



Legislation Details (With Text)

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Type: Ordinance **Status:** Enacted

File created: 5/20/2024 **In control:** City Council

Final action: 10/21/2024

Enactment date: 11/15/2024 **Enactment #:** O-2024-036

Title: F/S Amending Articles XII, XIII And XVI Of The City Charter Relating To Disclosure, Elections And Public Campaign Financing (Baca, by request)

Sponsors: Joaquin Baca (By Request)

Indexes:

Code sections:

Attachments: 1. O-25, 2. O-25Blueline Version-FGO 6-10-24, 3. O-24-25 Amendments FGO 6-10-24, 4. O-25 Approved FS Baca, 5. O-25 Amendments CC 9-16-24, 6. O-25 Amendments CC 10-7-24, 7. O-25 FS Blueline Version-CC 10-7-24, 8. O-25 FS Blueline Version-CC 9-16-24, 9. FS O-25Enacted

Date	Ver.	Action By	Action	Result
11/15/2024	3	City Clerk	Published	
11/6/2024	3	Mayor	Signed by the Mayor	
10/29/2024	2	City Council	Sent to Mayor for Signature	
10/21/2024	2	City Council	Passed	Pass
10/7/2024	2	City Council	Amended	Pass
10/7/2024	2	City Council	Amended	Pass
10/7/2024	2	City Council	Postponed as Amended	Pass
9/16/2024	1	City Council	Substituted	Pass
9/16/2024	1	City Council	Amended	Pass
9/16/2024	1	City Council	Amended	Fail
9/16/2024	1	City Council	Postponed as Substituted, as Amended	Pass
9/16/2024	1	City Council	Motion	Pass
8/5/2024	1	City Council	Postponed	Pass
6/17/2024	1	City Council	Accepted Without Recommendation, as Amended	
6/10/2024	1	Finance & Government Operations Committee	Amended	Pass
6/10/2024	1	Finance & Government Operations Committee	Amended	Pass
6/10/2024	1	Finance & Government Operations Committee	Amended	Pass
6/10/2024	1	Finance & Government Operations Committee	Amended	
6/10/2024	1	Finance & Government Operations Committee	Sent to Council Without Recommendation, as Amended	Pass

5/20/2024	1	President	Referred
5/20/2024	1	City Council	Introduced

CITY of ALBUQUERQUE

TWENTY SIXTH COUNCIL

COUNCIL BILL NO. F/S O-24-25 ENACTMENT NO. _____

SPONSORED BY: Joaquín Baca, by request

ORDINANCE

F/S Amending Articles XII, XIII And XVI Of The City Charter Relating To Disclosure, Elections And
Public Campaign Financing (Baca, by request)

AMENDING ARTICLES XII, XIII AND XVI OF THE CITY CHARTER RELATING TO
DISLCOSURE, ELECTIONS AND PUBLIC CAMPAIGN FINANCING.

WHEREAS, additional clarifications around campaign finance reporting requirements are
necessary to ensure clarity and transparency; and

WHEREAS, the 2023 election cycle highlighted the need for updates to the Open and Ethical
Elections Code to ensure continued participation and compliance; and

WHEREAS, Article XII, XIII and XVI allow for the Council to amend these Articles of the City
Charter by ordinance adopted by a majority plus two of the entire membership of the Council
voting in favor of such amendment or amendments.

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
ALBUQUERQUE:

SECTION 1. Article XII of the City Charter is amended as follows, with all sections and
subsections renumbered accordingly:

Section 5. DISCLOSURE.

(a) An official of the City with any private financial interest in any contract or other matter pending
before or within the governmental body the official is employed by or a member of, shall file an
annual disclosure statement to the governmental body.

(b) Any Councilor who has a direct or indirect interest in any matter pending before the Council
shall disclose such interest on the records of the Council. The existence of a direct or indirect
private financial interest on any matter coming before the Council, including approval of a
contract, shall disqualify a Councilor from debating and voting on the matter. A majority of the

remaining members of the Council shall determine whether a Councilor has a direct or indirect interest and whether the Councilor shall be allowed to vote and participate in the decision-making process related to the matter. A Councilor who has a conflict of interest may voluntarily decline to vote and participate in the decision-making process related to the matter.

(c) The Mayor and each City Councilor, during their term of office, shall file contribution and expenditure disclosure statements on the second Monday in May and November of each year setting out all contributions and expenditures, as defined in the City Election Code, during the previous period, raised or spent in connection with any campaign or pre-campaign activity for any elected office. Expenditures of public funds in the regular course of the Mayor or Councilor's official duties are not contributions and expenditures subject to such disclosure under this section. The Mayor and Councilors are not required to file a biannual statement if they have had no campaign or pre-campaign contributions or expenditures during the previous period. These reporting requirements shall be in addition to the reporting requirements of the Election Code, provided that any information filed with the City Clerk pursuant to City Charter Article XIII, Section 4(c) need not be included in the subsequent biannual reports required by this section. The contributions and expenditures identified in the biannual statements that are to be applied to a campaign for election to a City office shall be included in the first campaign disclosure report that the candidate files pursuant to the Election Code.

(d) All elected officials and Department Directors shall file with the City Clerk an annual disclosure statement listing all of the changes or additions to the disclosure information provided by the elected official at the time of filing his or her declaration of candidacy pursuant to Section 3 of the Election Code or if a Department Director, at the time of beginning their position as a Director. If no changes have occurred, the official shall so state in the annual disclosure statement. The annual disclosure statement shall be due on the first city work day of July and shall be submitted on a form approved by the City Clerk. The annual disclosure statement shall be a public record.

