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CITY OF ALBUQUERQUE

# CITY of ALBUQUERQUE

## TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-165 ENACTMENT NO. R-2019-054

SPONSORED BY: Ken Sanchez, by request

1 RESOLUTION  
2 ADOPTING PROPOSITIONS TO BE SUBMITTED TO THE VOTERS AT THE  
3 NEXT LOCAL ELECTION TO BE HELD IN THE CITY OF ALBUQUERQUE  
4 CONCERNING QUESTIONS AMENDING ARTICLE II, SECTIONS 2 AND 3;  
5 ARTICLE IV, SECTION 4; ARTICLE V, SECTION 2; AND ARTICLE XVI,  
6 SECTIONS 3, 4, 6, 7, 8, 10, 12, 15, AND 21, OF THE ALBUQUERQUE CITY  
7 CHARTER; AND ADDING SECTION 22 TO ARTICLE XVI OF THE  
8 ALBUQUERQUE CITY CHARTER, PROVIDING THE FORM OF THE QUESTIONS  
9 AND THE DESIGNATION CLAUSE FOR SUCH QUESTIONS ON THE BALLOT.

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10 WHEREAS, there have been recent changes to state election laws, a  
11 certified citizen petition to amend the City Charter, and there is a need to  
12 clarify and adjust the City of Albuquerque's election and public financing  
13 processes to ensure transparency, accountability, and maintain the efficient  
14 administration of elections; and

15 WHEREAS, the City Council approved proposition F/S P-18-01 (enactment  
16 P-2018-001) proposing to amend Article VI of the City Charter, Section 4, and  
17 Article XVI of the City Charter, Sections 3, 4, 6, 7, 8, 12, 15, and 21, and to add  
18 Section 22; and

19 WHEREAS, there have been significant changes to law and policy since the  
20 Open and Ethical Elections Code was enacted; and

21 WHEREAS, F/S P-18-01 specified that the City Clerk is required to  
22 coordinate with the Bernalillo County Clerk to prepare and file any necessary  
23 documents and agreements for an election on P-2018-001; and

24 WHEREAS, pursuant to Article VI of the Albuquerque City Charter and §§ 2-  
25 4-10, 11, 12, 13 and 14 ROA 1994, proponents of an amendment to Article II,

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1 Sections 2 and 3; Article IV, Section 4; Article V, Section 2; and Article XVI,  
2 Sections 3, 7, 10, and 12 (“Petitioners”) circulated petitions; and

3 WHEREAS, Petitioners were required to gather 19,480 valid signatures from  
4 registered voters within the City of Albuquerque; and

5 WHEREAS, on July 31, 2018, Petitioners filed the required petitions with the  
6 Office of the City Clerk; and

7 WHEREAS, Petitioners acquired the signatures needed to put the proposal  
8 to a vote under Article VI.

9 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
10 ALBUQUERQUE:

11 SECTION 1: That the City Clerk is instructed to place the following proposal on  
12 the next municipal election ballot, and the qualified voters of the City of  
13 Albuquerque shall be permitted to vote “for” or “against” the following  
14 propositions:

15 (A) QUESTIONS TO BE SUBMITTED.

16 1) PROPOSITIONS. The City Clerk is instructed to coordinate  
17 with the Bernalillo County Clerk to place the following  
18 summaries, titles, and complete text of the following proposed  
19 amendments to the City’s qualified, registered voters who  
20 shall be permitted to vote “for” or “against:” The ballot face  
21 shall be in substantially the following form:  
22

23 OFFICIAL ELECTION BALLOT  
24 LOCAL ELECTION  
25 HELD NOVEMBER 5, 2019  
26

27 **PROPOSITION 1:** Proposition to amend Article XVI of the Albuquerque City  
28 Charter to update public financing rules.

