

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Wednesday December 14, 2022
6:30 p.m.



PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING

NOTE: Pursuant to California Government Code section 54953(e), Public Ethics Commission members and staff will participate via phone/video conference, and no physical teleconference locations are required. The following options for public viewing and participation are available:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland’s KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on “View”
- **Online video teleconference:** Click on the link below to join the webinar:
<https://us02web.zoom.us/j/88171471481>
 - To comment by online video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.
- **Telephone:** Dial (for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

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- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing *9 to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions of how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663> - Joining-a-meeting-by-phone.

Members of the public may submit written comments to ethicscommission@oaklandca.gov. If you have any questions about how to participate in the meeting, please email ethicscommission@oaklandca.gov before or during the meeting.

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Commissioners: Arvon Perteet (Chair), Ryan Micik (Vice-Chair), Charlotte Hill, Joseph Tuman, and Francis Upton IV.

Commission Staff to attend: Suzanne Doran, Acting Executive Director/Lead Analyst; Ana Lara-Franco, Commission Analyst; Simon Russell, Enforcement Chief

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION REGULAR MEETING AGENDA

- 1. Roll Call and Determination of Quorum.**
- 2. Staff and Commission Announcements.**
- 3. Open Forum.**

PRELIMINARY ACTION ITEMS

- 4. Virtual meetings by the Public Ethics Commission.** The Commission will review and take possible action to renew Resolution 22-01, approved at the January 12, 2022 Regular meeting, establishing certain determinations to justify the ongoing need for virtual meetings following the California State Legislature's adoption and Governor's approval of AB 361 on September 16, 2021 (Chapter 165; Statutes of 2021). ([Resolution 22-01](#))

ACTION ITEMS

- 5. Approval of Commission Meeting Draft Minutes.**
 - November 9, 2022, Regular Meeting Minutes [Meeting Minutes](#)
- 6. In the Matters of Dan Kalb (PEC Case No. 16-08a); Abel Guillen (PEC Case No. 16-08b); Lynette Gibson McElhaney (PEC Case No. 16-08c); Annie Campbell Washington (PEC Case No. 16-08d); Noel Gallo (PEC Case No. 16-08e); Desley Brooks (PEC Case No. 16-08f); Larry Reid (PEC Case No. 16-08g); Rebecca Kaplan (PEC Case No. 16-08h); Libby Schaaf (PEC Case No. 16-08i).** On June 7, 2016, Enforcement staff opened a proactive investigation to determine whether City officials' use and reporting of free tickets received by the City to events at the Oracle Arena and the Oakland Coliseum were in violation of the Oakland Government Ethics Act. In light of substantially improved compliance with the City's ticket distribution policy and changes to the law meant to address prior violations, Enforcement staff recommends that these matters be closed



without any further action. ([Staff Memorandum](#))

7. **In the Matter of Rebecca Kaplan (PEC Case No. 20-40).** On February 22, 2021, Enforcement staff opened an investigation based upon a formal complaint, to determine whether Oakland City Councilmember At-Large Rebecca Kaplan failed to report her partial ownership interest in an Oakland condominium her Form 700 and/or made, participated in making, or attempted to influence a decision of the City concerning the expansion of a park next to her property, in violation of the Oakland Government Ethics Act. Enforcement staff and the Respondent have reached a stipulated agreement, and Staff recommends that the Commission approve the stipulation and impose a financial penalty in the amount of \$19,000. ([Stipulation and Exhibit Summary](#))

DISCUSSION ITEMS

8. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission's last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission's work.
 - a. **Outreach Subcommittee** (*ad hoc*, created on June 8, 2022) – Francis Upton IV (Chair), and Charlotte Hill.
 - b. **Recruitment Subcommittee** (*ad hoc*, created on October 12, 2022) – Ryan Micik (Chair), Charlotte Hill, Francis Upton IV.
9. **Limited Public Financing Program Summary 2022.** Commission staff summarizes candidate participation and the distribution of funds by the City's public financing program during the 2022 general election. ([Staff Memo](#))
10. **Implementation of Measure W - Oakland Fair Elections Act and Public Ethics Commission Amendment to the City Charter.** The Commission will review and discuss the activities necessary to implement Measure W, which passed the ballot on November 8, 2022, and which alters the Commission's staffing, authority, and creates a newly designed public financing program to be administered by the Public Ethics Commission. ([Staff Memo with timeline](#); [Full text Measure W](#); [Memorandum – Staff Memo dated March 31, 2022](#))
11. **Transparency and Public Records Requests Improving Responsiveness.** (Discussion on

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how the PEC can gain compliance from City departments and encourage best practices regarding public records requests.)

INFORMATION ITEMS

12. **Disclosure and Engagement.** Acting Executive Director/Lead Analyst Suzanne Doran provides an overview of education, outreach, disclosure, and data illumination activities for this past month. ([Disclosure Report](#))
13. **Enforcement Program.** Enforcement Chief Simon Russell provides a monthly update on the Commission's enforcement work since the last regular Commission meeting. ([Enforcement Report](#); [Dismissal Letter 21-07](#); [Dismissal Letter 22-21](#))
14. **Executive Director's Report.** Acting Executive Director Suzanne Doran reports on overall projects, priorities, and significant activities since the Commission's last meeting. ([Executive Director's Report](#); [Full Text Measure X](#))
15. **Future Meeting Business.** Commissioners and staff may propose topics for action or discussion at future Commission meetings.

The meeting will adjourn upon the completion of the Commission's business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandca.gov/pec.

A handwritten signature in black ink that reads "Suzanne Doran".

12/2/23

Approved for Distribution

Date



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in advance.

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CITY OF OAKLAND
Public Ethics Commission

RESOLUTION NO. 22-01
[Proposed renewal 12-14-22]



Resolution Summary:

ADOPT A RESOLUTION DETERMINING THAT CONDUCTING IN-PERSON MEETINGS OF THE PUBLIC ETHICS COMMISSION AND ITS COMMITTEES WOULD PRESENT IMMINENT RISKS TO ATTENDEES' HEALTH, AND ELECTING TO CONTINUE CONDUCTING MEETINGS USING TELECONFERENCING IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 54953(E), A PROVISION OF AB 361.

