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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2023-__

INTRODUCED BY:

Councilor Michael Garcia

A RESOLUTION

SUBMITTING A BALLOT QUESTION TO THE CITY’S VOTERS DURING THE NOVEMBER 7, 2023, REGULAR LOCAL ELECTION REGARDING AMENDING THE CITY’S CHARTER TO REGULATE ADOPTION OF THE CITY’S BUDGET AND “CAPITAL PROGRAM”, REQUIRE ADOPTION OF ORDINANCES UPDATING FINANCIAL PROCESSES AND ACCOUNTING SYSTEMS, REQUIRE SUFFICIENT STAFF TO FACILITATE TIMELY COMPLETION OF INDEPENDENT AUDITS, AND CONSOLIDATE THOSE NEW SECTIONS WITH EXISTING SECTIONS OF THE CHARTER REGARDING FINANCE TOPICS, INCLUDING INVESTMENTS, PROCUREMENT, AND INDEPENDENT AUDIT COMMITTEE, IN A NEW ARTICLE CALLED “FINANCIAL MANAGEMENT”.

WHEREAS, Section 10.01 of the City of Santa Fe’s Charter (“Charter”) requires the appointment of a Charter Review Commission (“Commission”) at least every ten years; and

WHEREAS, the Governing Body adopted Resolution 2022-40 on July 27, 2022, identifying nine topics the Commission should consider; and

1 **WHEREAS**, one of the nine topics the Governing Body asked the Commission to consider
2 was “ideas suggested by the commissioners and members of the community”; and

3 **WHEREAS**, the Governing Body appointed members to the Commission in October
4 2022; and

5 **WHEREAS**, the Commission met from November of 2022 through May of 2023, to
6 deliberate about and consider the details of more than fifteen proposals to amend the Charter; and

7 **WHEREAS**, the Commission received public comment in person, by videoconferencing,
8 in writing, and through the Commission’s webpage; and

9 **WHEREAS**, the Commission produced a final report detailing its recommendations and
10 presented the report to the Governing Body on May 10, 2023 (“Final Report”); and

11 **WHEREAS**, according to the Final Report, “the Commission recommends six substantive
12 amendments be placed on the ballot for the November 2023 election”; and

13 **WHEREAS**, the Final Report recommends that one of the six amendments be a new
14 section of the City of Santa Fe Charter to read as follows:

15 **FINANCIAL MANAGEMENT – Section**

16 **Section Submission of Budget and Budget Message.**

17 The city manager shall submit to the city council, a budget for the
18 ensuing fiscal year and an accompanying message.

19 **Section Budget Message.**

20 Consistent with the form required in New Mexico law, the city
21 manager’s message shall explain the budget both in fiscal terms and in terms of
22 the work programs, linking those programs to organizational goals and
23 community priorities. It shall outline the proposed financial policies of the city
24 for the ensuing fiscal year and the impact of those policies on future years. It
25 shall describe the important features of the budget, indicate any major changes

1 from the current year in financial policies, expenditures, and revenues together
2 with the reasons for such changes, summarize the city's debt position, including
3 factors affecting the ability to raise resources through debt issues, and include
4 such other material as the city manager deems desirable. The council shall
5 provide in ordinance the budget summaries that will facilitate its work.

6 **Section ____ . Budget.**

7 The budget shall provide a financial plan of all city funds and activities
8 for the ensuing fiscal year and, except as required by law or this charter, shall be
9 in such form as the city manager deems desirable or the city council may require
10 for effective management and an understanding of the relationship between the
11 budget and the city's strategic goals. The budget shall begin with a clear general
12 summary of its contents; shall show in detail all estimated income, indicating the
13 anticipated tax revenues, and all proposed expenditures, including debt service,
14 for the ensuing fiscal year; and shall be so arranged as to show comparative
15 figures for actual and estimated income and expenditures of the current fiscal
16 year and actual income and expenditures of the preceding fiscal year. It shall
17 indicate in separate sections:

18 (1) The proposed goals and expenditures for current operations during
19 the ensuing fiscal year, detailed for each fund by department or by other
20 organization unit, and program, purpose or activity, method of financing
21 such expenditures, and methods to measure outcomes and performance
22 related to the goals;

23 (2) Proposed longer-term goals and capital expenditures during the
24 ensuing fiscal year, detailed for each fund by department or by other
25 organization unit when practical, the proposed method of financing each

1 such capital expenditure, and methods to measure outcomes and
2 performance related to the goals; and
3 (3) The proposed goals, anticipated income and expense, profit, and loss
4 for the ensuing year for each utility or other enterprise fund or internal
5 service fund operated by the city, and methods to measure outcomes and
6 performance related to the goals. For any fund, the total of proposed
7 expenditures shall not exceed the total of appropriated funds.

