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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-16

INTRODUCED BY:

Councilor Carol Romero-Wirth

Councilor Michael J. Garcia

AN ORDINANCE

RELATING TO THE CAMPAIGN CODE; AMENDING SECTION 9-2.3 SFCC 1987 TO AMEND THE DEFINITION OF A “POLITICAL COMMITTEE” TO INCLUDE A THRESHOLD AMOUNT FOR REPORTING CONTRIBUTIONS; AMENDING SECTION 9-2.6 TO INCREASE THE AGGREGATE EXPENDITURE AMOUNT REQUIRING REPORTING TO FIVE HUNDRED DOLLARS AND TO EXEMPT AGGREGATE CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM SEPARATE REPORTING REQUIREMENTS; AMENDING SECTION 9-2.7 TO MAKE NECESSARY CHANGES REGARDING REFERENCES TO A “POLITICAL COMMITTEE”; AND AMENDING SECTION 9-2.11 TO EXEMPT AGGREGATE CONTRIBUTION AMOUNTS OF LESS THAN TWENTY-FIVE DOLLARS FROM SEPARATE REPORTING REQUIREMENTS.

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

Section 1. Section 9-2.3 SFCC 1987 (being Ord. No. 1998-41, § 3, as amended) is amended to read:

1 **9-2.3 Definitions.**

2 As used in the Campaign Code:

3 A. *Anonymous contribution* means a contribution for which any of the information
4 required to be recorded or reported by the Campaign Code is unknown to the persons who are
5 required to record or report it.

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

8 C. *Campaign depository* means a bank, mutual savings bank, savings and loan
9 association or credit union doing business in this state under which a campaign account or accounts
10 are maintained.

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

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

18 F. *Campaign treasurer and deputy campaign treasurer* means the individual who is
19 responsible for keeping the financial records of the political committee or candidate (the candidate
20 may be their own campaign treasurer or deputy campaign treasurer).

21 G. *Candidate* means any individual who seeks election to a Santa Fe municipal office.

22 An individual shall be a candidate when they:

23 (1) Announce publicly;

24 (2) File for office;

25 (3) When contributions are accepted or expenditures made; or

1 (4) Any activity is held to promote an election campaign of an individual if
2 that activity is endorsed or supported by that person or if the benefits of such activity are
3 later accepted by such person.

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

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

11 (1) The term "contribution" includes:

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

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

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

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

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

21 (f) A coordinated expenditure.

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

25 J. *Contributor* means:

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

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

9 K. *Coordinated expenditure* means an expenditure made:

10 (1) By an individual or entity other than a candidate or the candidate's
11 political committee; and

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

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

21 (b) An entity making the expenditure is directly or indirectly formed
22 or established by or at the request or suggestion of, or with the encouragement of
23 the candidate, candidate's political committee, or his/her representatives or agents;

24 (c) The candidate, candidate's political committee or his/her
25 representatives or agents has solicited funds or engaged in other fundraising

1 activities on behalf of the person or entity making the expenditure during the
2 twelve-month (12) period preceding the date of the expenditure. Fundraising
3 activities include, but are not limited to, exchanging names of potential donors or
4 other lists to be used in engaging in fundraising activity, regardless of whether or
5 not the individual or entity pays fair market value for the names or lists provided;
6 or being a featured guest or speaker at a fundraising event for the benefit of the
7 entity making the expenditure.

8 (d) If the individual or entity making the expenditure has employed,
9 has in a leadership position, or has accepted a donation of the campaign related
10 professional services of any person, who, during the twelve-month (12) period
11 preceding the date of the expenditure, has been an employee of, has advised, or
12 provided or is providing services to the candidate or candidate's political
13 committee. These services include, but are not limited to, any services in support
14 of the candidate's or candidate's political committee's campaign activities, such
15 as advertising, message, strategy or policy services, polling, allocation of
16 resources, fundraising or campaign operations.

