

CITY OF SANTA FE, NEW MEXICO

ORDINANCE 2023-13

AN ORDINANCE

AMENDING THE ELECTION AND POLITICAL CAMPAIGN CODES, SECTIONS 1 THROUGH 3, OF CHAPTER 9 1987 SFCC; UPDATING CERTAIN DEFINITIONS AND RESPONSIBILITIES CONSISTENT WITH STATE LAW; CREATING A SINGLE SECTION OF COMMON DEFINITIONS FOR THE CAMPAIGN CODE AND THE PUBLIC CAMPAIGN FINANCE CODE; REMOVING SECTION 9-2.4 REGARDING A CANDIDATE WRITTEN ACKNOWLEDGEMENT OF FAMILIARITY WITH CAMPAIGN CODE; AMENDING SECTION 9-2.7 TO REMOVE THE REQUIREMENT TO IDENTIFY A SPECIFIC CANDIDATE OR BALLOT QUESTION IN POLITICAL COMMITTEE DISCLOSURES; UPDATING THE FINANCE REPORTING SCHEDULE IN SECTION 9-2.10; EXPRESSLY PERMITTING ELECTRONIC CONTRIBUTIONS IN SECTION 9-3.12; AND REPLACING ALL REFERENCES OF “PARTICIPATING CANDIDATE” WITH “PUBLICLY FINANCED CANDIDATE”.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 9-1.6 of SFCC 1987 (being Ord. No. 1985-60, § 6, as amended) is amended to read:

9-1.6 Election resolution; nominating petition; declaration of candidacy; posting a list of qualified candidates.

A. Election Resolution. The Governing Body shall adopt an election resolution no earlier than one hundred fifty (150) days and no later than one hundred twenty (120) days prior to the date of a regular municipal election. The election resolution shall include a

list of the positions that are to be filled at the election and serve as the “election proclamation” referred to in Section 4.03(C) of the Santa Fe Municipal Charter. Notification of the election resolution shall be delivered to the county clerk pursuant to Section 1-22-4(A) NMSA 1978.

B. *Nominating Petitions.* Nominating petitions shall be prepared, circulated, and filed in accordance with the requirements of the New Mexico Election Code, Section 3-1-5 NMSA 1978 and Section 4.03 of the Santa Fe Municipal Charter and shall be submitted for certification to the county clerk.

C. *Declaration of Candidacy.* A declaration of candidacy in the form prescribed by Section 1-22-8 NMSA 1978 and accompanied by the candidate's certificate of valid nominating petition shall be submitted:

(1) By a person who is applying for public campaign financing, to the city clerk with the person's application for public financing before the end of the qualifying period pursuant to Section 9-3.8 SFCC 1987 and Section 1-22-3.2(D)(2) NMSA 1978;

(2) By a person who is not applying for public campaign financing or who has failed to be approved for public financing but who otherwise qualifies to be a candidate and is seeking to be listed on the ballot, to the county clerk on the seventieth (70th) day before the election pursuant to Sections 1-22-3.2(D)(5) and 1-22-7 NMSA 1978; and

(3) By a person seeking to be a write-in candidate, to the county clerk on the sixty-third (63rd) day before the election pursuant to Section 1-22-8.1 NMSA 1978.

D. *Qualification of Candidates.* Determinations of the qualifications of candidates to be listed on the ballot or to run as write-in candidates are made by the county clerk pursuant to Sections 1-22-3.2(D)(3), 1-22-8.1 and 1-22-10 NMSA 1978.

E. *Posting the List of Qualified Candidates.* Within one day of receipt of

notification from the county clerk of the county clerk's determination of qualified candidates, the city clerk shall post the list of the candidates' names on the city clerk's website.

Section 2. Section 9-2.3 of SFCC 1987 (being Ord. No. 1998-41, § 3, as amended) is amended to read:

9-2.3 Definitions.

As used in the Campaign and Public Campaign Finance Codes:

A. *Advertisement* means a communication referring to a candidate or ballot question that is published, disseminated, distributed, or displayed to the public by print, broadcast, satellite, cable or electronic media, including recorded phone messages, or by printed materials, including mailers, handbills, signs and billboards, but does not include any of the following:

(1) a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel;

(2) a communication appearing in a news story or editorial distributed through a print, broadcast, satellite, cable or electronic medium;

(3) a candidate debate or forum or a communication announcing a candidate debate or forum paid for on behalf of the sponsor of the debate or forum; provided that two or more candidates for the same position have been invited to participate or, in the case of an uncontested election, that the sponsor invited the single candidate for the position to participate;

(4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986, as amended, for Section 501(c)(3) organizations; or

(5) statements made to a court or administrative board in the course of a formal judicial or administrative proceeding.

B. *Anonymous contribution* means a contribution for which any of the information required to be recorded or reported by the Campaign Code is unknown to the persons who are

1 required to record or report it.

2 C. *Ballot proposition* means any measure, amendment or other question submitted
3 to, or proposed for submission to, a popular vote at a Santa Fe election.

4 D. *Campaign depository* means a bank, mutual savings bank, savings and loan
5 association or credit union doing business in this state under which a campaign account or
6 accounts are maintained.

7 E. *Campaign finance statement* means a report of all contributions received and
8 expenditures made according to a form prescribed by the city clerk which, when completed and
9 filed, provides the information required in the sections to follow.

10 F. *Campaign materials* means any published communication, electronic or
11 otherwise, disseminated to more than one hundred (100) persons that either supports the election
12 or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot
13 proposal, other than communications to, or editorials, reports, or commentary by news media.

14 G. *Campaign treasurer* means the individual who is responsible for keeping the
15 financial records of the political committee or candidate (the candidate may be their own
16 campaign treasurer).