(e) In addition to the information disclosed pursuant to Section 3 of the Election Code, the annual disclosure statement for all elected officials and Department Directors shall include the following information for the preceding calendar year:

- (1) the full name of the reporting individual and the reporting individual's spouse;
- (2) the name and address of any employer employing the reporting individual or the reporting individual's spouse, the title or position held, and a brief description of the nature of the business or occupation;

(3) the identity, zip code, and purpose of use of real property owned by the reporting individual, the reporting individual's spouse, or the reporting individual's dependent children; provided that in the absence of a zip code, the county of situs is required to be disclosed;

(4) the identity of assets of more than fifty thousand dollars (\$50,000) directly or beneficially owned by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children; provided that in determining whether an asset has a value of more than fifty thousand dollars (\$50,000), the value should not be reduced by any debt secured by the asset, such as a mortgage or other secured loan, and a good faith estimate of the fair market value of an asset is permitted if the exact value is neither known or easily obtainable. The disclosure of assets shall include:

(A) commodities, including the type of commodity;

(B) investments in stocks, bonds, futures contracts, options, derivatives, currency, real estate investment trusts, mutual funds, private equity funds, exchange-traded funds, and trust funds of which the reporting individual is a beneficiary; provided that if the investment is or forms part of a fund, the reporting individual is only required to identify the fund, the fund manager, and any underlying holdings of the fund that have a value of more than fifty thousand dollars (\$50,000); and

(C) contractual rights that are reasonably likely to generate future income, such as royalties and intellectual property, the names of the contracting parties, and the purpose of the contract;

(5) all sources of income equal to or greater than the amount that must be disclosed to the internal revenue service pursuant to 26 U.S.C. Section 6041(a), as amended, directly or indirectly accrued by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18, except for income below \$50,000 accrued by such dependent children, including:

(A) the identity of the source of earned income; provided that:

(i) if a source of earned income is owed a legal or professional duty of confidentiality and the identity of the source of the income has not been disclosed to a public agency, the reporting individual may identify the source as "confidential" and describe the duty of confidentiality that prevents disclosure of the source of the earned income; and

(ii) if an indirect source of earned income is a client of a business entity of which the reporting individual or the reporting individual's spouse is a member, the indirect source of earned

income is not required to be disclosed if the reporting individual or the reporting individual's spouse has no role in any matter involving the source; and

(B) the identity of sources of unearned income, including taxable interest, capital gains, dividends, annuities, trust distributions, rents from real property and insurance policies;

(6) Liabilities of more than five thousand dollars (\$5,000) owed by:

(A) the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18; and

(B) a trust of which the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18 are beneficiaries;

(7) For a liability identified pursuant to Subsection (6) of this section, the reporting individual shall disclose:

(A) the identity of the person who owes the debt or liability;

(B) the person to whom the debt or liability is owed;

(C) the amount of the debt or liability; and

(D) any payments on the debt or liability during the previous calendar year;

(8) The disclosure statement is not required to include:

(A) ordinary consumer debt;

(B) mortgage debt on the primary residence of the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18;

(C) student loans;

(D) liabilities owed to parents, grandparents, children or siblings of the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18; and

(E) One passenger vehicle registered to the reporting individual, the reporting individual's spouse, and the reporting individual's dependent children over the age of 18;

(9) The following information related to any privately held business controlled by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18:

(A) the name of the business entity, a brief description of the nature of its activities and its geographic location, including the City and State; and

(B) for a privately held business entity formed for the purpose of holding investments:

(i) assets of more than fifty thousand dollars (\$50,000) or that generated income

directly or beneficially owned by the business entity in an amount equal to or greater than the amount that must be disclosed to the internal revenue service pursuant to 26 U.S.C. Section 6041 (a), as amended; provided that in determining whether an asset has a value of more than fifty thousand dollars (\$50,000), the value should not be reduced by any debt secured by the asset, such as a mortgage or other secured loan; and

(ii) any liability of the business entity in an amount greater than fifty thousand dollars (\$50,000), including:

- (a) the identity of the business entity that owes the debt or liability;
- (b) the person to which the debt or liability is owned;
- (c) the amount of the debt or liability; and
- (d) any payments on the debt or liability during the previous calendar year;

(10) The following information related to professional licenses, memberships and offices held for the prior calendar year:

(A) professional licenses held by the reporting individual and the reporting individual's spouse; and

(B) board memberships, offices or other positions held by the reporting individual and the reporting individual's spouse in:

- (i) corporations, partnerships, trusts or other for-profit business entities; and
- (ii) nonprofit organizations, educational organizations, political organizations or other nongovernmental organizations; and

(11) Any gift received in the prior calendar year by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18 having a market value greater than fifty dollars (\$50.00) from a restricted donor, a registered lobbyist, a lobbyist's employer, a government contractor or a person that has responded to a request for proposals or an invitation to bid issued by the City.

SECTION 2. Article XIII of the City Charter is amended as follows, with all sections and subsections renumbered accordingly:

“Section 2. DEFINITIONS.

(a) "Anonymous Contribution" means a contribution received by a candidate or a Measure Finance Committee for which the contributor cannot be identified. Contributions received by a host pursuant to Section 4(j) of this Election Code shall not be considered anonymous contributions.

(b) "Broadly Distributed" means material that has been sent, delivered, or transmitted to more than 100 people.

(c) "Board" means the Board of Ethics and Campaign Practices established pursuant to Article XII of this Charter.

(d) "Campaign Materials" means any published, printed or broadly distributed campaign advertising or communications such as newspaper advertisements, handbills, petitions, circulars, letters, radio or TV broadcasts, cable distributions, social media sites, websites, electronic or telephonic transmissions or similar written material used in a campaign by a candidate or a Measure Finance Committee.

