

**CITY ATTORNEY'S OFFICE ADVISORY MEMO**

**FOR PUBLIC DISTRIBUTION**  
**ANALYSIS FOR THE 2018 MUNICIPAL ELECTIONS ONLY**

TO: YOLANDA Y. VIGIL, CITY CLERK

FROM: ZACHARY SHANDLER, ASSISTANT CITY ATTORNEY 38

SUBJECT: ELECTRONIC SIGNATURES ON SEED MONEY FORMS

DATE: AUGUST 15, 2017

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Question Presented: May a citizen use an electronic signature on a seed money contribution form?

Answer: No.<sup>1</sup>

Analysis: On November 3, 2013, the City Attorney's Office issued an advisory opinion on the question: "May a citizen use an electronic signature on a qualifying contribution form?" The answer was "no" and it was based on a review of City Code Section 9-3.7(A) that stated: "[e]ach qualifying contribution shall be accompanied by a form signed by the contributor..." The 2013 opinion cited to case law that provided "when the legislature used the terms 'signature' and 'sign' it contemplated that a handwritten name would satisfy the requirement." The 2013 opinion also relied on an anti-fraud argument. It wrote: "Election officials, when investigating a complaint regarding a fraudulent signature on an election document, will usually compare it against a signature on a person's voter registration card to ascertain the validity of the signature."

The 2013 opinion did not bar "candidates from using some technology in the qualifying contribution form process." For example, a candidate could make a copy of the form via pdf and email it to supporters.

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<sup>1</sup> Candidates are responsible for understanding and complying with City of Santa Fe campaign ordinances and should seek their own legal advice regarding compliance with state and local election laws. This memorandum is advisory only, intended to provide guidance to the City Clerk. This memorandum is prepared to generally address the questions presented and does not account for specific situations facing a candidate or their campaign.

The City Code language for seed money contributions is identical to the language for qualifying contributions. As stated above, Section 9-3.7(A) states “[e]ach qualifying contribution shall be accompanied by a form signed by the contributor...” Section 9-3.6(C) states “[e]ach seed money contribution shall be accompanied by a form signed by the contributor...”

Therefore, since the language is identical, the 2013 opinion’s analysis is analogous to the seed money contribution forms.

We acknowledge that there is a difference in the anti-fraud argument between qualifying contributions (which must come from a qualified elector) and seed money contributions (which may come from anyone). Perhaps this is why the City’s Ethics and Campaign Review Board in 2016 recommended to the City Council that it amend Section 9-3.6 to read:

Each seed money contribution shall be accompanied by a form signed by the contributor... The Ethics and Campaign Review Board may, by regulation, permit the use of an electronic signature of such forms.

However, at this time, the City Council has not taken action on this recommendation. Therefore, absent Council action, a citizen may not use an electronic signature on a seed money contribution form under Section 9-3.6(C).

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TO: YOLANDA Y. VIGIL, CITY CLERK

FROM: ZACHARY SHANDLER, ASSISTANT CITY ATTORNEY 38

SUBJECT: CITY SEAL ON CAMPAIGN LITERATURE

DATE: AUGUST 15, 2017

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Question Presented: May a candidate use the city seal on campaign literature?

Answer: No.<sup>1</sup>

Analysis: New Mexico Law, Section 3-18-1D authorizes a city to adopt a city seal. The Santa Fe City Council, in City Code Section 1-5.1, has adopted a city seal. The purpose of the city seal is to mark official documents. See City Code Sections 1-5.2, 1-6.2, 2-2.4(A). Section 1-5.2 reads: "The seal of the city shall be affixed to all transcripts, orders, certificates and other documents which it may be necessary and proper to authenticate under the provisions of the Santa Fe City Code of 1987 city ordinances and laws of the state." The City Clerk is the party that may use the seal. Section 1-5.2 provides that the "city clerk shall be the keeper of the city seal and shall affix it to all instruments which are required to be attested by the city seal." Section 1-6.2 further states the "city clerk is authorized to affix the seal of the city..." Some other cities in the country have language that expressly states that a seal is "for official purposes only." While our Code does not have this type of express language, the above-stated citations provide that the City Clerk is the keeper of the seal and the authorized user and that the use of the seal demonstrates that a document is a city-authorized document. As a result, a candidate cannot use the seal as a backdrop on campaign literature because he/she is not an authorized user of the seal. In addition, if a candidate started using the city seal for political (or commercial) literature, it would create an incorrect impression that the literature is a city-endorsed or city-sponsored piece of literature.

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