By action of the Oakland Public Ethics Commission:

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency related to COVID-19, pursuant to Government Code Section 8625, and such declaration has not been lifted or rescinded. See <https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>; and

WHEREAS, on June 17, 2022 Gavin Newsom issued Executive Order N-11-22 reaffirming that a State of Emergency exists in California as a result of COVID-19. (See <https://www.gov.ca.gov/wp-content/uploads/2022/06/6.17.22-COVID-EO-Rollback-signed.pdf>); and

WHEREAS, on March 9, 2020, the City Administrator in their capacity as the Director of the Emergency Operations Center (EOC), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, the Centers for Disease Control (CDC) recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing hard. See <https://www.cdc.gov/coronavirus/2019-ncov/your-health/about-covid-19/caring-for-children/families.html>; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors. See <https://www.cdc.gov/aging/covid19/covid19-older-adults.html>; and

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RESOLUTION NO. 22-01
[Proposed renewal 12-14-22]



WHEREAS, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms stay home. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>; and

WHEREAS, persons without symptoms may be able to spread the COVID-19 virus. See <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>; and

WHEREAS, fully vaccinated persons who become infected with the COVID-19 Delta variant can spread the virus to others. See <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>; and

WHEREAS, the City's public-meeting facilities are indoor facilities that do not ensure circulation of fresh/outdoor air, particularly during periods of cold and/or rainy weather, and were not designed to ensure that attendees can remain six (6) feet apart; and

WHEREAS, holding in-person meetings would encourage community members to come to City facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, in-person meetings would tempt community members who are experiencing COVID-19 symptoms to leave their homes in order to come to City facilities and participate in local government; and

WHEREAS, attendees would use ride-share services and/or public transit to travel to in-person meetings, thereby putting them in close and prolonged contact with additional people outside of their households;

Now therefore be it:

RESOLVED: that the Public Ethics Commission finds and determines that the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and

RESOLVED: that, based on these determinations and consistent with federal, state and local health guidance, the Public Ethics Commission determines that conducting in-person meetings would pose imminent risks to the health of attendees; and

RESOLVED: that the Public Ethics Commission firmly believes that the community's health and safety and the community's right to participate in local government, are both critically important, and is committed to balancing the two by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e), a provision of AB-361; and

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Public Ethics Commission

RESOLUTION NO. 22-01
[Proposed renewal 12-14-22]



RESOLVED: that the Public Ethics Commission and its committees will meet by teleconference this month and will renew these (or similar) findings at least every thirty (30) days in accordance with California Government Code section 54953(e) until the state of emergency related to COVID-19 has been lifted, or the Public Ethics Commission finds that in-person meetings no longer pose imminent risks to the health of attendees, whichever occurs first.

CERTIFICATION RE: APPROVAL OF RESOLUTION

The foregoing Resolution was presented for renewal at a duly noticed meeting of the City of Oakland Public Ethics Commission held on December 14, 2022, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of ____ to ____.

I hereby certify that the foregoing is true and correct.

Suzanne Doran, Acting Executive Director
Oakland Public Ethics Commission

Date

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DRAFT

Commissioners: Arvon Perteet (Chair), Ryan Micik (Vice-Chair), Charlotte Hill, Joseph Tuman and Francis Upton IV.

Commission Staff to attend: Kellie Johnson, Executive Director; Suzanne Doran, Lead Analyst; Ana Lara-Franco, Commission Assistant; Simon Russell, Acting Enforcement Chief/Investigator

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was held via teleconference.

The meeting was called to order at 6:35 p.m.

Members present: Perteet, Micik, Hill and Tuman.

Staff present: Suzanne Doran, Ana Lara-Franco, and Simon Russell.

City Attorney Staff: Tricia Shafie

2. Staff and Commission Announcements.

There were no announcements.

3. Open Forum.

There were no public speakers

PRELIMINARY ACTION ITEMS

4. Virtual meetings by the Public Ethics Commission.

The Commission reviewed and took possible action to renew Resolution 22-01, approved at the January 12, 2022, Regular meeting, establishing certain determinations to justify the ongoing need for virtual meetings following the California State Legislature's adoption and Governor's approval of AB 361 on September 16, 2021 (Chapter 165; Statutes of 2021).

There were no public speakers.

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Micik moved, and Hill seconded to approve the renewal of RESOLUTION NO. 22-01.

Ayes: Perteet, Hill, Micik, Tuman.

Noes: None

Absent: Upton IV

Vote: Passed 4-0

ACTION ITEMS

5. Approval of Commission Meeting Draft Minutes.

a. October 12, 2022, Regular Meeting Minutes

There were no public speakers.

Hill moved, and Tuman seconded to approve the October 12, 2022 Regular Meeting Minutes

Ayes: Perteet, Hill, Micik, Tuman.

Noes: None

Absent: Upton IV

Vote: Passed 4-0

6. Public Ethics Commission Regular Meeting Schedule 2023.

The Commission reviewed a proposed schedule of regular Commission meetings in 2023.

There were no public speakers.

Tuman moved, and Micik seconded to approve the meeting schedule for 2023.

Ayes: Perteet, Micik, Hill, Tuman.

Noes: None

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DRAFT

Absent: Upton IV

Vote: Passed 4-0

7. The City of Oakland Clerk's Office Request for Reconsideration of the Public Ethics Commission's (PEC) Recommendation to Transfer Statement of Economic Interest Forms (Form 700s) Filing Duties From the City Clerk to the PEC.

Oakland City Clerk, Asha Reed shared the memo provided in the agenda to Commissioners and requested that the PEC reconsider its recommendation to transfer the Form 700 filing duties.

Commissioners reviewed, discussed, and considered the Clerk's reconsideration request to transfer the filing duties or change its recommendation and support the Clerk's Office request to maintain filing duties over Form 700s.

There were no public speakers.

Perteet suggested that they take a straw poll to leave it with the City Clerk and do a report card at a later time and then revisit how to move forward at that time.

Ayes: Perteet, Tuman

Noes: Micik, Hill

Motion would not pass.

Tonya Gilmore, staff from the City Administrator's Office, shared that the Public Ethics would have to submit their recommendation by Thursday November 17, 2022.

First motion: Perteet moved, and Hill seconded to have the recommendation stand as written.

Ayes: Micik, Hill, Tuman.

Noes: Perteet

Absent: Upton IV

Vote: Failed 3-1

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DRAFT

Second motion: Tuman moved to adopt the language from the City Clerk's request for reconsideration of the Public Ethics recommendation to transfer Form 700 filing duties from the City Clerk to the Public Ethics. There was no second, motion failed.

Third motion: Micik moved, and Hill seconded to affirm the recommendation to agree with the Grand Jury Report to transfer Form 700 filing duties from the City Clerk to the Public Ethics.

Ayes: Perteet, Micik, Hill, Tuman.

Noes: None

Absent: Upton IV

Vote: Passed 4-0

DISCUSSION ITEMS

8. Reports on Subcommittees and Commissioner Assignments.

- a. **Outreach Subcommittee** (*ad hoc*, created on June 8, 2022) – Francis Upton IV (Chair), and Charlotte Hill.

There were no updates.

