Funding Program for candidates running for Mayor or City Council. The program is administered by the City Clerk's office, and a candidate must sign a contract with the city agreeing to abide by limitations on contributions, campaign expenditures, and on the use of all contributions as specified in the City Charter in exchange for public matching funds.¹¹

Candidate Funding

- Once eligibility is confirmed, candidates must sign a campaign contract indicating that neither contributions nor public matching funds may be used for stated indirect campaign purposes such as a candidate's personal support or donations to another campaign.
- The candidate can receive public matching funds for any direct campaign purposes such as:
 - Purchasing campaign literature or media space or time,
 - Mailings,
 - Renting campaign headquarters, and
 - Paying for campaign headquarter telephones.
- The candidates receive an even match; \$1 in public matching funds for each dollar received during the campaign period from any individual contribution.

Candidate Eligibility

- During the campaign period, candidates:
 - For mayor must receive 300 contributions of \$10 or more;
 - For city council must receive 200 contributions of \$10 or more;
- The contributions must be from residents of the City of Tucson in order to count towards the funding requirements above;

¹⁰ https://www.washingtonpost.com/opinions/montgomery-countys-first-public-campaign-finance-effort-fell-short/2018/07/06/804f0fea-7bda-11e8-80be-6d32e182a3bc_story.html

¹¹ [http://library.amlegal.com/nxt/gateway.dll/Arizona/tucson_az/tucsonarizonacharterandgeneralordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:tucson_az](http://library.amlegal.com/nxt/gateway.dll/Arizona/tucson_az/tucsonarizonacharterandgeneralordinances?f=templates$fn=default.htm$3.0$vid=amlegal:tucson_az)

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- To finally receive public matching funding, candidates must submit evidence of meeting the eligibility requirements to the office of the campaign finance administrator for verification.

Fund Structure

- An election campaign account is established by the mayor and city council in the general fund. This account is where appropriated sums are deposited in the annual budget from gifts and donations made to the city.
- The city clerk (unless otherwise indicated), is designated as the campaign finance administrator and thus responsible for the management and administration of rules and regulations pertaining to the chapter on Elections.
- Following the election, any surplus or unexpected campaign contributions shall be returned to the election campaign account.

As of 2019 elections in Tucson, there have been notable differences in funding amounts between candidates actively opting into the matching funds program and those who are not. For instance, for this year's Tucson Mayoral race, three-term councilwoman Regina Romero raised \$76,157 during a three month period and subsequently received \$76,000 in matching funds.¹² Meanwhile, former Senator and small-business owner Steve Farley raised just under \$130,000 in the same three months and did not participate in the public campaign financing program.

Vouchers

A voucher program provides four vouchers to each registered voter who has applied to the program. Each voter can choose to donate to a specific candidate. The candidate can then redeem the voucher for campaign funds.

Seattle, Washington

Seattle's democracy voucher public finance program is established by a subchapter in their Elections Code titled Honest Elections Seattle.¹³

Candidate Funding

- Voters assign their Democracy Voucher to a candidate who can then use the voucher to finance their campaign activities.
- Candidates are held to the same campaign spending laws outlined in the City's election code and must follow them in order to receive funding.
- Candidates must not solicit or accept total contributions from any **individual** or **entity** in excess of \$500 for Mayoral candidates or \$250 for City Attorney or City Council candidates during one election cycle, including any contribution used to qualify for democracy vouchers, but excluding the value of democracy vouchers assigned to such candidate
- Campaign valuations include the value of unredeemed democracy vouchers assigned to the candidate that they can redeem without exceeding the maximum, the total contributions

¹² https://tucson.com/news/local/farley-ahead-in-fundraising-from-private-donors-in-tucson-mayoral/article_df6a6f29-6344-5dfc-a271-461c82b0dfff.html

¹³ <http://www.seattle.gov/democracyvoucher/about-the-program>

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received and money spent to date. Maximum campaign valuations for candidates are as follows;

- Mayor: \$400,000 (Primary election), \$800,000 (Total for primary & general)
- At-large City Councilmember: \$150,000 (Primary election), \$300,000 (Total for primary & general)
- District City Councilmember: \$75,000 (Primary election), \$150,000 (Total for primary & general)
- City Attorney: \$150,000 (Primary election), \$300,000 (Total for primary & general)
- Candidates can redeem vouchers once the voucher has been verified by the Commission, so long as the redemption will not put the candidate over the maximum campaign valuation and program funds are available at that time.
- Candidates may use democracy voucher proceeds only for campaign costs or debts for the relevant office and election cycle, and may not use such proceeds after a reasonable period.