(e) "Candidate" means any individual who has (1) obtained a nominating petition from the City Clerk pursuant to Section 4(c)1.D. of this Election Code for the office of Mayor or Councilor, (2) filed an affidavit on a form approved by the City Clerk, stating that he or she is a candidate for either the office of Mayor or City Councilor, (3) filed as a candidate for elected office as required by law, whichever first occurs, or (4) has received or solicited contributions or made expenditures of one thousand dollars (\$1,000) or more or authorized another person or campaign committee to receive or solicit contributions or make expenditures of one thousand dollars (\$1,000) or more for the purpose of seeking election to the office.

(f) "Candidate Finance Committee" consists of the candidate, the candidate's treasurer, and any person authorized either expressly or by implication by the candidate to participate in the solicitation, receipt, expenditure, or employment of contributions on behalf of the candidate.

"Member of the Candidate Committee" means any such person.

(g) "Candidate's Treasurer" means the person who is appointed by a candidate to receive, keep and disburse all money which may be collected, received or disbursed by the candidate, the Candidate Finance Committee, or any of its members.

(h) "Contributions" means:

1. Monies, loans, debts incurred, obligations incurred, property in-kind, including the use thereof, or commercial or professional services:

A. Incurred or received by a candidate, the candidate's treasurer, the Candidate Finance Committee, or a member thereof on behalf of the candidate, or by a Measure Finance Committee or a member thereof on behalf of the Committee. For the purposes of this Subsection, a debt or obligation shall be considered incurred at the time authorization is given or contract made for the debt or obligation.

B. Not received by a person or entity named in Subparagraph A above, but expended or employed on behalf of a candidate or measure, where such monies, loans, debts incurred, obligations incurred, property in-kind, or commercial or professional services have been solicited or otherwise consented to by such committee or have been expended or employed in a manner or amount directed, authorized, either expressly, by implication, or consented to by such committee.

2. Contributions of property, including the use thereof, and contributions of commercial or professional services shall be attributed a cash value equal to their fair market value.

3. Notwithstanding the foregoing, none of the following shall be considered a contribution: a candidate's own services and property, other than cash; the use of a dwelling unit and residential premises incidental thereto for any campaign purpose and the provision of refreshments and entertainment in connection with such use; the services of the person who is performing the duties of the candidate's treasurer; and the use of vehicles for any campaign purpose other than in connection with the performance of a commercial or professional service.

4. The payment or waiver of legal fees to advise a candidate on compliance with campaign laws or regulations, and payment or waiver of legal fees or court costs to represent a candidate or candidate committee in any action reasonably related to the campaign or election in which the candidate or committee has been named as a defendant, are contributions that must be disclosed, but are not subject to any contribution limits in the Charter.

(i) "Coordinated Expenditure" means an expenditure that is made:

1. by a person other than the candidate or campaign committee;
2. at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of a candidate, campaign committee or political party; and
3. for the purpose of:

A. supporting or opposing the nomination or election of a candidate; or

B. paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot.

(j) "Corporation" means a corporation, company, limited liability company, limited partnership, business trust, business association, or other similar entity.

(k) "Covered Office" means the office of Mayor of the City of Albuquerque or the office of any City

Councilor.

(l) "Disclaimer" means a notice that identifies the person(s) or organization(s) who paid for a communication and whether the communication was authorized by one or more candidates.

(m) "Disclosure reports" means statements filed by candidates and committees in the electronic campaign finance reporting system as required pursuant to Article XIII, Section 4.

(n) "Early Voter" means a voter who votes in person before election day, and has not been issued an absentee ballot at the time the voter presents himself at an early voting location.

(o) "Election" means any City of Albuquerque municipal election.

(p) "Electioneering Communication" means any audio or visual communication in any form that is broadcast or distributed by any means that:

(1) unambiguously refers to any candidate or ballot measure;

(2) is broadcast, printed, mailed, delivered, or distributed within the 60 days preceding a regular or special election, or 45 days preceding a runoff election; and

(3) is broadcast to, printed in a newspaper, distributed to, mailed to, delivered by hand or otherwise distributed to an audience that includes members of the electorate for a covered office.

(q) "Express Advocacy" means an expenditure made by a person or group, other than a candidate or candidate's committee, that advocates the election or defeat of a candidate or ballot measure, including all costs of designing, producing, or disseminating a communication that contains phrases such as "vote for", "re-elect", "support", "cast your ballot for", "name of candidate for name of office", "name of candidate in year", "vote against", "defeat", "reject", or similar phrases, or other explicit references to a candidate or ballot measure that indicates intent to influence an election.

(r) "Expenditure" means the payment or furnishing of money or anything of value or the incurring or repayment of indebtedness or obligation, by or on behalf of any person, candidate or political committee in consideration for any services, supplies, equipment or other thing of value performed or furnished for any reason, including support of or opposition to a candidate or political committee or for reducing the debt of a candidate or political committee. Notwithstanding any other provision of the Charter, for the purposes of Election Code and the Open and Ethical Elections Code, the payment of legal fees to advise a candidate on compliance with campaign laws or regulations, and the payment of legal fees or court costs to represent a candidate or candidate committee in any action reasonably related to the campaign or election in which the candidate or committee has been named as a defendant, are expenditures that must be

disclosed, but are not subject to any expenditure limits in the Charter.

(s) "Foreign-influenced corporation" means one or more foreign investors, in aggregate, holds, owns, controls, or otherwise has direct or indirect beneficial ownership of fifty percent or more of the total equity, outstanding voting shares, membership units, or other applicable ownership interests of the corporation.