8 **Section . City Council Action on Budget.**

9 **(a) Notice and Hearing.** The city manager shall publish the general
10 summary of the budget and a notice stating:

11 (1) The times and places where copies of the message and
12 budget are available for inspection by the public, and

13 (2) The time and place, not less than two weeks after such
14 publication, for a public hearing(s) on the budget.

15 **(b) Amendment Before Adoption.** After the public hearing, the city
16 council may adopt the budget with or without amendment. In amending
17 the budget, it may add or increase programs or amounts and may delete
18 or decrease any programs or amounts, except expenditures required by
19 law or for debt service or for an estimated cash deficit, provided that no
20 amendment to the budget shall increase the authorized expenditures to an
21 amount greater than total estimated income.

22 **(c) Adoption.** The city council shall adopt the budget on or before the
23 city's budget is due to the state. If it fails to adopt the budget by this date,
24 the budget proposed by the city manager shall go into effect.

25 **(d) "Publish" defined.** As used in this article, the term "publish" means

1 to print in the form of publication recognized in New Mexico law for
2 government entities, plus any electronic media that the council deems
3 accessible to the public.

4 **Section ____ . Administration and Fiduciary Oversight of the Budget.**

5 The governing body shall provide by ordinance the procedures for
6 administration and fiduciary oversight of the budget.

7 **Section ____ . City Council Action on Capital Program.**

8 **(a) Notice and Hearing.** The city manager shall publish the general
9 summary of the capital program consistent with the requirements in New Mexico
10 law for public notice.

11 (1) The times and places where copies of the general summary of the
12 capital program are available for inspection by the public, and

13 (2) The time and place, not less than two weeks after such publication,
14 for a public hearing(s) on the general summary of the capital program.

15 **(b) Adoption.** The city council by resolution shall adopt the capital
16 program with or without amendment after the public hearing and before the
17 capital program is due to the state.

18 **Section ____ Independent Audit.**

19 The city council shall provide for an independent annual audit of all city
20 accounts and may provide for more frequent audits as it deems necessary. The
21 council shall by ordinance update its financial processes and accounting systems
22 and prioritize budgetary resources to staff its financial services so as to facilitate
23 timely completion of audits.

24 **Section 9.01 of Article IX is relocated to Section X.XX , and will read**
25 **as follows:**

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Section X.XX Investments.

The city shall follow the laws and policies of the State of New Mexico regarding investment of public funds.

Section 9.02 of Article IX is relocated to Section X.XX, and is amended to read as follows:

Section X.XX Procurement.

The governing body shall, by ordinance, adopt a fair and equitable procurement code for the city [~~within one year of the adoption of this Charter~~].

Section 9.04 of Article IX is relocated to Section X.XX, and will read as follows:

Section X.XX Independent audit committee.

The governing body shall, by ordinance, adopt an independent audit committee for the city.

WHEREAS, the Governing Body would like to propose a ballot question addressing most of the Charter Commission’s recommendation that appear above; and

WHEREAS, the Commission’s recommendation does not include a suggested location in the Charter to place the new sections; and

WHEREAS, the new sections would appropriately be placed in an Article IX to be called “Financial Management”, including existing Charter sections on financial topics, and renumbering the following two articles as X and XI; and

WHEREAS, the Final Report’s proposed required components of the City’s budget “is pretty much consistent with what we’re currently doing,” according to the City’s Budget Officer; and

WHEREAS, the Governing Body does not wish to submit a ballot question regarding changing the duty to propose a budget from the Mayor to the City Manager at this time; and