Candidate Eligibility

- Candidates running for the office of Mayor, City Attorney, or City Council shall be eligible to file for program participation and must file with the Commission to participate.
- Candidates must file a declaration of candidacy which includes a pledge attesting to the candidate's intent to participate and comply with campaign laws and program requirements such as:
 - Taking part in at least three debates or similar public events for primary and general elections
 - Not knowingly soliciting money for or on behalf of any political action committee, political party, or any organization that will make an independent expenditure for or against any City candidate within the same election cycle
- Candidates shall show they have received at least the following numbers of signatures and qualifying contributions of at least \$10 but not more than the program contribution limit for the office sought:
 - Mayoral candidates, \$600; City Attorney candidates, \$400; At-large City Council candidates, \$400; District City Council candidates, \$150 (of which at least \$75 shall be from individuals residing in that district).
 - Signatures and contributions may come from different residents.
 - The Commission shall maintain a list of qualified candidates and make it readily accessible to the public, including by publishing it on the Commission's website.

Voucher Structure

- The Democracy Voucher program in Seattle is funded by a property tax of \$3 million per year, and costs each household about \$8 per year.
- All registered voters and eligible Seattle residents who have applied to the program via the online form, can receive four \$25 Democracy Vouchers by mail. Vouchers are sent out no later than the first business day in March during an election cycle.
- Then, voters assign their Democracy Voucher to a candidate who can then use the voucher to finance their campaign activities.

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The Seattle Ethics and Elections Commission administers the City’s Election Campaign Code and its campaign matching fund program. The Commission solicits and accepts donations for the campaign matching fund account, determines eligibility for campaign matching funds, disburses the campaign matching funds, and seeks recovery of the funds as needed.

- The code details rules and regulations obtaining the use, assignment and delivery of the vouchers by voters, including how:
 - Voters can assign a democracy voucher to a candidate
 - A person may assign any number of the person's democracy vouchers to the same candidate in a given year.
 - Offering to purchase, buy, or sell a democracy voucher is prohibited.
 - A democracy voucher expires if the holder is no longer a resident of Seattle.

Seattle has used the voucher program in two elections so far. The first time the vouchers were used was in 2017 wherein “more than 20,000 people returned vouchers—only half that number made cash contributions—and voucher users were more representative of the overall electorate than cash donations.”¹⁴ Now, the program is being used a second time for the 2020 municipal election, but local officials are noticing certain political action committees (PAC’s) receive large contributions from donors who still want their interests served. This has resulted in significant increases in the amounts given to individual expenditure committees and thus exponentially growing overall contributions to individual expenditures. Future discussions may consider the idea of capping contributions by political committees, as evidently the voucher system is still working through its kinks.

Intersections between Gainesville and these findings

After reviewing the cities reported in the research, the one which most closely mirrors Gainesville in terms of population size is Tucson, Arizona. Tucson utilizes a matching funds program and funds its program solely through gifts and donations made to the City. Should there be fiscal concerns about enacting a fund in Gainesville, this may be a good first approach for getting a program started. Then, the City can practice flexibility with the sources of the matching funds as the city sees best fit and financially efficient based on the options provided. Before a program can be implemented in Gainesville, however, further research into the legality of public campaign financing for municipal elections would need to be conducted to ensure that as a City we are not preempted under state law.

PRELIMINARY COST/BENEFIT ANALYSIS

Costs

- Fiscal impact to General Fund for matching campaign contributions
- Households may struggle to afford individually contributing funds or a tax increase to be used toward a trust fund for publicly funded campaigns.
 - In light of this, considering a program funded by **donations** or other services that the city charges a **fee** for may be more reasonable or achievable

¹⁴ <https://www.motherjones.com/politics/2019/10/seattle-does-out-public-funds-to-its-residents-to-use-for-political-campaigns-can-it-stand-up-to-citizens-united/>

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- In some cases, private corporations and big spenders end up pouring more funds into Political Action Committees (PAC's) since some public campaign funding programs limit individual contributions.
 - In order to get the money of special interest out of local campaigns and elections, a public campaign fund program should consider limiting contributions from political action committees in a balanced manner **proportional** to individual contribution limits so that candidates are able to be competitive while not being put at a disadvantage for taking part in the program.

Benefits

- Greater voter participation in City elections
- Increased opportunities for more residents to run for office
- Reduced influence from large contributions from businesses, political action groups and other large organizations
- Candidates are more responsive to the voters in their jurisdiction

PRELIMINARY AND ILLUSTRATIVE LIST OF POTENTIAL STAKEHOLDERS

Potential Stakeholders

- Alachua County Supervisor of Elections
- Gainesville Office of the Clerk of the Commission
- City Auditor
- Gainesville City Attorney
- Office of Equal Opportunities
- Assistant City Manager's Office

RECOMMENDED POINTS FOR FURTHER RESEARCH/DISCUSSION

- Preliminarily, there should be a determination of whether a public financing option is necessary for reaching the Commission's goals. It would also be important to determine whether the cost of campaigning is an actual, substantial impediment to willing candidates.
- Determining the legality of a municipal publicly funded campaign program under Florida State Statutes and ensure that Gainesville is not preempted by state law.
- If a Commission on Ethics is established, considering their board as the body to administer the program and funds