17 H. *Candidate* means any individual who seeks election to a Santa Fe municipal
18 office. An individual shall be a candidate when:

- 19 (1) The individual announces publicly;
- 20 (2) The individual files for office;
- 21 (3) The individual accepts contributions or makes
22 expenditures; or
- 23 (4) Any activity is held to promote an election campaign of
24 the individual if that activity is endorsed or supported by that
25 individual or if the benefits of such activity are later accepted by

the individual.

I. *Charity* means an organization that is exempted from federal taxation by Title 26 United States Code, section 501(c)(3).

J. *Contribution* means a loan, loan guarantee, gift, advance, pledge, contract, agreement or promise of money or anything of value or other obligation, whether or not these items are legally enforceable, made directly or indirectly, to a candidate or political committee, or to a person obligated to file a report under Subsection 9-2.6 SFCC 1987, for the purpose of supporting the election or defeat of any identifiable candidate or the approval or defeat of a ballot proposition.

(1) The term "contribution" includes:

(a) The transfer of funds or anything of value between political committees;

(b) The transfer of anything of value for less than full consideration;

(c) Interest, dividends or other income derived from the investment of campaign funds;

(d) The payment for the services of an individual serving on behalf of a candidate or political committee, which payments are made by a third party;

(e) The purchase of tickets for fundraising events such as dinners, rallies, raffles, etc. and the proceeds of collections at fundraising events; and

(f) A coordinated expenditure.

(2) The term "contribution" does not include a volunteer's personal services provided without compensation or the travel or personal expenses of such a campaign worker.

1 K. *Contributor* means:

2 (1) *Individual contributor* means an individual who makes a contribution
3 from their personal assets which are not those of a business, corporation,
4 partnership, labor organization, unincorporated association or political
5 committee.

6 (2) *Business or organizational contributor* means an individual who uses the
7 assets of a business, corporation, partnership, labor organization, unincorporated
8 association or political committee as a contribution, or any business, corporation,
9 partnership, labor organization, unincorporated association or political committee
10 which makes a contribution.

11 L. *Coordinated expenditure* means an expenditure that is made

12 (1) By an individual or entity—other than a candidate or the candidate's
13 political committee; and

14 (2) In cooperation, consultation, or concert with, or at the request or
15 suggestion of, a candidate, his/her representatives or agents or the candidate's
16 political committee, including but not limited to, the following examples in
17 subsections 9-2.3(K)(2)(a)-(d):

18 (a) There has been substantial discussion between the individual or
19 entity making the expenditure and the candidate, candidate's political
20 committee, or his/her representatives or agents. Substantial discussion
21 includes, but is not limited to, an exchange of campaign strategies,
22 polling information, voter lists or any other similar information that
23 would facilitate the election or defeat of a candidate.

24 (b) An entity making the expenditure is directly or indirectly formed
25 or established by or at the request or suggestion of, or with the

1 encouragement of the candidate, candidate's political committee, or
2 his/her representatives or agents.

3 (c) The candidate, candidate's political committee or his/her
4 representatives or agents has solicited funds or engaged in other
5 fundraising activities on behalf of the person or entity making the
6 expenditure during the twelve-month (12) period preceding the date of
7 the expenditure. Fundraising activities include, but are not limited to,
8 exchanging names of potential donors or other lists to be used in
9 engaging in fundraising activity, regardless of whether or not the
10 individual or entity pays fair market value for the names or lists
11 provided; or being a featured guest or speaker at a fundraising event for
12 the benefit of the entity making the expenditure.

13 (d) If the individual or entity making the expenditure has employed,
14 has in a leadership position, or has accepted a donation of the campaign
15 related professional services of any person, who, during the twelve-
16 month period preceding the date of the expenditure, has been an
17 employee of, has advised, or provided or is providing services to the
18 candidate or candidate's political committee. These services include, but
19 are not limited to, any services in support of the candidate's or candidate's
20 political committee's campaign activities, such as advertising, message,
21 strategy or policy services, polling, allocation of resources, fundraising
22 or campaign operations.

23 (3) An expenditure is not a coordinated expenditure solely because:

24 (a) The individual or entity and a candidate or candidate's political
25 committee use the same vendor to provide polling services, printing or

1 distribution services or physical space, provided that the vendor has in
2 place prior to the expenditure a firewall to ensure that there is no exchange
3 of information between the individual or entity and the candidate or
4 campaign committee. Evidence of an adequate firewall is a vendor's
5 formal written policy or a contractual agreement with the vendor
6 prohibiting the exchange of information between the individual or entity
7 and the candidate or candidate's political committee, which policy or
8 contract is distributed to all relevant employees, consultants, and clients
9 affected by the policy or contract. The firewall shall be designed and
10 implemented to prohibit the flow of information between employees and
11 consultants providing services to the individual and entity and to those
12 currently or previously providing services to the candidate or candidate's
13 political committee. Coordination will be presumed in the absence of such
14 a firewall; or

15 (b) The individual or entity making the expenditure interviews a
16 candidate; has endorsed a candidate; has obtained from the candidate a
17 biography of the candidate or a position paper, press release, or similar
18 material about the candidate; has invited the candidate to make an
19 appearance before the person's members, employees or shareholders; or
20 has shared space with a candidate or candidate's political committee for
21 one or more single events of limited duration.

22 M. *Election* means any regular or special Santa Fe municipal election.

23 N. *Expenditure* means a payment, transfer, distribution, or obligation, or promise to
24 pay, transfer or distribute any money or other thing of value for a political purpose, including
25 payment of a debt incurred in an election campaign.

1 O. *Fund* means the public campaign finance fund created by subsection 9-3.4 SFCC
2 1987.

3 P. *Independent expenditure* means an expenditure that is
4 (1) made by a person other than a candidate or campaign;
5 (2) not a coordinated expenditure as defined in Section 9-2, the campaign
6 code; and
7 (3) made to pay for an advertisement that
8 (a) expressly advocates the election or defeat of an identifiable
9 candidate or the passage or defeat of an identifiable question;
10 (b) is susceptible to no other reasonable interpretation than as an
11 appeal to vote for or against a clearly identified candidate or ballot question; or
12 (c) refers to a clearly identified candidate or ballot question and is
13 published and disseminated to the electorate in Santa Fe within sixty (60) days
14 before the election at which the candidate or ballot question is on the ballot.