(t) "Foreign investor" means a person or entity that:

1. Holds, owns, controls, or otherwise has direct or indirect beneficial ownership of equity, outstanding voting shares, membership units, or other applicable ownership interests of a corporation; and
2. Is a government of a foreign country; a political party of a foreign country; a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country; or an individual, not lawfully admitted for permanent residence, who is not a citizen of the United States or a national of the United States.

(u) "Immediate Family" means the candidate's spouse, parent, grandparent, child, grandchild, sister, half-sister, brother, half-brother, stepparent, step-grandparent, stepchild, step-grandchild, 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, and the immediate family of the candidate's spouse or domestic partner.

(v) "Independent Expenditure" mean any funds spent on express advocacy or electioneering communications that are 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.

(w) "Mass Communications" means any communication of substantially identical content reasonably expected to reach 100 or more individuals within three (3) months of a regular or special election, or within 45 days of a runoff election. This includes communications sent directly to individuals, and communications placed or posted where they will likely be seen by 100 or more individuals, such as signs.

(x) "Measure" means any proposition submitted to a popular vote at an election, whether by initiative, referendum or recall procedure or otherwise.

(y) "Measure Finance Committee" means a political committee or any person or combination of

two or more persons acting jointly in aid of or in opposition to the effort of anyone seeking to have their name placed on the ballot for city office, a petition to place a measure on the ballot pursuant to Article III of this Charter, voter approval or disapproval of one or more measures on the ballot and/or the election to, or recall from, office of one or more candidates for office when such person or people have accepted contributions in excess of \$250 or make expenditures in excess of \$250 for any of the purposes listed heretofore.

(z) "Person" means any individual, cooperative association, club, corporation, company, firm, partnership, joint venture syndicate, profit or nonprofit organization, or other entity.

(aa) "In-Kind Contribution" means a good or service, other than money, having monetary value not to exceed the limits set in Section 4 of Article XIII, 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 Candidate are permitted, provided no single In-Kind Contributor exceeds the limits set in Section 4 of Article XIII. Notwithstanding the foregoing, a Candidate may accept unlimited In-Kind Contributions in the following areas:

(1) legal services provided directly from attorneys for the purpose of providing legal advice to comply with election laws and public financing laws,

(2) professional services provided directly from the professional, including attorneys, experts and consultants, for the sole purpose of participating in a proceeding under Section 8 of the Code of Ethics, Section 10 of the Election Code, and Sections 20 and 21 of the Open and Ethical Elections Code; and

(3) office space.

Such In-Kind Contributions shall be reported on the next statement filed with the Clerk or within 30 days of receiving the goods or services.

(bb) "Reporting individual" means every public official, candidate or treasurer of a campaign committee and every treasurer of a Measure Finance Committee.

SECTION 3. CANDIDATE DISCLOSURE.

Each candidate shall file a financial disclosure with the City Clerk. The candidate disclosure shall be filed with the City Clerk when the candidate becomes a declared candidate, be on a form prescribed by the City Clerk, and shall be sworn and attested to under penalty of perjury by the Candidate.

The Candidate disclosure statement shall be a public record. The Candidate disclosure statement

shall include:

- (1) the full name of the reporting individual and the reporting individual's spouse;
- (2) the name and address of any employer employing the reporting individual or the reporting individual's spouse, the title or position held, and a brief description of the nature of the business or occupation;
- (3) the identity, zip code, and purpose of use of real property owned by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18; provided that in the absence of a zip code, the county of situs is required to be disclosed;
- (4) the identity of assets of more than fifty thousand dollars (\$50,000) directly or beneficially owned by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18; provided that in determining whether an asset has a value of more than fifty thousand dollars (\$50,000), the value should not be reduced by any debt secured by the asset, such as a mortgage or other secured loan, and a good faith estimate of the fair market value of an asset is permitted if the exact value is neither known or easily obtainable.

The disclosure of assets shall include:

- (A) commodities, including the type of commodity;
 - (B) investments in stocks, bonds, futures contracts, options, derivatives, currency, real estate investment trusts, mutual funds, private equity funds, exchange-traded funds, and trust funds of which the reporting individual is a beneficiary; provided that if the investment is or forms part of a fund, the reporting individual is only required to identify the fund, the fund manager, and any underlying holdings of the fund if it has a value of more than fifty thousand dollars (\$50,000); and
 - (C) contractual rights reasonably likely to generate future income, such as royalties and intellectual property, the names of the contracting parties, and the purpose of the contract;
- (5) all sources of income equal to or greater than the amount that must be disclosed to the internal revenue service pursuant to 26 U.S.C. Section 6041(a), as amended, directly or indirectly accrued by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18, including:
- (A) the identity of the source of earned income; provided that:
 - (i) if a source of earned income is owed a legal or professional duty of confidentiality and the identity of the source of the income has not been disclosed to a public agency, the reporting

individual may identify the source as "confidential" and describe the duty of confidentiality that prevents disclosure of the source of the earned income;

(ii) if an indirect source of earned income is a client of a business entity of which the reporting individual or the reporting individual's spouse is a member, the indirect source of earned income is not required to be disclosed if the reporting individual or the reporting individual's spouse has no role in any matter involving the source; and

(B) the identity of sources of unearned income, including taxable interest, capital gains, dividends, annuities, trust distributions, rents from real property and insurance policies;

(6) Liabilities of more than five thousand dollars (\$5,000) owed by:

(A) the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18; and

(B) a trust of which the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18 are beneficiaries;

(7) For a liability identified pursuant to Subsection (6) of this section, the reporting individual shall disclose:

(A) the identity of the person who owes the debt or liability;

(B) the person to whom the debt or liability is owed;

(C) the amount of the debt or liability; and

(D) any payments on the debt or liability during the previous calendar year;