- b. **Recruitment Subcommittee** (*ad hoc*, created on October 12, 2022) – Ryan Micik (Chair), Charlotte Hill, Francis Upton IV.

8 applications were received, and the ad hoc subcommittee invited 7 for the initial interview. Interviews will be held the week of November 14, 2022.

Perteet shared that he would like to create an *ad hoc* subcommittee for Measure W. Perteet decided to hold off and revisit this in December.

There was one public speaker.

9. Election Results

Suzanne Doran, Acting Director, shared that the tallies were not final.

There was one public speaker.

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DRAFT

10. Administrative Hearing Training Review

Commissioners shared that the training was great, short, and simple. Commissioners asked questions on what processes are included to decide who the hearing officer will be or if the case is referred to an administrative law judge.

There was one public speaker.

11. Transparency and Public Records Requests Improving Responsiveness

Upton had requested for this item to be placed on agenda.

There was one public speaker.

INFORMATION ITEMS

12. Disclosure and Engagement.

Acting Director Doran provided an overview of education, outreach, disclosure, and data illumination activities for this past month.

Micik shared he had assisted outreach event and asked if there were any other events scheduled.

There were no public speakers.

13. Enforcement Program.

Simon Russell, Acting Enforcement Chief/Investigator, provided a monthly update on the Commission's enforcement work since the last regular Commission meeting.

There were no public speakers.

14. Executive Director's Report.

Acting Director Doran reported on overall projects, priorities, and significant activities since the Commission's last meeting.

Item 5 - Meeting Minutes

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DRAFT

Acting Director Doran shared that the Administrative Analyst I position has been filled and the Enforcement Chief position is close to a hire.

Perteet shared that the video for the administrative hearing training video is included in the Director's report.

There were no public speakers.

15. Future Meeting Business.

Perteet shared that the subcommittee for Measure W will be revisited.

Perteet would also like to continue to have at the request of Upton to continue to have the record requests as a discussion item.

There were no public speakers.

The meeting adjourned at 9:03 p.m.



Arvon Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joseph Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Simon Russell, Enforcement Chief
DATE: November 29, 2022
RE: Case No. 16-08 (a), In the Matter of Dan Kalb; Case No. 16-08(b), In the Matter of Abel Guillen; Case No. 16-08(c), In the Matter of Lynette Gibson McElhaney; Case No. 16-08(d), In the Matter of Annie Campbell Washington; Case No. 16-08(e), In the Matter of Noel Gallo; Case No. 16-08(f), In the Matter of Desley Brooks; Case No. 16-08(g), In the Matter of Larry Reid; Case No. 16-08(h), In the Matter of Rebecca Kaplan; Case No. 16-08(i), In the Matter of Libby Schaaf; prepared for the December 14, 2022, Commission meeting.

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INTRODUCTION

This report concerns a proactive investigation initiated by Commission Staff on June 7, 2016, to determine whether City officials’ use and reporting of free tickets received by the City to events at the Oracle Arena and the Oakland Coliseum were in violation of the Oakland Government Ethics Act. The investigation found ongoing and widespread violations of the City’s ticket distribution policy, though some officials’ violations were more serious than others. Training and oversight regarding the ticket distribution program were minimal.

After the opening of the investigation, Commission Staff began working with Council and Mayoral staff to improve education and compliance with the ticket policy. In response to a resolution passed by the PEC at its meeting of February 9, 2022, the City Council amended the City’s ticket distribution policy to address the systemic problems that had been highlighted by the Commission Staff investigation and media reports. Commission Staff has also developed a training on the new ticket distribution policy, which is now required of all elected officials and has been successfully completed

by the Mayor and all current City Councilmembers who have used tickets in the past. City officials' proper usage and reporting of tickets has improved significantly since the investigation and educational collaboration began.

Considering the demonstrated improvement in compliance with the City's ticket policy, as well as the newly-passed ticket distribution policy and training, Commission Staff recommends closing the open Enforcement cases relating to the old policy, in the belief that a more productive use of Commission Staff's resources on this issue would be focused on future training and compliance monitoring.

SUMMARY OF FACTS AND LAW

The Previous Ticket Distribution Policy

All statutory references and discussions of law pertain to the referenced statutes and laws as they existed at the time of the events under investigation.

Under the City's previous ticket distribution policy (the one that was in place during the events examined in this investigation), elected City officials, including the Mayor and City Councilmembers, could not solicit or accept any gifts valued at more than \$250 cumulatively in a single calendar year from any single source.¹ They were also required to report any gifts valued at more than \$50 cumulatively in a single year from any single source.² A "gift" is anything that confers a personal benefit on a City official for which he or she does not provide equal or greater consideration in return.³

California Fair Political Practices Commission (FPPC) Regulation 18944.1, as amended February 13, 2016, and applicable for the duration of the activities in this case, provided an exception to the gift rule for tickets to events that an agency obtained pursuant to a contract for the use of public property.⁴ Under FPPC Regulation 18944.1(d)(2), a ticket that an agency obtained pursuant to a contract for the use of public property was not considered a gift if "the distribution of the ticket or pass is made in accordance with a policy adopted by the agency." For the exception to apply, the agency's adopted policy must have included all the following provisions:

1. A provision setting forth the public purposes of the agency for which the tickets may be distributed;
2. A provision requiring that the distribution of any ticket to, or at the behest of, an agency official accomplishes a stated public purpose of the agency; and

¹ Oakland Municipal Code (OMC) sections 2.25.030(D) and 2.25.060(C)(2); the City's gift limit provision incorporates, by reference, the State's definition of "gift."

² OMC section 2.25.040(B) and California Government Code (GC) sections 87200 through 87204.

³ GC section 82028(a).

⁴ FPPC Regulation 18944.1 was amended again in July 2019; however, at the time of the activities in this case, the prior version of Regulation 18944.1 applied.

3. A provision prohibiting the transfer of any ticket received by an agency official pursuant to the distribution policy except to members of the official's immediate family or no more than one guest solely for their attendance at the event.⁵

If the distribution of the tickets was not made in accordance with the policy adopted by the agency, then the tickets fell out of this exception and were considered a gift to the official.

State law also required the following information to be publicly reported on a Form 802 within 45 days of distribution of a ticket:

- A. The name of the person (or department)⁶ receiving the ticket;
- B. A description of the event;
- C. The date of the event;
- D. The face value of the ticket;
- E. The number of tickets provided to each person;
- F. If the ticket or pass is behested, the name of the official who behested the ticket; and
- G. A description of the public purpose under which the distribution was made, or alternatively, that the ticket or pas was distributed as income to the official.⁷

If a ticket was distributed to an outside organization, the agency had to report the name, address, description of the organization, and the number of tickets provided to the organization in lieu of the above details.⁸

Tickets received by a City official but not used by the City official and not transferred to another person were also not considered gifts to the City official.⁹ Tickets received or assigned to a City official but transferred to a nonprofit entity within 30 days without being claimed as a charitable contribution for tax purposes by the City official were also not considered gifts to the City official.¹⁰

In sum, tickets received by an elected City official from the City were not subject to the Oakland Government Ethics Act's gift limit or Form 700 reporting requirements if the tickets were distributed to the elected City official in accordance with the City Ticket Policy and were reported on a Form 802 within 45 days of the distribution of the ticket. Alternatively, tickets that were not used by the City

⁵ "Immediate Family" is defined by GC section 82029 as "spouse and dependent children."