17 (e) An expenditure is not a coordinated expenditure solely because:

18 (i) The individual or entity and a candidate or candidate's
19 political committee use The same vendor to provide polling services,
20 printing or distribution services or physical space, provided that the vendor
21 has in place prior to the expenditure a firewall to ensure that there is no
22 exchange of information between the individual or entity and the candidate
23 or campaign committee. Evidence of an adequate firewall is a vendor's
24 formal written policy or a contractual agreement with the vendor
25 prohibiting the exchange of information between the individual or entity

1 and the candidate or candidate's political committee, which policy or
2 contract is distributed to all relevant employees, consultants, and clients
3 affected by the policy or contract. The firewall shall be designed and
4 implemented to prohibit the flow of information between employees and
5 consultants providing services to the individual and entity and to those
6 currently or previously providing services to the candidate or candidate's
7 political committee. Coordination will be presumed in the absence of such
8 a firewall; or

9 (ii) The individual or entity making the expenditure
10 interviews a candidate; has endorsed a candidate; has obtained from the
11 candidate a biography of the candidate or a position paper, press release,
12 or similar material about the candidate; has invited the candidate to make
13 an appearance before the person's members, employees or shareholders;
14 or has shared space with a candidate or candidate's political committee for
15 one or more single events of limited duration.

16 L. *Election* means any regular or special Santa Fe municipal election.

17 M. *Expenditure* means a payment or transfer of anything of value in exchange for
18 goods, services, property, facilities or anything of value for the purpose of supporting or opposing
19 the election or defeat of any identifiable candidate or the approval or defeat of a ballot proposition.
20 This includes contributions, subscriptions, distributions, loans, advances, deposits, or gifts of
21 money or anything of value, and includes a contract, a promise or agreement, whether or not legally
22 enforceable, to make an expenditure. The term "expenditure" also means the transfer of funds or
23 anything of value between political committees.

24 N. *Political committee* means any entity that:

25 (1) Is formed for the principal purpose of:

1 [(4)](a) Raising or collecting, and expending or contributing money or
2 anything of value for supporting the election or defeat of any identifiable candidate
3 or candidates or for supporting the approval or defeat of ballot propositions; or

4 [(2)](b) Coordinating or cooperating in efforts to support the election or
5 defeat of any identifiable candidates or of supporting the approval or defeat of any
6 ballot proposition; and

7 (2) Expends five thousand dollars (\$5,000.00) or more in the aggregate for these
8 principle purposes during a single election.

9 **Section 2. Section 9-2.6 SFCC 1987 (being Ord. No. 2005-14, § 29, as amended) is**
10 **amended to read:**

11 **9-2.6 Independently Sponsored Campaign Communications and Reporting.**

12 A. Any person or entity that makes expenditures of [~~two hundred fifty dollars~~
13 (~~\$250.00~~)] five hundred dollars (\$500.00) or more in the aggregate during a single election to pay
14 for any form of public communication including print, broadcast, cable or electronic advertising,
15 billboards, signs, pamphlets, mass mailers, mass electronic mail, recorded phone messages,
16 organized phone-banking or organized precinct-walking, that is disseminated to one hundred (100)
17 or more eligible voters, and that either expressly advocates the election or defeat of a candidate, or
18 the approval or defeat of a ballot proposition; or refers to a clearly identifiable candidate or ballot
19 proposition within sixty (60) days before an election at which the candidate or proposition is on the
20 ballot, shall thereafter, on each of the days prescribed for the filing of campaign finance statements,
21 file with the city clerk a report of all such expenditures made and all contributions received for the
22 purpose of paying for such expenditures on or before the date of the report [~~and~~] which have not
23 been previously reported and which are not exempted from reporting by paragraph D of this
24 subsection.

25 B. Each report shall be submitted on a form prescribed by the city clerk. The name

1 and address of the reporting person or entity and the name of its president, chief executive officer,
2 or equivalent position shall be stated in the report.