(8) For a liability identified pursuant to Subsection (6) of this section, the reporting individual is not required to disclose:

(A) ordinary consumer debt;

(B) mortgage debt on the primary residence of the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18;

(C) student loans; and

(D) liabilities owed to parents, grandparents, dependent children over the age of 18 or siblings of the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18;

(E) One passenger vehicle registered to the reporting individual, the reporting individual's spouse, and the reporting individual's dependent children over the age of 18;

(9) The following information related to any privately held business controlled by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over

the age of 18:

(A) the name of the business entity, a brief description of the nature of its activities and its geographic location, including the city and state; and

(B) for a privately held business entity formed for the purpose of holding investments:

(i) assets of more than fifty thousand dollars (\$50,000) or that generated income directly or beneficially owned by the business entity in an amount equal to or greater than the amount that must be disclosed to the internal revenue service pursuant to 26 U.S.C. Section 6041(a), as amended; provided that in determining whether an asset has a value of more than fifty thousand dollars (\$50,000), the value should not be reduced by any debt secured by the asset, such as a mortgage or other secured loan; and

(ii) any liability of the business entity in an amount greater than fifty thousand dollars (\$50,000), including:

(a) the identity of the business entity that owes the debt or liability;

(b) the person to which the debt or liability is owed;

(c) the amount of the debt or liability; and

(d) any payments on the debt or liability during the previous calendar year;

(10) The following information related to professional licenses, memberships and offices held for the prior calendar year:

(A) professional licenses held by the reporting individual and the reporting individual's spouse; and

(B) board memberships, offices or other positions held by the reporting individual and the reporting individual's spouse in:

(i) corporations, partnerships, trusts or other for-profit business entities; and

(ii) nonprofit organizations, educational organizations, political organizations or other nongovernmental organizations; and

(11) Any gift received in the prior calendar year by the reporting individual, the reporting individual's spouse or the reporting individual's dependent children over the age of 18 having a market value greater than fifty dollars (\$50.00) from a restricted donor, a registered lobbyist, a lobbyist's employer, a government contractor or a person that has responded to a request for proposals or an invitation to bid issued by the City.

SECTION 4. CAMPAIGN FINANCING.

(a) *One Candidate Finance Committee*. Each candidate shall establish no more than one

Candidate Finance Committee and shall appoint a treasurer who shall not be the candidate.

(b) *Measure Finance Committee*. Each Measure Finance Committee shall appoint a treasurer who shall not be the chairperson.

(c) One Bank Account Filing Requirements.

1. Each candidate or the candidate's treasurer and each Measure Finance Committee shall establish one and only one campaign bank checking account for each election. The City Clerk shall issue a form to be submitted by campaigns and committees disclosing bank account information.

2. All contributions of monies received for the benefit of the candidate's campaign or the Measure Finance Committee shall be deposited in that account, and all disbursements shall be made from that account.

3. Each candidate and Measure Finance Committee shall submit monthly bank statements reflecting the previous month's activities directly to the Campaign and Election Auditor by the second Monday of each month. Monthly bank statements shall be submitted each month for the duration of the election cycle as long as the campaign or committee is required to file a report pursuant to Article XIII Section 4(d)(2)(F) or (G).

4. Upon the request of the Clerk, each candidate, the candidate's treasurer, or the chairperson or treasurer of each Measure Finance Committee shall provide to the Clerk all bank records, canceled checks, and any other financial information relating to the campaign as may be requested by the Clerk.

(d) *Disclosure of Campaign Financing*.

1. Each candidate for the office of Mayor or Councilor and each Measure Finance Committee, shall file with the City Clerk the statements required in Section 4(c)2 of this Election Code, each of which shall be cumulative, signed under oath by the candidate or the candidate's treasurer or by the chairperson or treasurer of the Measure Finance Committee, setting forth through 5:00 p.m. of the day preceding the filing of each statement:

A. The total of all contributions, which shall include all contributions received, regardless of whether the contribution has been deposited in the candidate's or Measure Finance Committee's campaign bank account. A contribution is deemed received when a candidate or a Measure Finance Committee or any agent of a candidate or a Measure Finance Committee receives a contribution or the benefit of the services donated.

B. When the contributor is an individual, the name and address of the contributor, the

contributor's principal business or occupation, the name and address of the contributor's employer, if self-employed, the address of the contributor's business, and the nature of the contributor's or the contributor's employer's business. If the contributor is retired or not employed, the residential address of the contributor shall be disclosed. When the contributor is an entity other than an individual, the name and address of the contributor, the business or activities conducted by the contributor and the owners and managers of the contributor. The amount of each contribution and the cumulative value of all contributions contributed by the contributor shall be disclosed. Measure Finance Committees that support or oppose more than one candidate or measure shall specify in separate sections in each disclosure statement the candidate or measure to which each contribution and expenditure applies. In the event a contribution or expenditure applies to more than one candidate or measure, the pro rata share of such contribution or expenditure shall be clearly identified for each candidate or measure.

C. All expenditures made on behalf of the campaign, including any reimbursements and the nature thereof, and the name and address of the person or business to which payment was made.

A. Reporting of expenditures shall include for each expenditure including type and quantity of items purchased, names and roles of staff paid, names of companies and materials produced, etc.

B. The Campaign and Election Auditor, as provided for in Article XIII, Section 9 shall, at their discretion, request additional details of expenditures or contributions.