1 **WHEREAS**, the Governing Body does not wish to submit a ballot question that changes
2 the current separation of powers such that the City Council would adopt the City’s budget, rather
3 than the Governing Body; and

4 **WHEREAS**, the Governing Body also does not wish to submit a ballot question regarding
5 required publication at this time; and

6 **WHEREAS**, the Governing Body also does not wish to submit a ballot question regarding
7 delegation of determining a final budget to the City Manager in the absence of Governing Body
8 action at this time; and

9 **WHEREAS**, the Charter, Article X, Section 10.02, states that “[t]his Charter may be
10 amended or repealed as provided by law”; and

11 **WHEREAS**, state law, NMSA 1978, Section 3-15-16, states that a home rule
12 municipality may amend its Charter “by a proposal submitted by the governing body of the
13 municipality to the qualified electors”; and

14 **WHEREAS**, a resolution is the formal expression of the will of the Governing Body,
15 used by the City to describe a proposed ballot question and submit it to the electors; and

16 **WHEREAS**, NMSA 1978, Section 1-16-3, requires the City to “file a resolution proposing
17 the ballot question” with the county clerk, not less than seventy (70) days before the election at
18 which the ballot question is proposed to be submitted to the voters.

19 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
20 **CITY OF SANTA FE**, that the Governing Body hereby proposes to submit the following question
21 on the ballot of the regular local election on November 7, 2023:

22 **CITY OF SANTA FE’S BUDGET, “CAPITAL PROGRAM”, AND**
23 **INDEPENDENT AUDIT**

24 Should the Santa Fe Municipal Charter be amended to require a budget message
25 from the Mayor that outlines the proposed financial policies of the City for the

1 ensuing fiscal year and the impact of those policies on future years; identifies
2 required features of the budget and major changes from the current year in financial
3 policies, expenditures, and revenues together with the reasons for such changes;
4 summarizes any debt issues, the proposed goals and expenditures for current and
5 subsequent fiscal years, and goals relating to anticipated income and loss for the
6 ensuing year; to require an ordinance for administering and holding fiduciary
7 oversight of the City’s budget; describes a required process for adopting the
8 Capital Program”; and, in relation to its annual external audit, requires the
9 Governing Body to adopt an ordinance updating its financial processes and
10 accounting systems to prioritize budgetary resources and staff to facilitate timely
11 completion of audits?

12 For Against

13 **BE IT FURTHER RESOLVED** that should the electorate vote in favor of the above
14 ballot questions, that the Charter shall be amended as follows:

15 **ARTICLE IX [~~MISCELLANEOUS GOVERNMENTAL ISSUES~~]**

16 **FINANCIAL MANAGEMENT**

17 **9.01 [~~Investments.~~] Submission of Budget and Budget Message.**

18 ~~The city shall follow the laws and policies of the State of New Mexico~~
19 ~~regarding investment of public funds.~~

20 The mayor shall submit to the city councilors, a budget for the ensuing
21 fiscal year and an accompanying message.

22 **9.02. [~~Procurement.] Budget Message.~~**

23 ~~The governing body shall, by ordinance, adopt a fair and equitable~~
24 ~~procurement code for the city within one year of the adoption of this Charter.~~

25 Consistent with the form required in New Mexico law, the mayor’s

1 message shall explain the budget both in fiscal terms and in terms of the work
2 programs, linking those programs to organizational goals and community
3 priorities. It shall outline the proposed financial policies of the city for the
4 ensuing fiscal year and the impact of those policies on future years. It shall
5 describe the important features of the budget; indicate any major changes from
6 the current year in financial policies, expenditures, and revenues together with
7 the reasons for such changes; summarize the city's debt position, including
8 factors affecting the ability to raise resources through debt issues; and include
9 such other material as the mayor deems desirable. The governing body shall
10 provide in ordinance the budget summaries that will facilitate its work.

