

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; ARTICLE VIII, SECTION 14
6 AND ARTICLE XVI, SECTIONS 3, 4, 8, 12, 15, 20 AND 21, OF THE
7 ALBUQUERQUE CITY CHARTER; AND ADDING SECTION 22 TO ARTICLE XVI
8 OF THE ALBUQUERQUE CITY CHARTER, PROVIDING THE FORM OF THE
9 QUESTIONS AND THE DESIGNATION CLAUSE FOR SUCH QUESTIONS ON
10 THE BALLOT.

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

16 WHEREAS, the City Council approved proposition F/S P-18-01 (enactment
17 P-2018-001) proposing to amend Article VI of the City Charter, Section 4, and
18 Article XVI of the City Charter, Sections 3, 4, 6, 7, 8, 12, 15, 20, and 21, and to
19 add Section 22; and

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

22 WHEREAS, F/S P-18-01 specified that the City Clerk is required to
23 coordinate with the Bernalillo County Clerk to prepare and file any necessary
24 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; Article VIII, Section
4 14 and Article XVI, Sections 3, 7, 10, and 12 (“Petitioners”) circulated
5 petitions; and

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

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

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

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

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

18 (A) QUESTIONS TO BE SUBMITTED.

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

25 OFFICIAL ELECTION BALLOT

26 LOCAL ELECTION

27 HELD NOVEMBER 5, 2019

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

32 SUMMARY

1 The amendments update the language of the Open and Ethical Elections Code
2 to reflect changes in law and policy that have occurred since the Open and
3 Ethical Elections Code was passed in 2005. The amendments clarify the use of
4 in-kind contributions, increase allowable seed money but require that public
5 funds be reduced to offset any seed money collected, provide definitions for
6 the terms “election cycle” and “candidate,” require candidates seeking public
7 funds to abide by contribution requirements for one year prior to seeking
8 public funds, increase distribution amounts for mayoral candidates and set a
9 minimum distribution for council candidates in districts with fewer than 40,000
10 registered voters, remove outdated language regarding matching funds, allow
11 enforcement of the City Clerk’s administrative rules, and allow the City
12 Council to amend the Open and Ethical Elections Code by ordinance with a
13 vote of a majority plus two of the entire membership of the Council. The
14 proposed changes do not increase taxes. The proposed changes to the City
15 Charter are underlined and identified below:

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TITLE AND PROPOSITION

**PROPOSING TO AMEND ARTICLE XVI, SECTIONS 3, 4, 8, 12, 15, 20 AND 21,
OF THE ALBUQUERQUE CITY CHARTER, AND TO ADD SECTION 22:
CITY CHARTER, ART. XVI, OPEN AND ETHICAL ELECTIONS CODE
SECTION 3. DEFINITIONS**

**SECTION 3(K).
IN-KIND CONTRIBUTION. A good or service, other than money,
having monetary value not to exceed more than [\$2,500.00] ~~[5% of
the annual salary for such office at the time of filing the Declaration
of Candidacy]~~, but not including an individual who volunteers his
own personal service. [Professional services, including legal
services, accounting services, consulting services and similar
services provided directly from the professional to the Applicant
Candidate or Participating Candidate are permitted, provided no
single In-Kind Contributor exceeds the \$2,500.00 limitation herein
and provided the total value of all In-Kind Contributions does not**

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1 exceed 10% of the applicable spending limit per regular or run-off
2 election. Notwithstanding the foregoing, an Applicant Candidate or
3 Participating Candidate may accept unlimited In-Kind Contributions
4 in the following areas: 1) legal services provided directly from
5 attorneys for the purpose of providing legal advice to comply with
6 election laws and public financing laws, 2) professional services
7 provided directly from the professional, including attorneys, experts
8 and consultants, for the sole purpose of participating in a
9 proceeding under the Code of Ethics, the Election Code, the Open
10 and Ethical Elections Code, or the rules and regulations of the Board
11 of Ethics and/or City Clerk, and 3) office space. Such In-Kind
12 Contributions shall be reported as required by Article XIII, Section 4.]
13

14 SECTION 3(R).

15 SEED MONEY. A contribution in support of an Applicant Candidate
16 of no more than [~~\$400~~] [\$250.00] per Person, except for the Applicant
17 Candidate who can contribute up to [~~\$500~~] [\$2,500.00], raised for the
18 primary purpose of enabling Applicant Candidates to collect
19 Qualifying Contributions and petition signatures the aggregate
20 amount of which may not exceed [~~40%~~] [20%] of the applicable
21 spending limit.
22

23 [SECTION 3(S)

24 ELECTION CYCLE. The period beginning on the day after the regular
25 or run-off election for any municipal office and ending on the day of
26 the next regular election for that office.]
27

28 [SECTION 3(T)

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

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

SECTION 6. SEED MONEY-IN-KIND CONTRIBUTIONS.