D. A person seeking to qualify to be on the ballot for the office of Mayor or Councilor shall include any person who has obtained a nominating petition form approved by the City Clerk, or who has received or solicited contributions or made expenditures of one thousand dollars (\$1,000) or more or authorized another person or campaign committee to receive or solicit contributions or make expenditures of one thousand dollars (\$1,000) or more for the purpose of seeking election to the office. The City Clerk shall issue an approved nominating petition only to the person seeking to be on the ballot. Such approved nominating petition forms shall state the name of the person and the City office for which such person is petitioning to qualify to be on the ballot. People who have sought to be on the ballot as described above, but who do not qualify for the ballot or do not file a declaration of candidacy are required to file as provided in this section by 5:00 p.m. on the second Monday in May, a report of all expenditures made and contributions received on or before the first Monday in May and not previously reported and to file a final report

by 5:00 p.m. on the second Monday in November, a report of all expenditures made and contributions received on or before the first Monday in November and not previously reported.

E. Within 48 hours of the receipt of a statement listing campaign contributors, or as soon thereafter as reasonably possible, the Purchasing Office shall determine if any contributor has business dealings with the City. For the purposes of this section, a person is deemed to have business dealings if the person or in the case of an individual, the contributor's principal business or the contributor's employer has received \$20,000 or more pursuant to a contract with the City in the 24 months prior to the date of contribution. The Purchasing Office shall immediately notify the City Clerk of any campaign contributors who have business dealings with the City and the City Clerk shall post that information (including: contribution amount, recipient and business relationship) on the City's website.

F. The Purchasing Office shall maintain a list of all contributors to the campaign of any elected Mayor or Councilor and, for a period of one and one-half years following the election of that Official, shall notify the City Clerk of any campaign contributors who form business dealings with the City, as defined in the preceding paragraph, and the City Clerk shall post that information (including: contribution amount, recipient and business relationship) on the City's website.

G. In addition to other campaign disclosure requirements of the Election Code, a candidate shall designate in his or her disclosure reports those contributors who have contracts pursuant to which they receive funds from the employer of the candidate if the candidate was solely or partially responsible for the recommendation or award of the contract or for the administration of the contract. The City Clerk shall post this designation separately from the other contributions on the City's website.

2. The statements required by this subsection shall be filed as follows:

A. Except as otherwise provided in this section, a reporting individual shall file with the City Clerk by 5:00 p.m. on the second Monday in May and November a report of all expenditures made and contributions received on or before the first Monday in those months and not previously reported. The report shall be filed biannually until the reporting individual's bank account has been closed and the other provisions specified in Subsection F of this section have been satisfied.

B. In an election year, instead of the biannual reports provided for in Subsection A of this section, reporting individuals, except for public officials who are not candidates in an election that year, shall file reports of all expenditures made and contributions received or, if applicable, statements of no activity, according to the following schedule:

(1) by 5:00 p.m. on the second Monday in April, a report of all expenditures made and contributions received on or before the first Monday in April and not previously reported;

(2) by 5:00 p.m. on the second Monday in May, a report of all expenditures made and contributions received on or before the first Monday in May and not previously reported;

(3) by 5:00 p.m. on the second Monday in June, a report of all expenditures made and contributions received on or before the first Monday in June and not previously reported;

(4) by 5:00 p.m. on the second Monday in July, a report of all expenditures made and contributions received on or before the first Monday in July and not previously reported;

(5) by 5:00 p.m. on the second Monday in August, a report of all expenditures made and contributions received on or before the first Monday in August and not previously reported;

(6) by 5:00 p.m. on the second Monday in September, a report of all expenditures made and contributions received on or before the first Monday in September and not previously reported;

(7) beginning on the second Monday in October, by 5:00 p.m. on every Monday thereafter before the regular election candidates shall file a report of all expenditures made and contributions received on or before the previous Friday and not previously reported;

(8) beginning on the Friday before the regular election, any contribution or pledge to contribute that is for five hundred dollars (\$500) or more shall be reported to the City Clerk in a supplemental report on a prescribed form within twenty-four hours of receipt;

(9) run-off candidates and Measure Finance Committees shall file statements as follows:

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; and

ii. beginning on the Friday before the run-off election, any contribution or pledge to contribute that is for five hundred dollars (\$500) or more shall be reported to the City Clerk in a supplemental report on a prescribed form within twenty-four hours of receipt;

(10) In the event of a special election, reporting individuals, except for public officials who are not candidates in the special election, shall file reports of all expenditures made and contributions received as follows:

i. beginning on the first Monday following the County Clerk's first publication of the special election resolution, by 5:00 p.m. on every Monday before the special election reporting individuals shall file a report of all expenditures made and contributions received on or before the

previous Friday and not previously reported; and

ii. beginning on the Friday before the special election, any contribution or pledge to contribute that is for five hundred dollars (\$500) or more shall be reported to the City Clerk in a supplemental report on a prescribed form within twenty-four hours of receipt;

(11) by 5:00 p.m. on the thirtieth day after a regular, run-off, or special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the election and not previously reported.

C. If a candidate or public official has not received any contributions and has not made any expenditures since the candidate's or official's last report was filed with the proper filing officer, the candidate or official shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due and shall not be required to file a full report until the next required filing date occurring after an expenditure is made or a contribution is received.

D. In an election year, a public official who is not a candidate shall file biannual reports of expenditures made and contributions received or statements of no activity in accordance with the schedule provided for in Subsection A of this section.

E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates and public officials who file a statement of no activity, each reporting individual shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the reporting individual delivers a report to the City Clerk stating that:

(1) there are no outstanding campaign debts;

(2) all money has been expended in accordance with the provisions Section 4 of Article XIII, the Election Code; and

(3) the bank account has a zero balance

G. Each treasurer of a Measure Finance Committee shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section until the treasurer files a report that affirms that the committee has dissolved or no longer exists, and that its bank account has a zero balance.

