

CITY of ALBUQUERQUE
TWENTY THIRD COUNCIL

COUNCIL BILL NO. R-19-165 ENACTMENT NO. _____

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.

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

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1 WHEREAS, pursuant to Article VI of the Albuquerque City Charter and §§ 2-
2 4-10, 11, 12, 13 and 14 ROA 1994, proponents of an amendment to Article II,
3 Sections 2 and 3; Article IV, Section 4; Article V, Section 2; and Article XVI,
4 Sections 3, 7, 10, and 12 (“Petitioners”) circulated petitions; and

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

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

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

11 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY
12 OF ALBUQUERQUE:

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

17 (A) QUESTIONS TO BE SUBMITTED.

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

24
25 OFFICIAL ELECTION BALLOT

26 LOCAL ELECTION

27 HELD NOVEMBER 5, 2019

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29 PROPOSITION 1: Proposition to amend Article XVI of the Albuquerque City
30 Charter to update public financing rules.

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1 SUMMARY

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

14 TITLE AND PROPOSITION

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

18 SECTION 3. DEFINITIONS

19 SECTION 3(K).

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

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1 in the following areas: 1) legal services provided directly from
2 attorneys for the purpose of providing legal advice to comply with
3 election laws and public financing laws, 2) professional services
4 provided directly from the professional, including attorneys, experts
5 and consultants, for the sole purpose of participating in a
6 proceeding under the Code of Ethics, the Election Code, the Open
7 and Ethical Elections Code, or the rules and regulations of the Board
8 of Ethics and/or City Clerk, and 3) office space. Such In-Kind
9 Contributions shall be reported as required by Article XIII, Section 4.]

10
11 SECTION 3(R).

12 SEED MONEY. A contribution in support of an Applicant Candidate
13 of no more than [~~\$400~~] [\$250.00] per Person, except for the Applicant
14 Candidate who can contribute up to [~~\$500~~] [\$2500.00], raised for the
15 primary purpose of enabling Applicant Candidates to collect
16 Qualifying Contributions and petition signatures the aggregate
17 amount of which may not exceed [~~40%~~] [20%] of the applicable
18 spending limit.

19
20 [SECTION 3(S)

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

24
25 [SECTION 3(T)

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

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

2 SECTION 4(E)

3 The declaration of intent shall specify that the Applicant Candidate
4 has not, within one year prior to the declaration, raised or expended
5 any monies in excess of the pre- and post- Exploratory Period
6 contribution limitations with the intent or effect of campaigning for
7 any elected office. Any Applicant Candidate who has, within one
8 year before filing the declaration, raised or expended any monies in
9 excess of the pre- and post- Exploratory Period contribution
10 limitations with the purpose or effect of campaigning for elected
11 office, shall be disqualified from receiving funds under this Code.]

12
13 SECTION 6. SEED MONEY-IN-KIND CONTRIBUTIONS.

14 (A) An Applicant Candidate may accept Seed Money [during the
15 Exploratory Period and Qualifying Period] not to exceed [\$100]
16 [\$250.00] per Person.

17 (B) An Applicant Candidate may contribute up to [~~\$500~~] [\$2500.00]
18 from the Applicant Candidate's personal funds for Seed Money.

19 (C) Seed Money [~~that exceeds 10% of the applicable distribution to~~
20 ~~a Participating Candidate]~~ shall be deducted from the revenues
21 distributed to the [Applicant] [Participating] Candidate from the
22 Fund.

23 (D) The aggregate amount of Seed Money received and spent by
24 an Applicant Candidate shall not exceed an amount equal to [40%]
25 [20%] of the applicable distribution to a Participating Candidate.

26 (E) An Applicant Candidate [or Participating Candidate] may
27 accept In-Kind Contributions from the beginning of the Exploratory
28 Period up to the regular municipal election[, or, in the event that a
29 Participating Candidate is in a run-off, up to the run-off election].

30 The value of any In-Kind Contribution shall not count against the
31 applicable limit on Seed Money contributions. The aggregate
32 amount of In-Kind Contributions received by an Applicant Candidate

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1 shall not exceed an amount equal to 10% of the applicable spending
2 limit.

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4 SECTION 8. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO
5 AND EXPENDITURES OF PARTICIPATING CANDIDATES.

6 SECTION 8(B)

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

12

13 SECTION 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

14 SECTION 12(B)

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

23

24 SECTION 15. RUN-OFF ELECTIONS.

25 (A) On the Friday after a municipal election when the election
26 results are certified, the Clerk shall issue Fund revenue to each
27 Participating Candidate involved in a runoff election in the following
28 amounts:

29 (1) for Mayoral candidates [~~\$0.33~~] [\$0.60] per registered City
30 voter; and

31 (2) for Council candidates \$0.33 per registered City voter
32 residing in a Council district. [Notwithstanding the foregoing, in

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1 Council districts containing less than 40,000 registered voters, the
2 Clerk shall distribute \$13,200 to each Participating Council
3 Candidate, in lieu of \$.33 per registered City voter residing in the
4 district.]

5
6 SECTION 21. ENFORCEMENT

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

11
12 [SECTION 22. AMENDMENTS.

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

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19 FOR _____ AGAINST _____

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

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25 SUMMARY:

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

28
29 Shall the City of Albuquerque adopt the following amendments to
30 update the language of the Open and Ethical Elections Code, which
31 provides for public financing of City candidates: provide eligible city
32 residents with Democracy Dollars, to contribute to their choice of

1 qualified candidates, which the candidates could redeem with the
2 City Clerk, up to a limit, for funds to spend in support of their
3 campaigns, as directed by the City Council, and increase the funds
4 for publically financed mayoral candidates? This will not increase
5 the tax rate.

6
7 TITLE & PROPOSITION

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

10 CITY CHARTER, Art. XVI, OPEN AND ETHICAL ELECTIONS CODE

11 Section 3. DEFINITIONS.

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

16
17 Section 7. CERTIFICATION OF PARTICIPATION.

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

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

26
27 Section 10. FUND CREATION - FUND USE.

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

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1 Section 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

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

5 (B) The Clerk shall distribute from the Fund:

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

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

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

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

22
23 FOR _____ AGAINST _____

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