(A) An Applicant Candidate may accept Seed Money [during the Exploratory Period and Qualifying Period] not to exceed ~~[\$400]~~ [\$250.00] per Person.

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

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

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

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

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1 The value of any In-Kind Contribution shall not count against the
2 applicable limit on Seed Money contributions. The aggregate
3 amount of In-Kind Contributions received by an Applicant Candidate
4 shall not exceed an amount equal to 10% of the applicable spending
5 limit.

6

7 **SECTION 8. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO**
8 **AND EXPENDITURES OF PARTICIPATING CANDIDATES.**

9 **SECTION 8(B)**

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

15

16 **SECTION 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.**

17 **SECTION 12(B)**

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

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27 **SECTION 15. RUN-OFF ELECTIONS.**

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

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

3 (2) for Council candidates \$0.33 per registered City voter
4 residing in a Council district. [Notwithstanding the foregoing, in
5 Council districts containing fewer than 40,000 registered voters, the
6 Clerk shall distribute \$13,200 to each Participating Council
7 Candidate, in lieu of \$.33 per registered City voter residing in the
8 district.]

9
10 SECTION 21. ENFORCEMENT

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

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16 SECTION 22. AMENDMENTS.

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

22
23 FOR _____ AGAINST _____

24
25 PROPOSITION 2: Proposition to Amend the City Charter by Adding Democracy
26 Dollars to the city's public financing system and Changing Election Dates to
27 Comply with State Statute.

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29 SUMMARY:

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

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1 If passed, the Charter Amendment would provide eligible city
2 residents with Democracy Dollars, to contribute to their choice of
3 qualified candidates. These candidates could redeem Democracy
4 Dollars with the City Clerk, up to a limit, for funds to spend in
5 support of their campaigns. The amendment also directs the city
6 council to enact an ordinance providing for the issuance,
7 assignment, and redemption of Democracy Dollars. Currently, the
8 charter provides that qualified candidates are eligible for an initial
9 amount to cover allowed outreach to voters. The Charter Amendment
10 would change the amount for mayoral candidates to \$1.75 per voter.

11
12 This amendment will also change city election dates so that they
13 comply with the State's Local Election Act.

14
15 TITLE & PROPOSITION

16 PROPOSING TO AMEND ARTICLE II, SECTIONS 2 AND 3; ARTICLE IV,
17 SECTION 4; ARTICLE V, SECTION 2; ARTICLE VIII, SECTION 14 AND ARTICLE
18 XVI, SECTIONS 3, 7, 10, AND 12 OF THE ALBUQUERQUE CITY CHARTER:

19
20 CITY CHARTER, Art. II. ELECTIONS
21 Section 2. ELECTION DATES.

22 [R]egular municipal elections shall be held on the first Tuesday after the
23 first Monday in [~~October~~] November of odd-numbered years...

24
25 Section 3. REFERENCE TO STATE LAW.

26 (a) The Local Election Act [~~Chapter 3, Articles 8 and 9, NMSA 1978~~] as
27 amended and as supplemented from time to time, shall govern the conduct of
28 all aspects of municipal elections, except where inconsistent with the terms of
29 this Charter, in which event this Charter shall control.

30
31 CITY CHARTER, Art. IV, COUNCIL.

32 Section 4. TERMS OF OFFICE.

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1 The terms of the office of a Councillor, unless sooner recalled or removed,
2 shall begin on ~~[December]~~ [January] 1st of the year of [following] the election
3 and be four years or until a successor is duly elected and qualified.

4
5 CITY CHARTER, Art. V, MAYOR.

6 Section. 2. MAYOR'S TERM AND SALARY.

7 The term of Mayor, unless sooner recalled or removed, shall begin on
8 ~~[December]~~ [January] 1st of the year of [following] the election and shall be for
9 four years or until a successor is duly elected and qualified.

10

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

12 Section 3. DEFINITIONS.

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

17

18 Section 7. CERTIFICATION OF PARTICIPATION.

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

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

27

28 Section 10. FUND CREATION - FUND USE.

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

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Section 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

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

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

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

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

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

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

FOR _____ AGAINST _____

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