15 Q. *Political committee* means any entity that
16 (1) Is formed for the principal purpose of
17 (a) Raising or collecting, and expending or contributing money or
18 anything of value for supporting the election or defeat of any identifiable
19 candidate or candidates or for supporting the approval or defeat of ballot
20 propositions; or
21 (b) Coordinating or cooperating in efforts to support the election or
22 defeat of any identifiable candidates or of supporting the approval or defeat of
23 any ballot proposition; and
24 (2) Expends five thousand dollars (\$5,000.00) or more in the aggregate for
25 these principal purposes during a single election.

1 R. *Publicly financed candidate* means a candidate who has qualified and has been
2 certified pursuant to subsection 9-3.9 SFCC 1987 as eligible to receive payments from the fund.

3 S. *Qualified elector* means a person who is registered to vote in the city of Santa
4 Fe.

5 T. *Qualified small contribution* means a contribution of no more than one hundred
6 dollars (\$100.00) made and accepted in compliance with the provisions of subsection 9-
7 3.12 SFCC 1987.

8 U. *Qualifying contribution* means a contribution of five dollars (\$5.00) that is
9 received from a qualified elector during the qualifying period by a candidate seeking to become
10 a publicly financed candidate. A candidate for councilor shall only receive qualifying
11 contributions from qualified electors registered to vote in the council district in which the
12 candidate is running.

13 V. *Qualifying period* means the period during which a candidate seeking to become
14 a publicly financed candidate is permitted to collect qualifying contributions and to apply for
15 certification as a publicly financed candidate. It begins one hundred eighty-three (183) days
16 before the election and ends one hundred six (106) days before the election.

17 W. *Race* means the electoral process in which one (1) or more candidates run and
18 one (1) candidate is elected to the office of mayor, municipal judge, or city councilor for a
19 particular district.

20 X. *Seed money contribution* means a contribution of no more than one hundred
21 dollars (\$100.00) made and accepted in compliance with the provisions of subsection 9-
22 3.6 SFCC 1987 and used exclusively for the purposes specified in that subsection.

23 Y. *Uncontested race* means a race in which there is only one (1) candidate for the
24 office sought.

25 **Section 3. Removing Section 9-2.4 of SFCC 1987 (being Ord. No. 2005-14, § 27,**

1 **as amended):**

2 *Editor's note: leave this section as "Reserved."; do not re-number subsequent sections.

3 **9-2.4**

4 **Section 4. Section 9-2.5 of SFCC 1987 (being Ord. No. 1998-41, § 4, as amended)**
5 **is amended to read:**

6 **9-2.5 Identification of campaign material.**

7 A. Campaign materials disseminated or communicated by a candidate shall
8 conspicuously identify the name of the candidate and campaign treasurer.

9 B. Campaign materials disseminated or communicated by a political committee
10 shall conspicuously identify the name of an officer or other responsible person of the political
11 committee sponsoring such materials.

12 C. Any candidate, or person acting on behalf of a candidate, shall not willfully steal,
13 destroy, or damage another candidate's campaign materials.

14 D. Written, printed, or posted materials shall also show a telephone contact number.

15 **Section 5. Section 9-2.6 of SFCC 1987 (being Ord. No. 2005-14, § 29, as**
16 **amended) is amended to read:**

17 **9-2.6 Independently sponsored campaign communications and reporting.**

18 A. A person who makes an independent expenditure shall file a report with the City
19 Clerk within

20 (1) three business days of making the expenditure if the expenditure, by itself
21 or aggregated with all independent expenditures made by the same person during an
22 election, exceeds five hundred dollars (\$500); or

23 (2) twenty-four hours of making the expenditure if the expenditure was made
24 on or after the Wednesday preceding the election and the expenditure, by itself or
25 aggregated with all independent expenditures made by the same person during an election,

exceeds one thousand (\$1,000.00).

B. The report required by paragraph A of this subsection shall state

(1) the name and address of the person who made the independent expenditure;

(2) the name and address of the person to whom the independent expenditure was made and the amount, date, and purpose of the independent expenditure. If no reasonable estimate of the monetary value of a particular expenditure is practicable, it is sufficient to report instead a description of the services, property or rights furnished through the expenditure; and

(3) the source of the contributions used to make the independent expenditure as provided in paragraphs C and D of this subsection.

C. A person who makes independent expenditures required to be reported under this subsection shall report the name and address of each person who has made contributions of more than a total of twenty-five dollars (\$25) in the election that were earmarked or made in response to a solicitation to fund independent expenditures and shall report the amount of each such contribution made by that person.

D. If a person who has made a report required by this section is required to make subsequent reports during the election cycle, the information concerning contributions in the subsequent reports shall cover only contributions not previously reported.

Section 6. Section 9-2.7 of SFCC 1987 (being Ord. No. 1998-41, § 5, as amended) is amended to read:

9-2.7 Statement of political committee organization.

A. Every political committee shall file a statement of organization with the city clerk within ten (10) days of becoming a political committee as defined in paragraph P of subsection 9-2.3 SFCC 1987.

1 B. The statement of organization shall include but not be limited to the following:

2 (1) The name, street address, city, county, state, zip code and telephone
3 number of the political committee;

4 (2) The names, addresses and titles of its officers; or if it has no officers, the
5 names, addresses, and titles of its responsible leaders; and

6 (3) The full names, addresses and telephone number (home and business) of
7 its campaign treasurer and campaign depository.

8 C. Any material changes in information previously submitted to the city clerk shall
9 be reported to the city clerk within ten (10) days of such change.