H. A reporting individual who is a candidate within the meaning of the Election Code because

of the amount of contributions the candidate receives or expenditures the candidate makes and who does not ultimately file a declaration of candidacy or a nominating petition with the City Clerk and does not file a statement of no activity shall file biannual reports in accordance with Subsection A of this section.

I. Reports required by this section shall be subscribed and sworn to by the candidate or the treasurer of the Measure Finance Committee. A report filed electronically shall be electronically authenticated by the candidate or the treasurer of the Measure Finance Committee using an electronic signature in conformance with the Uniform Electronic Transactions Act. For the purposes of Article XIII, Section 4, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the candidate or the treasurer of the political committee who was required to file the report.

J. Reports required by this section shall be filed electronically by all reporting individuals.

K. Reporting individuals may apply to the City Clerk for exemption from electronic filing in case of hardship, which shall be defined by the City Clerk.

(e) *Limits to Contributions.* No privately financed candidate shall, for any one election, allow total contributions, including in-kind contributions, from any one person with the exception of contributions from the candidate themselves of more than \$2,000 for Council Candidates and \$6,000 for Mayoral Candidates. Limitations on contributions for publicly financed candidates are detailed in the Open and Ethical Elections Act.

(1) Beginning January 15, 2027, and every two years thereafter, the Clerk shall adjust the contribution limit based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics. The adjustment shall reflect the percentage change in the CPI-U from January 1, 2024, to December 31 of the year preceding the adjustment.

(f) *Ban on Contributions from City Contractors.* No candidate for Mayor or Council, or Official who is a candidate for an office other than Mayor or Council, shall accept a contribution in support of the candidate's campaign from any person or entity, other than a City employee, who at the time of the contribution is in a contractual relationship with the City to provide goods or services to the City. Nor shall any candidate for Mayor or Council, or Official who is a candidate for an office other than Mayor or Council, accept a contribution that is knowingly given on behalf of any person or entity who, at the time of the contribution, is in a contractual relationship with the City to provide goods or services to the City. The remedy for an unknowing violation of this subsection shall be

the return of the contribution.

(g) *Ban on Contributions from Foreign Nationals.* No candidate for Mayor or Council, shall accept a contribution in support of the candidate's campaign from any person or entity from a foreign national without lawful United States permanent residence.

(h) *Ban on Contributions from Foreign-Influenced Corporations.* No candidate for Mayor or Council, shall accept a contribution in support of the candidate's campaign from any foreign-influenced corporation.

(i) *Unexpended Contributions.* Any contributions not expended on the campaign shall be disposed of, such that the campaign account is brought to a zero balance, at the option of the candidate or chairperson of a Measure Finance Committee, by one of the following methods:

- (1) Retained in the campaign or Measure Finance Committee banking checking account for a possible runoff election for that office,
- (2) Returned to the person who made the contribution,
- (3) Placed in the City's General Fund, or
- (4) Given to a charity identified by the candidate.

The final campaign financing statement shall reflect the final disposition of such contributions.

(j) *Anonymous Contributions.*

(1) All anonymous contributions shall be disposed of by a candidate or the chairperson of a Measure Finance Committee either by placing the contribution in the City's General Fund or by giving the contribution to a charity.

(2) An anonymous contribution shall not be considered to be a contribution to or expenditure of the campaign; however, a record of all anonymous contributions shall be kept by the candidate or the candidate's treasurer, or by the chairperson or treasurer of the Measure Finance Committee and the receipt and disposition of every anonymous contribution shall be reported in the campaign financing disclosure statements required by subsection (d) of this section are filed. Such report must disclose the goods, services, monies, or other contributions received, its value, the date of receipt and the date and method of disposition.

(k) For the purposes of this section, contributions and expenditures include those contributions received and expenditures made by or on behalf of an individual at any time prior to the individual filing a Declaration of Candidacy for the office of Mayor or Councilor through the time the final campaign financing disclosure statement is due, or by or on behalf of a Measure Finance Committee at any time prior to the relevant election through the time the final campaign financing

disclosure statement is due.

(l) Campaign Finance Records.

1. All campaign finance records and statements shall be open to inspection and/or audit by the Board, its designated representative, or its auditor; statements shall be presented to the Board for inspection or audit, or both. The City Clerk shall create an electronic data base for all campaign reporting required in this Election Code and place that information on the City's web site.

2. Campaign Financial Records.

A. Each candidate or the candidate's treasurer and each chairperson or treasurer of a Measure Finance Committee shall keep financial records of the campaign for a period of one year following the date of election, to assure their availability in the event of complaint or inquiry by the Board. Such campaign financial records shall include records of all contributions, regardless of amount, expenditures, canceled checks, invoices, receipts, bank statements, bills of sales, statements of accounts, leases, rental agreements, and all other financial records pertinent to the campaign.

B. In preparing and maintaining financial records, ledgers, journals, or otherwise, and in recording contributions and expenditures on the statements required by subsection (c) of this section, each candidate or the candidate's treasurer and each chairperson or treasurer of a Measure Finance Committee shall:

1) Record in-kind contributions as both contributions and expenditures equal to the fair market value of the goods or services received.

2) Record campaign loans as contributions, with subsequent repayment of loans credited against contributions.

3) Record returned contributions as credits against contributions.

4) Record names of contributors on the bank deposit slips.

3. During the election cycle, or within one year after the date of the election, the Campaign and Election Auditor, as provided for in Article XIII, Section 9 may request a candidate or committees' campaign finance records so the Campaign and Election Auditor can perform an additional audit on the campaign or committee. The results of the audit will be submitted to the Board of Ethics and the City Clerk.