29 **SUMMARY**

30 Shall the City of Albuquerque adopt the following amendments to update the  
31 language of the Open and Ethical Elections Code, which provides for public  
32 financing of City candidates: clarify the use of in-kind contributions, increase

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1 how much seed money a candidate can collect, provide definitions for  
2 "election cycle" and "candidate," require candidates to follow public financing  
3 contribution limits for one year before asking for public funds, increase funds  
4 for publically financed mayoral candidates and set a minimum distribution for  
5 council candidates in districts with fewer than 40,000 registered voters,  
6 enforce City Clerk's administrative rules, and allow the City Council to amend  
7 the Open and Ethical Elections Code by ordinance with a vote of a majority  
8 plus two of the entire membership of the Council? This will not increase the  
9 tax rate.

11 TITLE AND PROPOSITION

12 PROPOSING TO AMEND ARTICLE XVI, SECTIONS 3, 4, 6, 8, 12, 15, AND 21, OF  
13 THE ALBUQUERQUE CITY CHARTER, AND TO ADD SECTION 22:  
14 CITY CHARTER, ART. XVI, OPEN AND ETHICAL ELECTIONS CODE  
15 SECTION 3. DEFINITIONS

16 SECTION 3(K).

17 IN-KIND CONTRIBUTION. A good or service, other than money,  
18 having monetary value not to exceed more than [\$2,500.00] ~~[5% of~~  
19 ~~the annual salary for such office at the time of filing the Declaration~~  
20 ~~of Candidacy]~~, but not including an individual who volunteers his  
21 own personal service. [Professional services, including legal  
22 services, accounting services, consulting services and similar  
23 services provided directly from the professional to the Applicant  
24 Candidate or Participating Candidate are permitted, provided no  
25 single In-Kind Contributor exceeds the \$2,500.00 limitation herein  
26 and provided the total value of all In-Kind Contributions does not  
27 exceed 10% of the applicable spending limit per regular or run-off  
28 election. Notwithstanding the foregoing, an Applicant Candidate or  
29 Participating Candidate may accept unlimited In-Kind Contributions  
30 in the following areas: 1) legal services provided directly from  
31 attorneys for the purpose of providing legal advice to comply with  
32 election laws and public financing laws, 2) professional services

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provided directly from the professional, including attorneys, experts and consultants, for the sole purpose of participating in a proceeding under the Code of Ethics, the Election Code, the Open and Ethical Elections Code, or the rules and regulations of the Board of Ethics and/or City Clerk, and 3) office space. Such In-Kind Contributions shall be reported as required by Article XIII, Section 4.

**SECTION 3(R).**

**SEED MONEY.** A contribution in support of an Applicant Candidate of no more than ~~[\$100]~~ [\$250.00] per Person, except for the Applicant Candidate who can contribute up to ~~[\$500]~~ [\$2,500.00], raised for the primary purpose of enabling Applicant Candidates to collect Qualifying Contributions and petition signatures the aggregate amount of which may not exceed ~~[40%]~~ [20%] of the applicable spending limit.

**[SECTION 3(S)]**

**ELECTION CYCLE.** The period beginning on the day after the regular or run-off election for any municipal office and ending on the day of the next regular election for that office.]

**[SECTION 3(T)]**

**CANDIDATE.** “Candidate” has the same definition that is provided in Article XIII, Section 2 of the Election Code, with the addition that “Candidate” also includes any individual who has filed a declaration of intent to seek public financing.]

**SECTION 4. TERMS OF PARTICIPATION - DECLARATION OF INTENT.**

**[SECTION 4(E)]**

**The declaration of intent shall specify that the Applicant Candidate has not, within one year prior to the declaration, raised or expended any monies in excess of the pre- and post- Exploratory Period**

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1 contribution limitations with the intent or effect of campaigning for  
2 any elected office. Any Applicant Candidate who has, within one  
3 year before filing the declaration, raised or expended any monies in  
4 excess of the pre- and post- Exploratory Period contribution  
5 limitations with the purpose or effect of campaigning for elected  
6 office, shall be disqualified from receiving funds under this Code.]  
7

8 SECTION 6. SEED MONEY-IN-KIND CONTRIBUTIONS.

9 (A) An Applicant Candidate may accept Seed Money [during the  
10 Exploratory Period and Qualifying Period] not to exceed [\$100]  
11 [\$250.00] per Person.

12 (B) An Applicant Candidate may contribute up to [\$500]  
13 [\$2,500.00] from the Applicant Candidate's personal funds for Seed  
14 Money.