10 **Section 7. Section 9-2.8 of SFCC 1987 (being Ord. No. 1998-41, § 6, as amended)**
11 **is amended to read:**

12 **9-2.8 Appointment of campaign treasurer and designation of depository by**
13 **candidate.**

14 A. Each candidate, within two (2) weeks after becoming a candidate, and each
15 political committee, at the time it is required to file a statement of organization, shall designate
16 and file with the city clerk the names and addresses of:

17 (1) One (1) legally competent individual, who may be the candidate, to serve
18 as campaign treasurer; and

19 (2) The campaign depository.

20 B. A candidate or political committee may at any time remove a campaign treasurer
21 or change a designated campaign depository. In the event of the death, resignation, removal, or
22 change of a campaign treasurer, or depository, the candidate or political committee shall
23 designate and file with the city clerk within ten (10) days after such designation, the name and
24 address of any successor.

25 C. No contribution and no expenditure shall be accepted or made by or on behalf of

1 a candidate or political committee unless there is a depository and a campaign treasurer in office.

2 D. No expenditure shall be made by or on behalf of a candidate or political committee
3 without the authorization of the treasurer.

4 E. A candidate is deemed to be their own campaign treasurer until or unless they
5 appoint another person to that office. No expenditure shall be made by or on behalf of a candidate
6 or political committee without the authorization of the treasurer.

7 **Section 8. Section 9-2.9 of SFCC 1987 (being Ord. No. 1998-41, § 7, as amended)**
8 **is amended to read:**

9 **9-2.9 Campaign treasurer; duties.**

10 A. The campaign treasurer shall keep a true and full record of contributions and
11 expenditures. The record of contributions and expenditures required to be kept under the terms
12 of the Campaign Code and the Public Campaign Finance Code shall reflect the requirements in
13 subsection 9-2.11 SFCC 1987 and Section 9-3 SFCC 1987, respectively.

14 B. The campaign treasurer shall maintain

15 (1) Receipts reflecting the purpose of each expenditure and the day and
16 method of payment; and

17 (2) All campaign bank records, including deposit slips and canceled checks.

18 C. The campaign treasurer shall not accept anonymous contributions. Any such
19 contribution received by the campaign treasurer shall, within seven (7) days of receipt, be donated
20 to a charity or to the city's general fund. The campaign treasurer shall keep a record of the amount
21 and date of receipt of any such contributions and of the disposition that was made of the
22 contribution, including the date when it was donated to the city or to a charity and the identity of
23 the recipient of the donation.

24 D. Records required to be kept by the campaign treasurer under the terms of
25 paragraph A of this subsection, shall be filed with the city clerk as part of the public record, shall

1 be provided to the ethics and campaign review board set forth in Section 6-16, SFCC 1987 upon
2 request and may be inspected by the public during usual business hours, Monday through Friday,
3 excluding legal holidays.

4 E. Records kept by the campaign treasurer shall be made current not more than
5 seven (7) days after the date of a contribution or of an expenditure. During the eight (8) days
6 immediately preceding the date of any election for which the political committee has received
7 any contributions or made any expenditures, the books of the account shall be kept current within
8 one (1) business day.

9 F. The campaign treasurer shall preserve books of accounts, bills, receipts, and all
10 other financial records of the campaign or political committee for two (2) calendar years
11 following the year in which the transaction occurred.

12 G. The campaign treasurer shall deposit within five (5) business days after receipt
13 all monetary contributions received by a candidate, political committee, campaign treasurer or
14 the campaign depository designated for that purpose.

15 H. Campaign funds shall be used and distributed as follows:

16 (1) All contributions received shall be under the custody of the campaign
17 treasurer and shall be segregated from, and not be commingled with, the personal funds
18 of an individual, group or political committee. Contributions shall be used exclusively to
19 pay expenses incurred in furtherance of the candidate's campaign, and shall not be used
20 for any other purpose, including:

21 (a) The candidate's personal living expenses or compensation to the
22 candidate;

23 (b) A contribution to the campaign of another candidate or to a
24 political party or political committee or to a campaign supporting or opposing a
25 ballot proposition;

1 (c) An expenditure supporting the election or defeat of any
2 identifiable candidate or the passage or defeat of a ballot proposition; or

3 (d) Any gift or transfer for which compensating value is not
4 received, other than a donation or distribution permitted by this subsection at the
5 conclusion of an election.

6 (2) Any campaign contributions remaining unspent and any tangible assets
7 with an estimated resale value greater than two hundred dollars (\$200.00) that were
8 purchased with such contributions and remain in the possession of the campaign at the
9 conclusion of an election shall be distributed for the following purposes:

10 (a) Expenditures of the campaign;

11 (b) Donations to the city's general fund or, in the case of tangible
12 assets, to the city for its use or disposition in accordance with the city's
13 procurement code. Proceeds from such disposition shall be deposited in the city's
14 general fund;

15 (c) Donations to charities; or

16 (d) Disbursements to return unused funds to the contributors.

17 (3) All unspent campaign contributions shall be distributed within six (6)
18 months following a municipal election, for any of the purposes listed in this paragraph H
19 of subsection 9-2.9. All candidates and political committees shall file reports listing the
20 date, amount, and recipient of each post-election expenditure, donation, or disbursement
21 made from campaign funds pursuant to this paragraph H of subsection 9-2.9. Such report
22 shall be part of the final campaign finance statement that is required by paragraph A of
23 subsection 9-2.10 SFCC 1987.

24 I. A campaign treasurer, or political committee may invest funds deposited in the
25 campaign account in an account of indebtedness of a financial institution up to the amount of

1 federal deposit insurance; United States bonds or certificates of indebtedness or those of a federal
2 agency; and/or bonds or warrants of the state or any municipal corporation of the state. All
3 interest, dividends, and/or other income derived from the investment and the principal when
4 repaid shall be deposited in the campaign account.