3 C. Contributions shall be specified by date, amount of contribution, name, address
4 and occupation of the person or entity from whom the contribution was [~~made~~] received. No
5 contribution shall be reported in the name of a person who is not the actual contributor or who has
6 been or will be reimbursed or compensated for the contribution by another person. The [~~president,~~
7 ~~chief executive officer or equivalent position~~] reporting person or entity shall certify on the filing
8 that its expenditures were or were not made in cooperation, consultation or concert with, or at the
9 request or suggestion of, a candidate, his/her representatives or agents or the candidate's political
10 committee.

11 D. A contribution received from a contributor whose aggregate contributions to the
12 reporting person or entity for the purpose of paying for the expenditures covered by Paragraph A
13 of this Section are less than twenty-five dollars (\$25.00) need not be separately reported, but the
14 amount thereof shall be included in the reported cumulative total of contributions received by the
15 reporting person or entity during the period covered by the report. Where such a contributor makes
16 subsequent contributions that increase the contributor's aggregate total of such contributions to
17 twenty-five dollars (\$25.00) or more, all such contributions from the contributor, regardless of their
18 amount, shall thereafter be separately reported for the reporting period during which they are
19 received.

20 E. Expenditures shall be specified by date, the amount of the expenditure, the name
21 and address of the person or entity where an expenditure was made and the purpose of the
22 expenditure. No report is required under this subsection for expenditures made exclusively for
23 communications to the news media, editorials, reports or commentary by the news media, impartial
24 candidate forums or debates or the announcements thereof, or for impartial voter guides allowed
25 by the Internal Revenue Code for Section 501(c)(3) organizations or a communication by a

1 membership organization or corporation to its current members, stockholders or executive or
2 administrative personnel unless the membership organization or corporation is a campaign
3 committee or a political committee.

4 ~~[B.]~~F. Any person or entity that has to file under this subsection and receives
5 contributions from another entity that does not have to disclose its contributors to the city clerk,
6 shall place the following visible disclosure on its campaign materials: "This campaign material is
7 supported in part by donations from an organization that is not required to disclose its contributors
8 to the Santa Fe city clerk."

9 ~~[C. — Contributions shall be specified by date, amount of contribution, name, address
10 and occupation of the person or entity from whom the contribution was made. The name of the
11 president, chief executive officer or equivalent position and the address of the entity shall be stated
12 in the report.~~

13 ~~D. — Expenditures shall be specified by date, the amount of the expenditure, the name and
14 address of the person or entity where an expenditure was made and the purpose of the expenditure.
15 The name of the president, chief executive officer or equivalent position and the address of the
16 entity shall be stated in the report.]~~

17 **Section 3. Section 9-2.7 SFCC 1987 (being Ord. No. 1998-41, § 5, as amended) is**
18 **amended to read:**

19 **9-2.7 Statement of Political Committee Organization**

20 A. Every political committee shall file a statement of organization with the city clerk
21 within ten (10) days of ~~[the earlier of the following, but in no event later than the date on which a
22 political committee contracts for or initiates the dissemination of any campaign materials:~~

23 (1) ~~— Its organization; or~~

24 (2) ~~— The date on which it receives or has information which causes it to
25 anticipate that it will receive contributions or will make expenditures in any election~~

1 ~~campaign]~~ becoming a political committee as defined in Subsection 9-2.3(N) SFCC 1987.

2 B. The statement of organization shall include but not be limited to:

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

5 (2) The full name, street address, city, county, state and telephone number of
6 each firm, association, partnership, business trust, corporation, company, committee, and
7 other organization or group of individuals with which the political committee is affiliated
8 or connected or with which it coordinated or cooperated in its efforts to support the election
9 or defeat of any identifiable candidate;

10 (3) The names, addresses and titles of its officers; or if it has no officers, the
11 names, addresses and titles of its responsible leaders;

12 (4) The full names, addresses and telephone number (home and business) of
13 its campaign treasurer and campaign depository;

14 (5) The full name of each candidate whom the political committee is
15 supporting or opposing;

16 (6) The ballot proposition concerned, if any, and whether the political
17 committee is in favor of or opposed to such proposition; and

18 (7) What distribution of surplus funds will be made upon dissolution.