15 (C) Seed Money [~~that exceeds 10% of the applicable distribution to~~  
16 ~~a Participating Candidate]~~ shall be deducted from the revenues  
17 distributed to the [Applicant] [Participating] Candidate from the  
18 Fund.

19 (D) The aggregate amount of Seed Money received and spent by  
20 an Applicant Candidate shall not exceed an amount equal to [40%]  
21 [20%] of the applicable distribution to a Participating Candidate.

22 (E) An Applicant Candidate [or Participating Candidate] may  
23 accept In-Kind Contributions from the beginning of the Exploratory  
24 Period up to the regular municipal election[, or, in the event that a  
25 Participating Candidate is in a run-off, up to the run-off election].  
26 The value of any In-Kind Contribution shall not count against the  
27 applicable limit on Seed Money contributions. The aggregate  
28 amount of In-Kind Contributions received by an Applicant Candidate  
29 shall not exceed an amount equal to 10% of the applicable spending  
30 limit.  
31

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1 SECTION 8. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO  
2 AND EXPENDITURES OF PARTICIPATING CANDIDATES.

3 SECTION 8(B)

4 A Participating Candidate shall limit total campaign Expenditures  
5 and debts to the amount of money distributed to that Participating  
6 Candidate from the Fund[,] [~~plus any collected Seed Money.~~] A  
7 Participating Candidate shall not accept contributions or loans from  
8 any other source.

9  
10 SECTION 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

11 SECTION 12(B)

12 The Clerk shall distribute the [~~\$1.00~~] [\$1.75] per registered City voter  
13 to Mayoral Participating Candidates and \$1.00 per registered City  
14 voter residing in the district in which the Participating [Council]  
15 Candidate desires to represent. [Notwithstanding the foregoing, in  
16 Council districts containing fewer than 40,000 registered voters, the  
17 Clerk shall distribute \$40,000 to each Participating Council  
18 Candidate, in lieu of \$1.00 per registered City voter residing in the  
19 district.]

20  
21 SECTION 15. RUN-OFF ELECTIONS.

- 22 (A) On the Friday after a municipal election when the election  
23 results are certified, the Clerk shall issue Fund revenue to each  
24 Participating Candidate involved in a runoff election in the following  
25 amounts:
- 26 (1) for Mayoral candidates [~~\$0.33~~] [\$0.60] per registered City  
27 voter; and
  - 28 (2) for Council candidates \$0.33 per registered City voter  
29 residing in a Council district. [Notwithstanding the foregoing, in  
30 Council districts containing fewer than 40,000 registered voters, the  
31 Clerk shall distribute \$13,200 to each Participating Council

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Candidate, in lieu of \$0.33 per registered City voter residing in the district.]

**SECTION 21. ENFORCEMENT**

The ~~[Clerk and]~~ Board of Ethics and Campaign Practices shall enforce the Open and Ethical Elections Code pursuant to Articles XII and XIII of the City Charter [and pursuant to rules promulgated by the Clerk].

**SECTION 22. AMENDMENTS.**

The Open and Ethical Elections Code may be amended without requiring compliance with Article VI of this Charter by ordinance adopted by a majority plus two of the entire membership of the Council voting in favor of such amendment or amendments, and said ordinance being otherwise governed by Article XI of this Charter.]

FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

**PROPOSITION 2:** Proposition to Amend the City Charter by Adding Democracy Dollars to the city's public financing system and Changing Election Dates to Comply with State Statute.

**SUMMARY:**

Proposing to amend the City Charter by adding Democracy Dollars to the city's Open and Ethical Elections Code.

**Shall the City of Albuquerque adopt the following amendments to update the language of the Open and Ethical Elections Code, which provides for public financing of City candidates: provide eligible city residents with Democracy Dollars, to contribute to their choice of qualified candidates, which the candidates could redeem with the City Clerk, up to a limit, for funds to spend in support of their**

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1 campaigns, as directed by the City Council, and increase the funds  
2 for publically financed mayoral candidates? This will not increase  
3 the tax rate.