⁶ FPPC Regulation 18944.1(f)(3).

⁷ FPPC Regulation 18944.1(f)(1).

⁸ FPPC Regulation 18944.1(f)(2).

⁹ FPPC Regulation 18946.1.

¹⁰ GC section 82028(b)(2).

official and not transferred to a third party also were not considered gifts subject to limits and reporting requirements.

In accordance with the above state requirements, the prior City of Oakland Policy for Receipt and Distribution of Passes and Tickets (City Ticket Policy), adopted in 1999 and amended in 2009 by City Council, described the governmental purpose to be achieved through the distribution of tickets or passes to City officials, as well as the procedures for distribution of tickets to and from the City and its officials such that those tickets would not be considered gifts under the Political Reform Act.¹¹

The prior City Ticket Policy stated that, “in accordance with FPPC Regulation 18944.1, the distribution of any ticket or pass by the City to one of its officials, or distributed to a third party at the request of one of its officials, must accomplish a ‘governmental purpose’ of that agency.” The “governmental purposes” of the City to be accomplished by the distribution of tickets or passes included the following:

1. Oversight of facilities or events that have received City funding or support;
2. Oversight of facilities or events that may require City funding or support in the near future;
3. Reviewing a facility’s contribution to blight abatement within a Redevelopment Area;
4. Reviewing the ability of a facility, its operator, or a local sports team to attract business and contribute to the local economy;
5. Reviewing the ability of a facility or its operator to participate in the City’s job creation goals or job training programs;
6. Reviewing the contribution of a facility or an event to the City’s goals for fostering arts and culture opportunities to City residents;
7. Rewarding a City of Oakland employee for his/her exemplary service to the City;
8. Rewarding a community activist for his or her service to the City of Oakland;
9. Rewarding a school or nonprofit organization for its contributions to the community; and
10. Rewarding an Oakland student for outstanding scholastic achievement.¹²

The receiving official could not directly transfer City tickets to any third party except to members of the official’s immediate family solely for their personal use in accompanying the official

¹¹ City of Oakland Ordinance No. 82032: *City of Oakland Policy for Receipt and Distribution of Passes and Tickets* (prior City Ticket Policy) section (I)(A).

¹² Prior City Ticket Policy section (III).

to the event.¹³ If more than one ticket was distributed to the official, the official could use the extra ticket to bring a guest to the ticketed event as long as the elected City official was also in attendance.¹⁴

The prior City Ticket Policy further required the receiving official to report the use of the ticket to the City within 25 days of receipt of the ticket from the Distributing Official (the Executive Assistant to City Council).¹⁵ The report was required to include the following information: the name of receiving official; a description of the event; the date of the event; the face value of the ticket; the number of tickets received; and a description of the public purpose under which the distribution was made.¹⁶ Within five days of receiving a completed report, the Distributing Official was required to approve the report and post it on the City's website to satisfy the Form 802 reporting requirements of FPPC Regulation 18944.1.¹⁷

To request that tickets be transferred to a third party, the receiving official was required to submit a written request to the Distributing Official, who would then distribute the tickets directly to the third party. Within 25 days of submitting the written request to the Distributing Official, the receiving official who made the request was required to report the third party's information to the City.¹⁸ The report was required to include the following information about the third party: The name of the person or organization receiving the tickets; a description of the event; the date of the event; the face value of the tickets; the number of tickets; the name of the Requesting Official; and a description of the specific public purpose under which the distribution was made.¹⁹ Within five days of receiving a completed report, the Distributing Official was required to approve the report and post the information on the City's website.²⁰

In sum, the prior City Ticket Policy required that tickets be used for a governmental purpose and provided a list of those purposes in the policy. In addition, the policy reiterated the required reporting of the ticket use by the receiving official – whether the use was for themselves or for a third party; however, the receiving official could not transfer the ticket to the third party but instead was required to request that the Distributing Official distribute the tickets to the third party recipient. Thus, if the tickets were not used for a government purpose, not reported within the timeframe required by the policy, were not distributed to third parties through the Distributing Official, or were otherwise used or distributed contrary to the City Ticket Policy, then the tickets were not distributed according to the City policy and the gift exemption provided by the policy no longer applied. Without this or another exemption, the tickets became a gift under the Government Ethics Act.

¹³ Prior City Ticket Policy section IV.

¹⁴ *Id.*

¹⁵ Prior City Ticket Policy sections (V)(A)(2) & (V)(A)(3).

¹⁶ *Id.*

¹⁷ *Id.* § (V)(A)(4).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* § (V)(B)(5).

Investigation of Compliance with Prior Ticket Distribution Policy

Commission Staff's investigation of compliance with the prior ticket policy included a review of all City tickets received by Mayor Libby Schaaf and City Councilmembers Desley Brooks, Annie Campbell Washington, Noel Gallo, Abel Guillen, Dan Kalb, Rebecca Kaplan, Lynette Gibson McElhaney, and Larry Reid, to events at the Oracle Arena and the Oakland Coliseum that occurred between January 1, 2015, and September 24, 2016. The purpose of the investigation was to determine whether Councilmembers and the Mayor complied with the Oakland Government Ethics Act's gift provisions. Commission Staff reviewed the distribution of City tickets to the Councilmembers and Mayor, and the reporting of the tickets they received. For tickets that were reported as "not used," Commission Staff confirmed whether the tickets were returned to the Distributing Official.

During the period reviewed in this matter, the City received 20 luxury suite tickets to every Oracle Arena event and 18 luxury suite tickets to every Oakland Coliseum event pursuant to contract agreements with the Golden State Warriors, Oakland Raiders, and Oakland A's. Councilmembers and the Mayor each received two suite tickets, and the Council President received four suite tickets, to every event at the Oakland Coliseum and Oracle Arena. In addition, City Councilmembers also received two field tickets (on top of the two or four suite tickets) to every A's game. This overall arrangement was pursuant to the City's agreement with the Coliseum Joint Powers Authority, of which the City was a part.