5 **Section 9. Section 9-2.10 of SFCC 1987 (being Ord. No. 1998-41, § 8, as**
6 **amended) is amended to read:**

7 **9-2.10 Campaign finance statement required.**

8 A. In addition to any statement of organization required pursuant to paragraph A of
9 subsection 9-2.7 SFCC 1987, each candidate or political committee and their respective
10 campaign treasurer shall file a campaign finance statement of all contributions received and
11 expenditures made to date which report shall be current as of the day immediately preceding the
12 reporting date. Contributions shall be reported as of the date of receipt of cash, checks, pledges,
13 commitments for in-kind contributions, promissory notes, or other money instruments regardless
14 of the date of actual cashing or deposit. The report shall be submitted on a form prescribed by
15 the city clerk, and shall be filed during the following periods:

16 (1) By 5:00 p.m. on the sixtieth (60th) day preceding an election in which the
17 candidate is seeking election to an office or in connection with which the political
18 committee has received contributions or made expenditures;

19 (2) By 5:00 p.m. on the thirtieth (30th) day preceding such election;

20 (3) By 5:00 p.m. on the Tuesday preceding such election;

21 (4) By 12:00 noon on the Monday preceding such election; and

22 (5) Within thirty (30) days following such election (final report).

23 B. Upon submitting a final report there shall be no obligation to make any
24 further reports unless there are outstanding debts. If there are, a report shall be filed every six (6)
25 months until all outstanding debts have been liquidated.

1 C. If a reporting day falls on a weekend, the campaign finance statement shall be
2 filed with the city clerk on the first working day immediately following the weekend.

3 D. Campaign finance statements shall be filed with the city clerk during regular
4 business hours.

5 E. The city clerk shall reject any incomplete campaign finance statements. The city
6 clerk shall notify the candidate or political committee that the campaign finance statement is
7 incomplete.

8 F. Any candidate who withdraws from an election shall be required to file a report
9 at the time of withdrawal.

10 G. The city clerk shall assess a fine of one hundred dollars (\$100.00) for unexcused
11 late filing of campaign finance statements.

12 **Section 10. Section 9-2.15 of SFCC 1987 (being Ord. No. 2005-14, § 38, as**
13 **amended) is amended to read:**

14 **9-2.15 Temporary political signs.**

15 The following requirements shall apply for political campaign signs:

16 A. No building permit is required.

17 B. Signs shall not be located on or overhang onto public property, including but not
18 limited to, rights-of-way. Signs placed on a curb strip in front of a private residence, with the
19 permission of the owner, are exempt from this section.

20 C. Each candidate shall designate a liaison contact as responsible for the lawful
21 placement and location of political campaign signs. The contact's name and telephone number
22 shall be filed with the city clerk.

23 D. Political campaign signs may be located on private property, with the consent of
24 the property owner, who may remove any sign placed on such owner's property without
25 permission.

1 E. The city clerk shall request that candidate liaison contacts remove their
2 candidates' unlawful signs within twenty-four (24) hours and upon their failure to do so shall
3 impose a fine of fifty dollars (\$50.00) per sign, per day.

4 F. If not removed as directed in paragraph E. above, the city manager shall direct
5 city staff to remove those signs placed on public property or rights-of-way in violation of this
6 section, including the towing of vehicles displaying political campaign signs illegally parked on
7 city property.

8 G. No sign shall exceed thirty-two (32) square feet.

9 H. All political signs shall be removed within five (5) days after the election.

10 **Section 11. Section 9-3.3 of SFCC 1987 (being Ord. No. 2009-44, § 4, as amended)**
11 **is amended to read:**

12 **9-3.3 Definitions.**

13 As used in this section, the definitions in section 9-2 apply.

14 **Section 12. Section 9-3.5 of SFCC 1987 (being Ord. No. 2009-44, § 6, as amended)**
15 **is amended to read:**

16 **9-3.5 Eligibility as a publicly financed candidate.**

17 Any candidate for municipal office may qualify as a publicly financed candidate eligible
18 to receive payments from the fund pursuant to subsections 9-3.10 and 9-3.13 SFCC 1987 if the
19 candidate:

20 A. Meets the requisites to be listed on the ballot as a certified candidate for
21 municipal office pursuant to the provisions of Subsection D of Section 1-22-3.2 NMSA 1978 and
22 Article IV Section 4.03 of the Santa Fe Municipal Charter;

23 B. Has collected the requisite number of qualifying contributions, as follows:

24 (1) For a candidate running for the office of mayor, six hundred (600)
25 qualifying contributions from separate qualified electors;

1 (2) For a candidate running for the office of city councilor, one hundred fifty
2 (150) qualifying contributions from separate qualified electors registered to vote in the
3 council district in which the candidate is running;

4 (3) For a candidate running for the office of municipal judge, one hundred
5 fifty (150) qualifying contributions from separate qualified electors.

6 C. Submits an application for certification pursuant to subsection 9-3.8 SFCC 1987
7 setting forth the agreement and the averments, accompanied by the supporting documents and
8 payments that are required by that subsection.

9 **Section 13. Section 9-3.6 of SFCC 1987 (being Ord. No. 2009-44, § 7, as amended)**
10 **is amended to read:**

11 **9-3.6 - Seed money contributions.**

12 A. A candidate seeking to become a publicly financed candidate may solicit and
13 accept seed money contributions to defray expenses incurred in obtaining qualifying
14 contributions and in seeking certification as a publicly financed candidate.

15 B. The aggregate amount of seed money contributions from any one contributor to
16 any one candidate shall not exceed one hundred dollars (\$100.00), and the aggregate amount of
17 seed money contributions accepted by a candidate shall not exceed ten percent (10%) of the
18 amount payable under subsection 9-3.10 SFCC 1987 to a candidate in a contested election for
19 the office sought.