4 TITLE & PROPOSITION

5 PROPOSING TO AMEND ARTICLE XVI, SECTIONS 3, 7, 10, AND 12 OF THE  
6 ALBUQUERQUE CITY CHARTER:

7  
8 CITY CHARTER, Art. XVI, OPEN AND ETHICAL ELECTIONS CODE  
9 Section 3. DEFINITIONS.

10 [(S) COUPON ("DEMOCRACY DOLLARS"). A credit of Fund revenue issued to  
11 an eligible resident of the City of Albuquerque, which may be redeemed by a  
12 Participating Candidate for Fund revenue as provided in the Open and Ethical  
13 Elections Code.]

14  
15 Section 7. CERTIFICATION OF PARTICIPATION.

16 (A) Upon receipt of a final submittal of Qualifying Contributions by an  
17 Applicant Candidate, the Clerk shall determine whether the Applicant  
18 Candidate has:

19 (3) ~~[qualified as a candidate pursuant to other applicable City and State~~  
20 ~~election law]~~ [submitted a nominating petition containing the number of  
21 signatures prescribed by Article II, Section 4, of this Charter, and a sworn  
22 statement attesting to the candidate's residency within the city and, where  
23 applicable, within the council district that the candidate seeks to represent];

24  
25 Section 10. FUND CREATION - FUND USE.

26 [(F) The Council shall enact an ordinance providing for the issuance,  
27 assignment and redemption of Democracy Dollars, and any other provisions  
28 necessary to properly administer Democracy Dollars as part of the Open and  
29 Ethical Elections Code.]

30  
31 Section 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

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1 [(A) (3) For redemption of coupons on regular dates set by the Clerk to  
2 candidates who have been certified as Participating Candidates pursuant to  
3 Section 7 of the Open and Ethical Elections Code.]

4 (B) The Clerk shall distribute [from the Fund:]

5 [(1)] [the\$4.00] [\$1.75] per registered City voter to Mayoral Participating  
6 Candidates[,] and [to Participating Candidates for Council] \$1.00 per  
7 registered City voter residing in the district in which the Participating  
8 Candidate desires to represent[; and

9 (2) \$25.00 for each Coupon redeemed by a Participating Candidate;  
10 provided that, the total amount of Fund revenue redeemed by a Participating  
11 Candidate under this subsection shall not exceed the amount such candidate  
12 is eligible to receive under subsection (B)(1) of this section.

13 (3) City Council by ordinance may increase but shall not decrease the  
14 dollar amounts in subsections (B)(1) and (B)(2) of this section.]

15 (C) The amount of revenue to be distributed to a Participating Candidate  
16 [under subsection (B)(1)] shall be reduced by an amount equal to the  
17 aggregate amount of Seed Money contributions received by the Participating  
18 Candidate during the Exploratory and Qualifying Periods and by Qualifying  
19 Contributions received by the Participating Candidate during the applicable  
20 Qualifying Period.

21

22 FOR \_\_\_\_\_ AGAINST \_\_\_\_\_

23

24 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
25 word, or phrase of this resolution is for any reason held to be invalid or  
26 unenforceable by any court of competent jurisdiction, such decision shall not  
27 affect the validity of the remaining provisions of this resolution. The Council  
28 hereby declares that it would have passed this resolution and each section,  
29 paragraph, sentence, word or phrase thereof irrespective of any provision  
30 being declared unconstitutional or otherwise invalid.

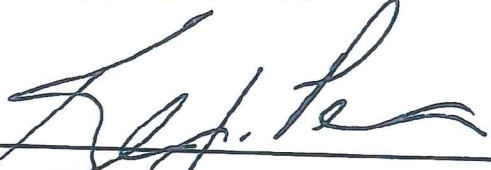
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1 PASSED AND ADOPTED THIS 19th DAY OF August, 2019  
2 BY A VOTE OF: 6 FOR 0 AGAINST.

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4 Excused: Borrego, Harris, Winter

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8 Klarissa J. Peña, President  
9 City Council

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13 APPROVED THIS 22 DAY OF August, 2019

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16 Bill No. R-19-165

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19 Timothy M. Keller, Mayor  
20 City of Albuquerque

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25 ATTEST:

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27 Katy Duhigg, City Clerk