According to the Distributing Official (Executive Assistant to the City Council, Susan Sanchez), a representative of the Coliseum Authority would typically hand-deliver City tickets to the Distributing Official at the beginning of each month for all events scheduled for that month. The Distributing Official would then prepare sets of tickets for the Mayor and each Councilmember, or their respective agents, to pick up. The Distributing Official required each official or agent to sign for tickets that they picked up, and the Distributing Official advised each official to submit the required information about how they intended to use their tickets by completing the City's online Radar system for e-filing of FPPC-required Form 802 data. The Distributing Official also directed each elected City official that was assigned City tickets to return any unused ticket to her.

If an elected City official wanted a set of ticket assigned to them to be transferred to a third party, the elected City official was required to email the request to the Distributing Official and return the tickets to the Distributing Official, who would then keep the tickets and hand them directly to the third party.

Once an elected City official entered the Form 802 data into Radar, the Distributing Official reviewed and approved the information submitted by the official, and the data would be published on the City's website. The Distributing Official only verified that the elected City Official had completed the entire form, and did not inquire as to whether the elected City Official was properly using the ticket per the ticket distribution policy.

Item 6 - Staff Memo

Commission staff determined that most, if not every elected official included in the investigation had followed a longstanding cultural practice of using the Oracle and Coliseum event tickets as perquisites to give and use as the elected official saw fit. This was often done under the guise of “inspecting” the facilities or rewarding staff members (usually members of the official’s own staff). There was little oversight of the use of tickets and little attempt to ensure that tickets were used for truly public or governmental purposes by not only the Mayor and Councilmembers, but by the designated Distribution Official, who also had no authority to hold the ticket recipients accountable. Form 802s were often filed late, or not at all, with some officials being more egregious violators than others.

Elected officials and their staffs received conflicting information on reporting requirements. As new elected officials took office, there was little to no training provided to the staff or the elected official regarding the City Ticket Policy. Plainly put, no one was minding the store.

Many of these issues were made public by Commission Staff in its policy report, “Ensuring Ethical and Transparent Distribution of City Tickets,” in 2017. That report detailed various officials’ use of tickets, including which officials were more serious violators of the policy than others. The conclusion of the report, however, was that the problems with the ticket distribution policy were systemic rather than traceable to a few individual officials.

Following that report, PEC staff engaged with City officials regarding both policy and process recommendations made by the PEC, resulting in some changes to the way tickets were being used prior to facilities being closed down due to COVID-19. City officials’ appropriate use of tickets improved significantly since Commission staff initiated its investigation and began engaging with City officials on process improvements and compliance. In contrast to previous behavior, City officials are no longer saving the most valuable tickets for their own personal use; the average value of a ticket used by an official is comparable to the average value of tickets they distribute to others. Sharing of tickets between elected officials has also been reduced to near zero, meaning that officials are no longer using large numbers of tickets to bring a group of people with them to a single event. The proportion of tickets being used by officials for their personal use has also dropped precipitously compared with prior behavior. Some Councilmembers (e.g., Rebecca Kaplan) have also requested to stop receiving tickets altogether or (in the case of newer Councilmembers) have rarely or never used them at all (e.g., Treva Reid and Carroll Fife).

Meanwhile, as described below, the California Fair Political Practices Commission (FPPC) amended state regulations in 2019 to tighten restrictions on the quantity of tickets that could be used by City officials and to add new requirements that must be included in a City Ticket policy, among other changes.

Considering the systemic issues identified by the Commission Staff and media reports, the PEC voted on February 9, 2022, to recommend to the City Council that a new ticket distribution policy be adopted, with stricter reporting requirements and a narrowing of the number of tickets and

permissible purposes for which a City official could use tickets. The City Council voted unanimously on May 3, 2022, to approve the new ticket policy.

The New Ticket Distribution Policy

FPPC Regulation 18944.1, as amended in 2019, added specific language to be included in a city's ticket distribution policy and followed by agency officials, including the following. Under the new regulation, a city's ticket distribution policy was required to include a provision prohibiting the disproportionate use of tickets or passes by a member of the governing body, chief administrative officer of the agency, political appointee, or department head. The latter provision was specifically added by the FPPC in 2019 in response to reported abuses, with Alameda county officials expressly mentioned in the discussion of the regulatory changes.

The City's new ticket policy was written to comply with these state guidelines. The new ticket policy specifically states that City Councilmembers, Citywide elected officials, chief administrative officers, political appointees, and department directors may not disproportionately use City tickets.²¹ "Disproportionate use" is defined as using more than one set of two tickets to an event per facility per calendar year, or using a greater number of tickets than any other person who is not a City Councilmember, Citywide elected official, chief administrative officer, political appointee, or department director.²²

In contrast to the previous policy, in which receiving officials could receive more than two tickets to an event by obtaining them from other receiving officials, under the new policy a receiving official may receive no more than two tickets per event: one for their personal use under the policy and the other for a guest. No other transfer of a City ticket by a receiving official, other than the Ticket Administrator, is permissible, including the sale of a ticket by a public servant.²³

The new ticket policy has also improved the security of the process surrounding the tracking of ticket usage. Previously, the Ticket Distributor gave tickets to officials soon after the tickets arrived at the City, without requiring the prior filing of a Form 802. Now, officials are prohibited from collecting tickets prior to filing a Form 802 describing exactly how the ticket will be used.²⁴

Another significant difference from the prior policy, is that under the new policy the permissible purposes for which a ticket may be used are more restrictive when it comes to a receiving official's personal use of the ticket, or their distribution of the ticket to a third party. The distribution of any ticket pursuant to the policy must accomplish one of the following, specifically enumerated public purposes:

²¹ OMC section 2.26.080(B).

²² OMC section 2.26.080(B)(1)-(2).

²³ OMC section 2.26.080(A).

²⁴ OMC section 2.26.050(B).

1. Further the City's work, mission, or duties;
2. Recognize or encourage young people by providing opportunities for youth development, civic engagement, mentoring, or participation in cultural, artistic, educational, recreational, or community activities in the City;
3. Promote City-controlled or City-sponsored events, activities, or programs;
4. Enable a Public Servant to work at or attend the event as part of the Public Servant's job duties for the City;
5. Promote or support community programs and resources available to City residents;
6. Support or show appreciation for programs or services rendered by nonprofit 501(c)(3), educational, or government organizations that benefit City residents;
7. Recognize significant academic, athletic, or public achievements of City residents;
8. Recognize the meritorious service of another current or outgoing Public Servant or volunteer;
9. Promote local and regional businesses, economic development, local culture, and tourism activities within the City, including conventions, conferences, and job creation opportunities;
10. Provide opportunities for economically disadvantaged or underserved residents to engage in cultural, artistic, educational, recreational, or community activities in the City; or
11. Facilitate a Public Servant's oversight or inspection of a City facility or event.²⁵

To close the loophole under the prior policy in which receiving officials could use tickets to "inspect" a facility without apparently conducting any actual inspection, the new policy now requires an official using a ticket for that purpose to produce a written inspection report of findings and recommendations by the official. That report must be submitted to the Ticket Administrator and included with the online ticket distribution data.²⁶

In addition, the new policy also closes a loophole under the prior policy in which City staffers being recognized for meritorious service (in practice, usually staffers of a Councilmember or Mayor) could receive a large number of tickets. Under the new policy, a public servant or volunteer receiving tickets in recognition of meritorious service to the City may only receive up to 4 tickets per event.²⁷

Unlike the prior policy, which lacked a specific mechanism for tracking and monitoring the use of tickets, under the new policy each Ticket Administrator shall establish a process for ticket

²⁵ OMC section 2.26.070(A)-(K).