20 C. Each seed money contribution shall be accompanied by a form signed by the
21 contributor, which shall include the contributor's name, home address, telephone number,
22 occupation, and name of employer. The city clerk shall accept electronic signatures that comply
23 with the Uniform Electronic Transactions Act, Sections 14-16-1 through 14-16-21 NMSA 1978.

24 D. No person shall knowingly make, and no candidate shall knowingly receive, a
25 seed money contribution which is not from the person named on the form or for which the person

1 named on the form has been or will be reimbursed or compensated by another person.

2 E. All seed money contributions received by a candidate shall be deposited in a non-
3 interest-bearing account in a campaign depository to be established by the candidate before
4 soliciting or accepting any such contributions. All expenditures of seed money shall be made
5 from the campaign depository.

6 F. Seed money contributions shall be used only for the purposes specified in
7 paragraph A. of this subsection, and all seed money contributions that have not been spent or
8 used for such purposes by the time the candidate applies for certification as a publicly financed
9 candidate or by the end of the qualifying period, whichever is sooner, shall then be paid over to
10 the city clerk for deposit in the fund; provided, however, that if payment of all of the candidate's
11 unspent seed money to the city clerk would cause the bank account in the campaign depository
12 to be closed, an amount of seed money necessary to keep the account open may be temporarily
13 retained in the account and paid over to the city clerk at a later time in compliance with paragraph
14 C of subsection 9-3.10 SFCC 1987.

15 **Section 14. Section 9-3.7 of SFCC 1987 (being Ord. No. 2009-44, § 8, as amended)**
16 **is amended to read:**

17 **9-3.7 Qualifying contributions.**

18 A. Each qualifying contribution shall be accompanied by a form signed by the
19 contributor, which shall include the contributor's name, registered address and telephone number.
20 The city clerk shall accept electronic signatures that comply with the Uniform Electronic
21 Transactions Act, Sections 14-16-1 through 14-16-21 NMSA 1978.

22 B. No candidate or person acting on a candidate's behalf shall pay to any other
23 person any form of compensation for soliciting or obtaining a qualifying contribution.

24 C. No person shall knowingly make, and no candidate shall knowingly receive a
25 qualifying contribution that is not from the person named on the form or for which the person

1 named on the form has been or will be reimbursed or compensated by another person.

2 D. All qualifying contributions received by a candidate shall either be deposited in
3 the candidate's campaign depository and then paid to the city clerk for deposit in the public
4 campaign finance fund or shall be directly deposited in the public campaign finance fund (in the
5 case of certain electronic contributions).

6 **Section 15. Section 9-3.8 of SFCC 1987 (being Ord. No. 2009-44, § 9, as amended)**
7 **is amended to read:**

8 **9-3.8 Application for certification as a publicly financed candidate.**

9 A. A candidate who wishes to be certified as a publicly financed candidate shall,
10 before the end of the qualifying period, file an application for such certification with the city
11 clerk on a form prescribed by the city clerk.

12 B. The application shall identify the candidate and the office that the candidate is
13 seeking and shall set forth the following:

14 (1) The candidate's averment under oath that the candidate satisfies the
15 requisites for qualification and certification as a publicly financed candidate prescribed
16 by subsection 9-3.5 SFCC 1987;

17 (2) The candidate's averment under oath that the candidate has accepted no
18 contributions to the candidate's current campaign other than qualifying contributions and
19 seed money contributions solicited and accepted pursuant to subsections 9-3.6 SFCC
20 1987 and 9-3.7 SFCC 1987;

21 (3) The candidate's averment under oath that the candidate has made no
22 expenditures for his or her current campaign from any source other than seed money
23 contributions; and

24 (4) The candidate's agreement that his or her current campaign will not
25 solicit, direct, or accept any further contributions or make any further expenditures from

any sources other than payments received from the fund pursuant to subsections 9-3.10 and 9-3.13 SFCC 1987 and qualified small contributions received pursuant to subsection 9-3.12 SFCC 1987.

C. The application shall be accompanied by:

(1) A sworn declaration of candidacy in the form prescribed by Section 1-22-8 NMSA 1978;

(2) A certificate of valid nominating petition certifying that the candidate's nominating petition contains the number of signatures specified for the office sought pursuant to Section 4.03 of the Santa Fe Municipal Charter;

(3) Reports listing all seed money contributions and qualifying contributions received by the candidate and all expenditures of seed money contributions made by the candidate, and showing the aggregate amounts of all such contributions and expenditures and the aggregate amounts of all contributions received from each contributor;

(4) Copies of forms signed by contributors for all seed money contributions and qualifying contributions received by the candidate; and

(5) A check or checks issued to the city of Santa Fe from the candidate's campaign depository for the amount of all qualifying contributions received by the candidate and all seed money contributions received by the candidate except:

(a) Amounts previously spent for the purposes specified in paragraph A of subsection 9-3.6 SFCC 1987; and

(b) The amount, if any, that has been temporarily retained by the candidate for the purpose of keeping open the bank account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC 1987.

Section 16. Section 9-3.9 of SFCC 1987 (being Ord. No. 2009-44, § 10, as amended) is amended to read:

1 **9-3.9 - Certification as a publicly financed candidate.**

2 A. On or before the ninety-fifth (95th) day before the election the city clerk shall deliver to
3 the county clerk, pursuant to Section 1-22-3.2(D)(2) NMSA 1978, the candidate's
4 declaration of candidacy and certificate of valid nominating petition, and shall request
5 from the county clerk a determination, pursuant to Section 1-22-3.2(D)(3) NMSA 1978,
6 whether the candidate is qualified to be a candidate.

7 B. On or before the eighty-ninth (89th) day before the election the city clerk shall make a
8 determination whether the candidate's application complies with the requirements of
9 subsection 9-3.8 SFCC 1987 and whether the candidate satisfies the requisites for
10 certification as a publicly financed candidate prescribed by subsection 9-3.5 SFCC 1987,
11 and shall thereupon issue a decision, in accordance with the determination so made,
12 granting or refusing such certification to the candidate.