(m) Fund-Raising Activity.

a. The gross receipts of a fund-raising activity on behalf of a candidate are considered to be campaign contributions, and all expenditures associated with such a fund-raising activity

are considered to be campaign expenditures. As used in this subsection, the term "gross receipts" includes all monies and donations of any kind which are received as part of the fund-raising activity.

b. The host of a fund-raising activity on behalf of a candidate or Committee shall be responsible for reporting the contributions resulting from the activity unless contributors are identified in the required manner on the Disclosure of Campaign Financing Statement, and the limits to contributions specified in subsection (e) of this Section 4 shall apply as if the total contributions at the fund-raising activity, not otherwise reported, were made by the host.

(n) *Measure Campaign Financing.* Any person or group which has contributed in excess of thirty percent of the Mayor's salary to support or oppose a measure or candidate shall have the name of such person or group inserted into the name of the Measure Campaign Committee to which the funds were contributed or shall create a new committee with the name of the contributor in the committee name. It is the obligation of the Measure Finance Committee to immediately inform the Clerk of the Committee's required name change by forming a new committee with the funds, or updating the committee name with the City Clerk's Office and on the campaign finance website; the Committee shall simultaneously report the amount of the contribution which triggers the name change. For the purposes of this subsection, "Mayor's salary" means the salary paid by the City of Albuquerque as of the date of the contribution; support or oppose a measure or candidate covers qualification for the ballot plus voter approval or disapproval of a given measure."

SECTION 3. Article XVI of the City Charter shall be amended as follows and the sections and subsection shall be renumbered accordingly:

"Section 6. SEED MONEY AND IN-KIND CONTRIBUTIONS.

(A) An Applicant Candidate may accept Seed Money not to exceed \$250.00 per Person.

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

(C) Seed Money shall be deducted from the revenues distributed to the 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 20% of the distribution from the Fund, or the Applicable Spending Limit 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. The value of any In-Kind Contribution shall not count against the applicable limit on Seed Money 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.

(F) Volunteer work-hours are non-reportable and shall not count as In-Kind Contributions or against the applicable limit on Seed Money. An individual may volunteer personal services to an Applicant Candidate as long as the volunteer is not compensated. If an individual volunteers during working hours, paid by a third-party employer or the Applicant Candidate, then that employer makes an In-Kind Contribution to the Applicant Candidate.

(G) If a Participating Candidate is defeated or is elected, any unspent Seed Money shall be forfeited to the Fund.

(H) Mayoral Applicant Candidates may accept Seed Money from 246 days before the election through 136 days before the election. Council Candidates may accept Seed Money from 191 days before the election through 120 days before the election.

(1) In the event that a Candidate's certification for public financing or qualification by the County Clerk as a Candidate has been challenged, the Candidate may continue to accept seed money until the City Clerk provides the Candidate with notice that the certification or qualification by the County Clerk as a Candidate has been upheld.

Section 12. TIMING AND AMOUNT OF FUND DISTRIBUTION.

(A) The Clerk shall distribute money from the Fund to Participating Candidates. The Clerk shall distribute revenue within three business days of certification. In the event that a Candidate's certification for public financing or qualification by the County Clerk as a Candidate has been challenged, the Clerk shall distribute funds to the Participating Candidate within three business days of receiving notice that the certification and/or qualification by the County Clerk as a Candidate has been upheld.

(B) The Clerk shall distribute \$2.00 per registered City voter to Mayoral Participating Candidates and \$1.25 per registered City voter residing in the district in which the Participating Council Candidate desires to represent. Notwithstanding the foregoing, in Council districts containing fewer than 40,000 registered voters, the Clerk shall distribute \$40,000 to each Participating Council Candidate, in lieu of \$1.25 per registered City voter residing in the district.

(1) Beginning January 15, 2027, and every two years thereafter, the Clerk shall adjust the

distribution amount per registered City voter based on the change in the Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Bureau of Labor Statistics. The adjustment shall reflect the percentage change in the CPI-U from January 1, 2024, to December 31 of the year preceding the adjustment.

(C) The amount of revenue to be distributed to a Participating Candidate 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.

(D) A Participating Candidate may withdraw as a Participating Candidate by filing a written statement of withdrawal with the Clerk.

(E) If the withdrawn Participating Candidate continues to participate in the election as a Non-Participating Candidate then:

(1) at the time the statement of withdrawal is filed, the candidate shall deliver to the Clerk an amount of money equal to all monies distributed to the candidate from the Fund after the candidate was certified as a Participating Candidate plus interest of the total amount of monies received at a rate of 12% per annum.

(F) If a Participating Candidate is not certified as a candidate, in accordance with applicable state and other City law, then the candidate shall deliver to the Clerk an amount of money equal to all monies distributed to the candidate from the Fund after the candidate was certified as a Participating Candidate plus interest of the total amount of monies received at a rate of 12% per annum.

(G) If a Participating Candidate entirely withdraws from a race for a Covered Office then he shall immediately return any amount to the Fund that is unspent or unencumbered at the time he ceases to be a Participating Candidate before a regular municipal election.

(H) If a Participating Candidate becomes unopposed following the distribution of funds, the Participating Candidate shall be promptly given notice by the City Clerk and shall be given three (3) business days after being notified to return any unspent or unencumbered funds. Following the return of funds, the Participating Candidate becomes a privately financed candidate and is no longer subject to the contribution and expenditure requirements of the Open and Ethical Election Code.

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, word or phrase of this ordinance 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

ordinance. The Council hereby declares that it would have passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

SECTION 5. COMPILATION. Sections 1, 2, and 3 of this ordinance shall amend, be incorporated in, and made part of the City Charter.

SECTION 6. EFFECTIVE DATE. This ordinance shall take effect five (5) days after publication by title and general summary.

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