11 **9.03. – [Personnel system.] Budget.**

12 [The hiring, supervision, promotion, and discharge of all city employees
13 shall be governed by a personnel system based on principles of efficiency,
14 ability, and non-discrimination. The governing body shall by ordinance adopt a
15 merit personnel system consistent with these principles, and any duly adopted
16 collective bargaining agreements.] The budget shall provide a financial plan of
17 all city funds and activities for the ensuing fiscal year and, except as required by
18 law or this charter, shall be in such form as the mayor deems desirable or the
19 governing body may require for effective management and an understanding of
20 the relationship between the budget and the city's strategic goals. The budget
21 shall begin with a clear general summary of its contents; shall show in detail all
22 estimated income, indicating the anticipated tax revenues, and all proposed
23 expenditures, including debt service, for the ensuing fiscal year; and shall be so
24 arranged as to show comparative figures for actual and estimated income and
25 expenditures of the current fiscal year and actual income and expenditures of the

1 preceding fiscal year. It shall indicate in separate sections:

2 (1) The proposed goals and expenditures for current operations during
3 the ensuing fiscal year, detailed for each fund by department or by other
4 organization unit, and program, purpose or activity, method of financing
5 such expenditures, and methods to measure outcomes and performance
6 related to the goals;

7 (2) Proposed longer-term goals and capital expenditures during the
8 ensuing fiscal year, detailed for each fund by department or by other
9 organization unit when practical, the proposed method of financing each
10 such capital expenditure, and methods to measure outcomes and
11 performance related to the goals; and

12 (3) The proposed goals, anticipated income and expense, profit, and loss
13 for the ensuing year for each utility or other enterprise fund or internal
14 service fund operated by the city, and methods to measure outcomes and
15 performance related to the goals. For any fund, the total of proposed
16 expenditures shall not exceed the total of appropriated funds.

17 **9.04. [- ~~Independent audit committee.~~ Governing Body Action on Budget**

18 ~~The governing body shall, by ordinance, adopt an independent audit committee~~
19 ~~for the city.]~~

20 **(a) Notice and Hearing.** The mayor shall publish the general summary of the
21 budget and a notice stating:

22 (1) The times and places where copies of the message and budget are
23 available for inspection by the public, and

24 (2) The time and place, not less than two weeks after such publication,
25 for a public hearing(s) on the budget.

1 (b) Amendment Before Adoption. After the public hearing, the governing body
2 may adopt the budget with or without amendment. In amending the budget, it
3 may add or increase programs or amounts and may delete or decrease any
4 programs or amounts, except expenditures required by law or for debt service or
5 for an estimated cash deficit, provided that no amendment to the budget shall
6 increase the authorized expenditures to an amount greater than total estimated
7 income.

8 (c) Adoption. The governing body shall adopt the budget on or before the city's
9 budget is due to the state. If it fails to adopt the budget by this date, the budget
10 proposed by the mayor shall go into effect.

11 **9.05 -Administration and Fiduciary Oversight of the Budget.**

12 The governing body shall provide by ordinance the procedures for
13 administration and fiduciary oversight of the budget.

14 **9.06- Governing Body Action on Capital Program.**

15 (a) Notice and Hearing. The mayor shall publish the general summary
16 of the capital program.

17 (1) The times and places where copies of the general summary of the capital
18 program are available for inspection by the public, and

19 (2) The time and place, not less than two weeks after such publication, for a
20 public hearing(s) on the general summary of the capital program.

21 (b) Adoption. The governing body by resolution shall adopt the capital
22 program with or without amendment after the public hearing and before the
23 capital program is due to the state.

24 **9.07- Independent Audit.**

25 The governing body shall provide for an independent annual audit of all

1 city accounts and may provide for more frequent audits as it deems necessary.
2 The governing body shall by ordinance update its financial processes and
3 accounting systems and prioritize budgetary resources to staff its financial
4 services so as to facilitate timely completion of audits.

5 **[9.01] 9.08- Investments.**

6 The city shall follow the laws and policies of the State of New Mexico
7 regarding investment of public funds.

8 **[9.02]9.09- Procurement.**

9 The governing body shall, by ordinance, adopt a fair and equitable
10 procurement code for the city [~~within one year of the adoption of this Charter~~].