13 C. The city clerk may revoke a candidate's certification as a publicly financed for any
14 violation by the candidate of the requirements of this section, and may require any
15 candidate whose certification has been revoked to pay over to the city clerk for deposit
16 in the fund any amounts previously paid to the candidate pursuant to subsections 9-3.10
17 and 9-3.13 SFCC 1987.

18 **Section 17. Section 9-3.10 of SFCC 1987 (being Ord. No. 2009-44, § 11, as**
19 **amended) is amended to read:**

20 **9-3.10 Payments to publicly financed candidates.**

21 A. Within three (3) business days of certifying a candidate as a publicly financed
22 candidate, the city clerk shall disburse to the candidate from the fund:

23 (1) Sixty thousand dollars (\$60,000.00) for a candidate in a contested race
24 for the office of mayor;

25 (2) Fifteen thousand dollars (\$15,000.00) for a candidate in a contested race

1 for the office of city councilor;

2 (3) Fifteen thousand dollars (\$15,000.00) for a candidate in a contested race
3 for the office of municipal judge; or

4 (4) For a candidate in an uncontested race, ten percent (10%) of the amount
5 would be due to a candidate in a contested race for the same office.

6 B. If the amounts required to be paid to candidates under paragraph A of this
7 subsection exceed the total amount available in the fund, each payment shall be reduced in
8 proportion to the amount of such excess. Any such proportionate reduction in the payment due
9 to any candidate under paragraph A of this subsection shall give the candidate the option to reject
10 the payment and to withdraw as a publicly financed candidate. A candidate who withdraws as a
11 publicly financed candidate pursuant to this paragraph shall file an affidavit with the city clerk
12 so stating and shall thenceforth be treated for all purposes as a non- publicly financed candidate
13 relieved of all obligations and restrictions and excluded from all benefits and exemptions
14 imposed or conferred on a publicly financed candidate by this Section 9-3 SFCC 1987.

15 C. Within five (5) business days of the candidate's receipt of the amount disbursed
16 under paragraph A of this subsection or the city clerk's refusal to certify the candidate as a
17 publicly financed candidate pursuant to paragraph A of subsection 9-3.9 SFCC 1987, whichever
18 is sooner, the candidate shall pay the city clerk for deposit in the fund any amount of seed money
19 that has been temporarily retained by the candidate for the purpose of keeping open the bank
20 account in the campaign depository pursuant to paragraph E of subsection 9-3.6 SFCC 1987.

21 **Section 18. Section 9-3.12 of SFCC 1987 (being Ord. No. 2018-28, § 9, as**
22 **amended) is amended to read:**

23 **9-3.12 Qualified small contributions.**

24 A. A publicly financed candidate may solicit and accept qualified small
25 contributions beginning on the date on which the candidate is certified as a publicly financed

1 candidate pursuant to subsection 9-3.9(A) SFCC 1987.

2 B. The aggregate amount of qualified small contributions from any one contributor
3 to any one candidate shall not exceed one hundred dollars (\$100.00).

4 C. The aggregate amount of qualified small contributions accepted by a publicly
5 financed candidate shall not exceed:

6 (1) For a candidate for mayor, fifty percent (50%) of the amount initially
7 paid to the candidate pursuant to subsection 9-3.10 SFCC 1987; and

8 (2) For a candidate for council or municipal judge, twenty-five percent
9 (25%) of the amount initially paid to the candidate pursuant to subsection 9-3.10 SFCC
10 1987.

11 D. Each qualified small contribution shall be accompanied by a form signed by the
12 contributor, which shall include the contributor's name, home address, telephone number,
13 occupation, and name of employer. The city clerk shall accept electronic signatures and
14 electronic conveyances that comply with the Uniform Electronic Transactions Act, Sections 14-
15 16-1 through 14-16-21 NMSA 1978.

16 E. No person shall knowingly make, and no candidate shall knowingly receive, a
17 qualified small contribution that is not from the person named on the form or for which the person
18 named on the form has been or will be reimbursed or compensated by another person.

19 F. Before soliciting or accepting qualified small contributions, a candidate shall
20 appoint a treasurer and establish a campaign depository in the manner required by subsection 9-
21 2.8 SFCC 1987. All qualified small contributions received by a candidate shall be recorded by
22 the candidate's campaign treasurer, deposited in a separate non-interest-bearing account in the
23 campaign depository and used in the candidate's campaign or disposed of following the election
24 in the manner required by subsection 9-2.9 SFCC 1987. All such contributions shall be timely
25 reported in a campaign finance statement prepared in the manner required by subsections 9-

2.10 through 9-2.12 SFCC 1987 and filed on the dates required by subsection 9-2.10 SFCC 1987. Campaign finance statements reporting the receipt of qualified small contributions shall be accompanied by copies of the forms signed by each contributor pursuant to paragraph D of this subsection.

Section 19. Section 9-3.13 of SFCC 1987 (being Ord. No. 2018-28, § 10) is amended to read:

9-3.13 - Additional reports of qualified small contributions; additional matching payments from the fund.

A. In addition to filing the campaign finance statements required by subsection 9-3.12(F) SFCC 1987, a publicly financed candidate may file one additional campaign finance statement reporting the receipt of qualified small contributions on the fifty-seventh (57th) day preceding the election.

B. Within two (2) business days after the filing of a campaign finance statement by a publicly financed candidate reporting the receipt of qualified small contributions and accompanied by copies of the forms signed by the contributors as required by paragraph D of subsection 9-3.12 SFCC 1987, the city clerk shall disburse to the candidate an additional payment from the fund equal to the total amount of the qualified small contributions reported in the campaign finance statement; provided, however, that no such additional matching payments shall be made for contributions reported in a campaign finance statement filed after the twenty-fifth (25th) day preceding the election.