²⁶ OMC section 2.26.070(K).

²⁷ OMC section 2.26.070(H).

distribution that ensures that tickets are tracked and distributed according to the public purposes and limitations of the policy. The Ticket Administrator and their designee are both responsible for determining whether the ticket distribution is made in furtherance of at least one of the public purposes provided in policy. The process shall be electronic so that it can be updated, searched, and provided to the public in electronic format.²⁸

Under the new policy, the Ticket Administrator must now collect the following information before distributing any tickets:

1. The ticket recipient's name and department if a public servant, or the ticket recipient's name and organization if a non-City individual;
2. A description of the event;
3. The date of the event;
4. The fair value of the ticket, which is the face value on the ticket, or, if no value is indicated or if the face value does not reflect the actual cost for a ticket in a luxury box or suite, the face value is the total cost of the suite divided by the number of tickets available for the suite;
5. The number of tickets provided;
6. If the ticket distribution to the Public Servant or non-City individual was requested by another City official, the name of the requesting or "behesting" official; and
7. The public purpose that best describes the reason for the distribution of the tickets, from the list provided in the policy.²⁹

The Ticket Administrator shall not distribute any City ticket, even temporarily, to any public servant or non-City individual without first receiving the above information.³⁰ The Ticket Administrator must also determine that a stated public purpose for the distribution of the ticket applies.³¹

For every City ticket received and distributed under the policy, the Ticket Administrator is responsible for ensuring that all ticket distribution data is complete, properly entered into the City's information management system created for this purpose with 25 days of the distribution of the ticket, and maintained as a public record subject to public inspection in real time in an electronic machine-readable format that is accessible, searchable, and downloadable.³²

²⁸ OMC section 2.26.050(A).

²⁹ OMC section 2.26.050(B)(1)-(7).

³⁰ OMC section 2.26.050(C).

³¹ OMC section 2.26.050(D).

³² OMC section 2.26.060(A)-(B).

Finally – in contrast to the old ticket policy – the PEC now has direct jurisdiction over ensuring compliance with the ticket policy, including Enforcement mechanisms if necessary.³³ Previously, the PEC had no direct oversight role and could only enforce the ticket policy via the Government Ethics Act’s misuse of City resources provision.

Commission Staff has also developed a training on the new ticket policy, which can be given live in-person to an official’s staff and is also available on the City’s online NeoGov training site. To date, the Mayor and all of the sitting City Councilmembers who have previously used tickets have completed the training.

RECOMMENDATION

Previous violations of the City’s prior ticket distribution policy were a systemic issue, resulting from vague laws, lack of training, poor oversight, and a long-term culture of noncompliance. Since the opening of this investigation, Commission Staff has worked closely with City officials to improve training and compliance with the ticket distribution policy, as well as to pass new laws intended to close loopholes and improve compliance and tracking of distributed tickets. In light of the demonstrated and substantial improvement in compliance with the City’s ticket distribution policy by elected officials, as well as the new laws recently passed to curb prior abuses, Enforcement staff believes that keeping open old cases focused on systemic issues under the old laws would not be a good use of limited staff resources. As such, Commission Staff recommends closing the Enforcement cases relating to the former ticket distribution policy (nos. 16-08(a)-(i)) and focusing instead upon monitoring current officials’ compliance with the newly-enacted laws.

³³ OMC section 2.26.090(C).

Item 7 - Stipulation and Exhibit Summary

1 Simon Russell, Enforcement Chief
2 CITY OF OAKLAND PUBLIC ETHICS COMMISSION
3 1 Frank Ogawa Plaza, Rm. 104
4 Oakland, CA 94612
5 Telephone: (510) 238-2213

6 Petitioner.

7 BEFORE THE CITY OF OAKLAND
8 PUBLIC ETHICS COMMISSION

9 In the Matter of

) Case No.: 20-40

10 REBECCA KAPLAN,

) **STIPULATION, DECISION AND**
) **ORDER**

11 Respondent.
12
13
14

15 **STIPULATION**

16 Petitioner, the Enforcement Unit of the City of Oakland Public Ethics Commission, and
17 respondent REBECCA KAPLAN, agree as follows:

- 18 1. This Stipulation will be submitted for consideration by the City of Oakland Public
19 Ethics Commission (Commission) at its next regularly scheduled meeting;
- 20 2. This Stipulation resolves all factual and legal issues raised in this matter and represents
21 the final resolution to this matter without the necessity of holding an administrative
22 hearing to determine the liability of Respondent;
- 23 3. The Respondent knowingly and voluntarily waives all procedural rights under the
24 Oakland City Charter, Oakland Municipal Code, and Public Ethics Commission
25 Complaint Procedures, including, but not limited to, the right to personally appear at an
26 administrative hearing held in this matter, to be represented by an attorney at their own
27 expense, to confront all witnesses testifying at the hearing, to subpoena witnesses to
28 testify at the hearing, and to have the matter judicially reviewed;