11 **[9.04] 9.10- Independent Audit Committee**

12 The governing body shall, by ordinance, adopt an independent audit
13 committee for the city.

14 **ARTICLE X. – [~~CHARTER REVIEW AND AMENDMENT~~]**

15 **MISCELLANEOUS GOVERNMENTAL ISSUES**

16 **[9.04] 10.01 [~~Charter review.~~] Personnel system.**

17 [~~A charter review commission shall be appointed as needed, but not less~~
18 ~~frequently than every ten years. The governing body shall by resolution~~
19 ~~determine the manner of appointment of the commission, provided that there~~
20 ~~shall be an odd number of commissioners.]~~

21 The hiring, supervision, promotion, and discharge of all city employees
22 shall be governed by a personnel system based on principles of efficiency,
23 ability, and non-discrimination. The governing body shall by ordinance adopt a
24 merit personnel system consistent with these principles, and any duly adopted
25 collective bargaining agreements.

1 ~~[10.02.— Charter amendment or repeal.~~

2 This Charter may be amended or repealed as provided by law. The city
3 attorney shall review and render and publish a public opinion as to the legality
4 and form of any proposed charter amendment before it is submitted to the
5 voters.]

6 **ARTICLE [X] XI. – [GENERAL PROVISIONS] CHARTER REVIEW**
7 **AND AMENDMENT**

8 ~~[10.01]~~ **11.01. – [Transition.] Charter review.**

9 ~~A. Elected officials. City officials who are incumbent on the effective~~
10 ~~date of this Charter shall serve out their elected terms unless recalled under the~~
11 ~~provisions of this Charter.~~

12 ~~B. Appointed officials. All incumbent appointed officials and~~
13 ~~commissioners shall serve out their appointed terms unless removed in~~
14 ~~accordance with city ordinances, resolutions or state law.]~~

15 A charter review commission shall be appointed as needed, but not less
16 frequently than every ten years. The governing body shall by resolution
17 determine the manner of appointment of the commission, provided that there
18 shall be an odd number of commissioners.

19 ~~[10.02]~~ **11.02. [–Mandated ordinances.] Charter amendment or repeal.**

20 ~~[The governing body shall enact all ordinances required by this Charter~~
21 ~~within one year of the effective date of the Charter. Where an ordinance exists on~~
22 ~~a required subject, the governing body shall review, revise as necessary, and re-~~
23 ~~enact such ordinance within one year from the effective date of the Charter.]~~

24 This Charter may be amended or repealed as provided by law. The city
25 attorney shall review and render and publish a public opinion as to the legality

1 and form of any proposed charter amendment before it is submitted to the voters.

2 **~~[11.03.]~~ Severability.**

3 The provisions of this Charter are severable, and if any provision or part
4 of a provision is held to be unlawful or unconstitutional, the remainder of this
5 Charter shall not be affected.

6 **~~11.04.]~~ Effective date of charter.**

7 This Charter shall become effective on March 15, 1998.]

8 **ARTICLE~~[XI]~~ XII. -GENERAL PROVISIONS.**

9 **~~[11.01]~~12.01- Transition.**

10 A. Elected officials. City officials who are incumbent on the effective date of this
11 Charter shall serve out their elected terms unless recalled under the provisions of
12 this Charter.

13 B. Appointed officials. All incumbent appointed officials and commissioners
14 shall serve out their appointed terms unless removed in accordance with city
15 ordinances, resolutions or state law.

16 **~~[11.02]~~12.02- Mandated ordinances.**

17 The governing body shall enact all ordinances required by this Charter
18 within one year of the effective date of the Charter. Where an ordinance exists on
19 a required subject, the governing body shall review, revise as necessary, and re-
20 enact such ordinance within one year from the effective date of the Charter.

21 **~~[11.03]~~ 12.03- Severability.**

22 The provisions of this Charter are severable, and if any provision or part
23 of a provision is held to be unlawful or unconstitutional, the remainder of this
24 Charter shall not be affected.

25 **~~[11.04]~~ 12.04 - Effective date of charter.**

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This Charter shall become effective on March 15, 1998.

BE IT FURTHER RESOLVED BE IT FURTHER RESOLVED that the City Clerk shall submit this ballot question to the Santa Fe County Clerk no later than August 29, 2023.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELICIC, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry

[Erin McSherry \(Aug 11, 2023 17:40 MDT\)](#)

ERIN K. McSHERRY, CITY ATTORNEY