C. Additional payments made to a publicly financed candidate pursuant to paragraph B of this subsection shall be deposited in the separate account in the candidate's campaign depository that was established by the candidate for the deposit of payments received from the fund pursuant to paragraph A of subsection 9-3.11.

D. The aggregate amount of additional payments made to a publicly financed

1 candidate pursuant to paragraph B. of this subsection shall not exceed:

2 (1) For a candidate for mayor, fifty percent (50%) of the amount
3 initially paid to the candidate pursuant to subsection 9-3.10 SFCC 1987; and

4 (2) For a candidate for city council or municipal judge, twenty-five
5 percent (25%) of the amount initially paid to the candidate pursuant to subsection
6 9-3.10 SFCC 1987.

7 E. If the amounts required to be paid to candidates under paragraph B of this
8 subsection exceed the total amount available in the fund, each payment shall be reduced in
9 proportion to the amount of such excess.

10 **Section 20. Section 9-3.14 of SFCC 1987 (being Ord. No. 2009-44, § 15, as**
11 **amended) is amended to read:**

12 **9-3.14 Reports of expenditures; exemption from certain reporting requirements.**

13 A. A publicly financed candidate shall file with the city clerk reports under oath of
14 expenditures made from the payments received from the fund, indicating that the expenditures were
15 made from that source and showing the date and amount of each such expenditure, the name and
16 address of the person or organization to whom it was made, the purpose of the expenditure, the
17 aggregate amount of such expenditures made to each person or organization and the aggregate
18 amount of all such expenditures made by the candidate or by his or her campaign. A copy of each
19 receipt, printed on 8½-inch by 11-inch paper, shall be filed with the city clerk with the reports
20 provided for in this subsection. Each report shall be accompanied by a copy of the most recent bank
21 statement for the separate account established by the candidate for the deposit of payments from
22 the fund pursuant to paragraph A of subsection 9-3.11 SFCC 1987. Within ninety (90) days after
23 the election, the candidate shall file a copy of a final bank statement showing that all funds in the
24 account have been expended or returned to the city in the manner required by paragraphs A and C
25 of subsection 9-3.11 SFCC 1987 and that the account has been closed.

1 B. The reports required by paragraph A of this subsection shall be filed on each of the
2 days prescribed for the filing of campaign finance statements by subsection 9-2.10 SFCC 1987.

3 C. A campaign finance statement filed by a publicly financed candidate to report
4 qualified small contributions pursuant to paragraph F of subsection 9-3.12 SFCC 1987 or paragraph
5 A of subsection 9-3.13 SFCC 1987 shall also include a report of all expenditures made during the
6 period covered by the statement from the separate account established by the candidate for the
7 deposit of such contributions pursuant to paragraph F of subsection 9-3.12 SFCC 1987. The
8 statement shall show that the expenditures were made from that source and shall contain all the
9 information concerning the expenditures, account balances, and funds on hand that is required for
10 campaign finance statements filed pursuant to subsection 9-2.11 SFCC 1987.

11 D. Except as provided in paragraphs A through C of this subsection, paragraph C of
12 subsection 9-3.8 SFCC 1987, paragraph F of subsection 9-3.12 SFCC 1987, and paragraph A of
13 subsection 9-3.13 SFCC 1987, publicly financed candidates are exempt from the requirement to
14 file campaign finance statements imposed by subsections 9-2.10 SFCC 1987 through 9-2.12 SFCC
15 1987 and from the requirements to file campaign records with the city clerk imposed by paragraph
16 D of subsection 9-2.9 SFCC 1987; provided, however, that campaign records shall be maintained
17 in the manner required by the applicable provisions of the Campaign Code (Section 9-2 SFCC
18 1987) and shall be made available upon request to the city clerk and the ethics and campaign review
19 board.

20 E. Seed money and qualifying contribution reports, campaign finance statements and
21 contribution and expenditure reports of a candidate for municipal judge are not required to be
22 signed or acknowledged by the candidate.

23 **Section 21. Section 9-3.15 of SFCC 1987 (being Ord. No. 2009-44, § 20) is**
24 **amended to read:**

25 **9-3.15 - Contributions and expenditures to retire debt from previous campaigns.**

1 Notwithstanding any other provision of this section, a candidate shall not be considered
2 ineligible for certification as a publicly financed candidate and shall not be deemed to have violated
3 the provisions of paragraph D of subsection 9-3.11 SFCC 1987 solely by reason of contributions
4 received or expenditures made to retire debt incurred in the course of a previous campaign in which
5 the candidate was not a publicly financed candidate, provided that any such contribution or
6 expenditure has been made and duly reported in full compliance with the requirements of the
7 Campaign Code (Article 9-2 SFCC 1987).

8 **Section 22. Section 9-3.18 of SFCC 1987 (being Ord. No. 2009-44, § 19, as**
9 **amended) is amended to read:**

10 **9-3.18 - Reports and forms.**

11 A. All reports and forms that are required by Section 9-3 SFCC 1987 shall be signed
12 under oath and on forms prescribed by the city clerk.

13 B. The city clerk is authorized to reject any incomplete report or form. The city clerk
14 shall notify a publicly financed candidate that the report or form is incomplete.

15 C. The city clerk shall assess a fine of one hundred dollars (\$100.00) for unexcused
16 late filing of reports or forms.

17 PASSED, APPROVED, and ADOPTED this 26th day of April, 2023.

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19 _____

20 ALAN WEBBER, MAYOR

21
22 ATTEST:

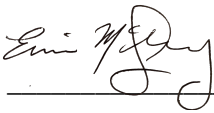
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25 KRISTINE MIHELIC, CITY CLERK

1 APPROVED AS TO FORM:

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ERIN K. McSHERRY, CITY ATTORNEY

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Bill No. 2023-11

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Legislation/2023/Bills/2023-13 (O) Election and Campaign Code Update