Item 7 - Stipulation and Exhibit Summary

- 1 4. This Stipulation is not binding on any other law enforcement agency, and does not
2 preclude the Commission or its staff from referring the matter to, cooperating with, or
3 assisting any other government agency with regard to this matter, or any other matter
4 related to it;
- 5 5. Respondent violated the Oakland Government Ethics Act by failing to disclose a
6 property interest on a statement of economic interest form (Form 700) on three separate
7 occasions, and assumed a financial conflict of interest when on two separate occasions
8 the Councilmember participated in making or sought to influence a decision of the City
9 in which the Councilmember had a financial interest.
- 10 6. The attached Exhibit is a true and accurate summary of the facts in this matter and is
11 incorporated by reference into this Stipulation;
- 12 7. The Commission will impose upon Respondent the following penalties: Count 1,
13 Failure To Timely Disclose A Property Interest On A Statement Of Economic Interest
14 Form 700, \$2,500; Count 2, Failure To Timely Disclose A Property Interest On A
15 Statement Of Economic Interest Form 700, \$3,500; Count 3, Failure To Timely
16 Disclose A Property Interest On A Statement Of Economic Interest Form 700, \$4,500;
17 Count 4 Conflict of Interest, \$4,000; Count 5, Conflict of Interest, \$4,500. Total
18 administrative penalties in the amount of \$19,000.
- 19 8. Respondent will enter a payment plan with the City in order to pay the penalty, on the
20 following terms. Respondent will submit a down payment in the amount of four-
21 thousand dollars (\$4,000), payable to "City of Oakland," at the same time as the
22 Commission considers this Stipulation. Upon approval of this Stipulation, Respondent
23 will make twelve monthly installment payments in the amount of one-thousand, two-
24 hundred and fifty dollars (\$1,250) each, payable to "City of Oakland," no later than the
25 final day of every month beginning with the month following that during which the
26 Commission approves this Stipulation. Should the final day of the month fall on a
27 weekend or City holiday, the monthly installment shall be due on the next business day
28 following the weekend or holiday. No interest shall accrue on the penalty, however

Item 7 - Stipulation and Exhibit Summary

1 Respondent shall pay a ten-dollar (\$10) penalty fee for each day that a monthly payment
2 is late, payable at the same time as the late-tendered payment. Respondent also agrees to
3 pay a one-time administrative fee of one-hundred twenty-five dollars (\$125) in
4 connection with the processing of the payment plan, payable at the same time as the
5 first monthly installment. A cashier's check from Respondent, in the amount of four-
6 thousand dollars (\$4,000), made payable to the "City of Oakland," is submitted with
7 this Stipulation as a down payment on the administrative penalty, to be held by the
8 Commission until the Commission issues its decision and order regarding this matter;

9 9. In the event the Commission refuses to accept this Stipulation, it shall become null and
10 void, and within fifteen business days after the Commission meeting at which the
11 Stipulation is rejected, all payments tendered by Respondent in connection with this
12 Stipulation will be reimbursed to them; and

13 10. In the event the Commission rejects the Stipulation and a full evidentiary hearing before
14 the Commission becomes necessary, neither any member of the Commission, nor the
15 Executive Director, shall be disqualified because of prior consideration of this
16 Stipulation.

17
18
19 Dated: _____


Simon Russell (Dec 1, 2022 13:17 PST)

Simon Russell, Enforcement Chief of the City of Oakland
Public Ethics Commission, Petitioner

20
21
22 Dated: _____


Rebecca Kaplan (Dec 1, 2022 16:48 PST)

Rebecca Kaplan, Respondent

Item 7 - Stipulation and Exhibit Summary

DECISION AND ORDER

The foregoing Stipulation of the parties to “In the Matter of Rebecca Kaplan,” PEC Case No. 20-40, including all attached exhibits, is hereby accepted as the final Decision and Order of the City of Oakland Public Ethics Commission, effective upon execution below by the Chair.

Dated: _____

Arvon Perteet, Chair
City of Oakland Public Ethics Commission

Item 7 - Stipulation and Exhibit Summary

EXHIBIT

Case No. 20-40

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INTRODUCTION

On October 30, 2020, the Public Ethics Commission (PEC) received a complaint alleging that Respondent, City of Oakland Councilmember At-Large Rebecca Kaplan, violated the Government Ethics Act (GEA) when she failed to disclose, on her Statement of Economic Interest (Form 700) that she had an ownership interest in an Oakland condominium that sat near Estuary Park.

The complaint further alleged that the Respondent violated the Government Ethics Act when she voted to approve a \$1.2 million-dollar improvement to Estuary Park, which is within 500 feet of the subject property. Such votes were alleged to be a conflict of interest because any improvements to the park could potentially affect the value of the Respondent’s interest in the condo.

Commission Staff investigated the matter and found that Councilmember Kaplan was a partial (1/3) co-owner of the condo, did not initially use it as her primary residence until sometime in 2018, failed to initially report her partial ownership of the condo on her Form 700s, and voted on matters concerning the allocation of funds and selection of persons to undertake tasks related to the improvement of Estuary Park. Those votes constituted a conflict of interest because the improvements to the park could have an impact on the value of the condo.

In mitigation, the investigation also found that the initial authorization for the park improvements had been made via a ballot measure approved by voters years before Councilmember Kaplan took office. Though not simply ministerial, Councilmember Kaplan’s votes were in furtherance of that voter-approved project and not subject to the usual wide range of discretion available to Councilmembers when voting on new projects. The investigation found also that Councilmember Kaplan’s violations in

Item 7 - Stipulation and Exhibit Summary

this matter, though serious, were unintentional, and not done with an intent to enrich herself. At one point, Councilmember Kaplan even voted against her own economic interest by declining to approve an architectural vendor for the project until she had assurance that the bidding process had been fair to all vendors. Councilmember Kaplan also eventually self-reported her interest in the condo, which is not an action consistent with a scheme to secretly enrich herself. Nevertheless, the fact that Councilmember Kaplan's actions were avoidable and might negatively affect Oakland residents' perception of the fairness and transparency of Council actions, merit the imposition of a penalty in this matter.

After close consideration of all the facts and the law, and for the reasons explained in this memorandum, Staff recommends that the Commission approve a stipulated agreement and impose the following Penalties: Count 1, \$2,500; Count 2, \$3,500; Count 3, \$4,500; Count 4, \$4,000; Count 5, \$4,500 for a total of \$19,000.

FACTUAL SUMMARY

Kaplan Purchases a Condo and Fails to Report it on Her Form 700s

Rebecca Kaplan was elected to the Oakland City Council At-Large seat in 2008 (assumed office 2009) and has held that position continuously, up to and including the events in this case. As a City Councilmember, she is required to file an annual Form 700 (Statement of Economic Interests) publicly disclosing, among other things, any real property interests she holds in Oakland, other than her primary residence.

During her time in office, Councilmember Kaplan has purchased two condominiums in the Portobello Apartment Complex located at 1 Embarcadero West, Oakland. She first acquired a condo in that complex in 2012 and sold it in 2014. Councilmember Kaplan told PEC investigators that she used that condo as her primary residence until 2013. As described below, Councilmember Kaplan reported that condo on her Form 700. These actions took place before the votes at issue in this case.

Councilmember Kaplan then participated with her parents in their purchase of another condo in the same building, in December 2013. The three, Rebecca Kaplan and her parents, remain co-owners to date. Councilmember Kaplan has told PEC investigators that she sometimes stayed in that unit herself over the years but did not move into it fully until 2018. Before then, Councilmember Kaplan had a different address as her primary residence.