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

21 **Section 4. Section 9-2.11 SFCC 1987 (being Ord. No. 1998-41, § 10, as amended) is**
22 **amended to read:**

23 **9-2.11 Campaign Finance Statement; Contents.**

24 A. Each campaign finance statement shall be filed in accordance with subsection 9-
25 2.10 SFCC 1987. The initial statement shall begin with the date of the first contribution or

1 expenditure. Subsequent statements shall begin on the day after the end date of the previous
2 reporting period. Statements shall contain the following information:

3 (1) The funds on hand at the beginning of the period. This shall include the
4 cumulative total amount of all contributions and expenditures. This includes, but is not
5 limited to, contributions and expenditures in aid of, or in opposition to, candidates or ballot
6 propositions before they qualify for the ballot and contributions and expenditures following
7 the election;

8 (2) The full name, home address, occupation, name of employer, date of
9 receipt and amount of each contribution received from each individual contributor from
10 whom a contribution in money, goods, materials, services, facilities or anything of value
11 has been received and whether the contribution was received in cash, by check, by credit
12 card, by electronic transfer or otherwise. No contribution shall be reported in the name of
13 a person who is not the actual contributor, or who has been or will be reimbursed or
14 compensated for the contribution by another person.

15 (3) The full name, type of business, physical address, date of receipt and
16 amount of each contribution for each business or organizational contributor, from whom a
17 contribution in money, goods, materials, services, facilities or anything of value has been
18 received, and whether the contribution was received in cash, by check, by credit card, by
19 electronic transfer or otherwise. No contribution shall be reported in the name of a person
20 who is not the actual contributor, or who has been or will be reimbursed or compensated
21 for the contribution by another person.

22 (4) The date of receipt and amount of any anonymous contribution received
23 by the campaign treasurer or deputy campaign treasurer and the disposition that was made of each
24 such contribution pursuant to subsection 9-2.9C SFCC 1987, including the date when it was
25 donated to the city or to a charity and the identity of the recipient of the donation.

1 (5) The full name and complete mailing address of each individual or business
2 to whom an expenditure has been made, the purpose of each campaign expenditure and the date
3 each expenditure was made. This report shall be itemized with the total amount paid to each
4 individual or business for the goods, services or facilities provided;

5 (6) The full name of the candidate or political committee and the full name
6 and complete address of the campaign treasurer or deputy campaign treasurer; and

7 (7) For each contributor, the cumulative total of all contributions made[~~;~~and].

8 (8) Where goods, materials, services, facilities or anything of value other than
9 money is contributed or expended, the monetary value thereof shall be reported at the fair market
10 value.

11 (9) A contribution received from a contributor whose aggregate contributions
12 to the candidate or committee are less than twenty-five dollars (\$25.00) need not be separately
13 reported, but the amount thereof shall be included in the reported cumulative total of all
14 contributions received during the period covered by the report. Where such a contributor makes
15 subsequent contributions that increase the contributor's aggregate total to twenty-five dollars
16 (\$25.00) or more, all contributions from the contributor, regardless of their amount, shall thereafter
17 be separately reported for the reporting period during which they are received.

18 B. Loans of money, property or other things made to a candidate or political
19 committee during the period covered by the campaign finance statement shall be reported
20 separately in the statement, with the following information:

21 (1) The total value of all loans received during the period covered by the
22 campaign finance statement;

23 (2) The cumulative total value of all loans received; and


24 (3) The total amount of loans remaining unpaid.

25 C. If a loan has been forgiven or paid by a third person, it shall be reported pursuant

1 to this section.

2 D. Investments made with campaign funds under subsection 9-2.9 SFCC 1987 and
3 interest, dividends and/or other income received shall be reported separately in the statement.

4 APPROVED AS TO FORM:

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7 ERIN K. McSHERRY, CITY ATTORNEY

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