Councilmember Kaplan did not report her ownership interest in the second condo until her 2019 Form 700 (filed in 2020), as shown in the following table:

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Councilmember Kaplan's Reporting of Property Interests on Her Form 700s	
Form 700 covering year...	Declared...
2013	Declared a real property interest in her first condo located in the Portobello Complex
2014	Declared a real property interest in what was then her primary residence, separate from the Portobello Complex. Did not report any other real property interests.
2015	Same as above.
2016	Same as above.
2017	Same as above.
2018	Same as above.
2019	Declared a real property interest in her second condo located in the Portobello Complex
2020	Did not declare any real property interests.

Plans are Made to Expand and Improve Estuary Park

Estuary Park is an eleven-acre site located next to the Portobello condo complex, where Councilmember Kaplan owns a partial interest in a unit. The Councilmember's unit is located within 500 feet of the park.

Plans to renovate and expand Estuary Park have been proposed within the City of Oakland since the late 1990s. In 2002, Oakland voters passed Measure DD, which authorized the sale of bonds to pay for various parks and waterway projects throughout the city. Specifically listed among those projects in 2002 was a renovation and expansion of Estuary Park. This was before Kaplan owned the subject property or held any public office.

First Kaplan Vote (2016): Authorizing Bond Funds for Measure DD Projects, Including Estuary Park

Between 2003-2016, \$160 million of Measure DD funds (including interest) were allocated and expended. Priority was given to other projects ahead of the Estuary Park expansion. Councilmember Kaplan joined the Oakland City Council in 2009.

In late 2016, the City was proposing to sell an additional \$27.5 million of Measure DD bonds in January 2017 for a large number of projects throughout the City of Oakland. This bond series required City Council approval for the appropriation. The Estuary Park portion of the Measure DD project was mentioned amongst a list of citywide projects in the accompanying staff report:

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II. ESTUARY WATERFRONT ACCESS, PARKS AND CLEAN UP

• Union Point Park	Completed
• Waterfront Trail at Alameda Avenue	Completed
• 66 th Avenue Gateway to Waterfront Bay Trail	Completed
• Waterfront Trail from Derby Ave. to Lancaster Street and pocket Park	Completed
• Waterfront Trail and Park at the former Cryer Boatworks Site	Completed
• Fruitvale Ave to High Street Waterfront Bay Trail	Completed
• Con Agra to 23 rd Avenue Trail	Pre-Design
• Livingston Pier Trail Connection	Construction 2017
• Crowley Trail (formerly known as Brooklyn Basin) Interim Trail	Construction 2017
• 10 th Avenue Marina Trail Connection	Construction 2017
• Embarcadero Cove Trail Improvements	Construction 2017
• Waterfront Trail at Bridges	Pre-Design
• Estuary Park	Pre-Design

About 1/10 of the new proposed funds were intended for the Estuary Park project, as itemized in the staff report.

The item was heard by the full City Council on December 13, 2016, on the consent calendar. Councilmember Kaplan was present for the vote. Councilmember Kaplan had no role in city Administration staff's decision to bring the item before the full City Council, and had no role in their decision to include Estuary Park among the citywide list of projects. No evidence suggests Kaplan made any effort to include Estuary Park; rather, City staff decided which projects to include.

At the time of the Council vote, Councilmember Kaplan did not recuse herself or state that she had a conflict of interest. She then voted with everyone else, 8-0 for the consent calendar (including this item) to pass.

Remaining Votes (2017): Approving an Architect for the Project

In 2017, City staff brought a resolution to the City Council seeking to use \$1.2 million from the previously-approved 2002 Measure DD bond funds to contract with architectural firm Hargreaves Associates for the Estuary Park design.

The item was heard in the City Council Public Works Committee on July 11, 2017. Councilmember Kaplan was a member of that committee and was present for the meeting; she did not recuse herself or note that she had a conflict of interest.

Following the staff presentation on the item, there was discussion among the committee members as to whether the process to select the proposed contractor (Hargreaves) complied with previous City Council direction on local hiring requirements. City staff argued that professional services agreements such as this one were exempt from the process outlined by the City Council. Councilmember Kaplan did not take part in the substantive discussion of this issue, but did move to continue the item a few months down the road, in order to give staff time to obtain legal clarity on the issues raised. When asked how this would impact the project, City staff said it would delay the Estuary Park project by a few months. Kaplan's motion failed 2-2 (Kaplan and another Councilmember voting in favor).

Item 7 - Stipulation and Exhibit Summary

Another Councilmember then moved to bring this item to the full City Council for a vote on whether to bypass committee and vote on it directly. That motion also failed 2-2, this time with Councilmember Kaplan opposed. At that point, the item was dead and would need to be re-submitted.

Following the Public Works Committee's initial rejection of the City staff's recommendation to award the Estuary Park design contract to Hargreaves Associates, City staff returned with a second recommendation to award the \$1.2 million contract to Hargreaves. This time, the City staff report accompanying the item explained Hargreaves' compliance with local small business hiring requirements.

The matter then went to the Public Works Committee on February 13, 2018. Councilmember Kaplan was present for the meeting and did not recuse herself for this item or acknowledge a conflict of interest. Following a staff presentation on the matter, the committee voted 4-0 to approve.

The item was then heard by the full City Council on February 20, 2018, on the consent calendar. Councilmember Kaplan was present for the meeting and did not recuse herself for this item or acknowledge a conflict of interest. The item passed unanimously without comment.

A City staff report dated July 24, 2020, described what happened next with the Hargreaves contract:

A robust public engagement process was implemented between August 2018 and February 2019. During this period, a number of site challenges were identified, including soil contamination, sea-level rise, and associated permitting challenges. Additionally, staff determined that the Hargreaves team was inadequate to address these site challenges and unwilling to consider revising the draft concept that they had developed. For these reasons, the professional services contract with Hargreaves Associates was terminated in October 2019.

Subsequently, the City issued another RFP and, following a staff-directed selection process, it decided to contract with WRT Associates for a new design contract valued at \$1.4 million. The awarding of the contract would require City Council approval. The City Council heard the matter on its consent calendar during its meeting of July 28, 2020. Councilmember Kaplan was present for that meeting and voted on the matter; she did not recuse herself or acknowledge a conflict of interest. It passed unanimously.

Kaplan's Interview with the PEC

When asked about her votes as a Councilmember on matters involving improvements to Estuary Park, Councilmember Kaplan stated that it was not her intention to ever benefit financially from her votes, and that she believed she was merely voting to select a contractor for design services. She acknowledged that Estuary Park is near to the condo in which she has a partial ownership interest. She did not dispute that the votes occurred. Kaplan stated that she was not seeking to, and in fact did not, move funding or move park allocations to locations near the condo in which she owns an interest, rather, that such decisions had been made years before, by the voters. This is consistent with the legislative history of the items on which she voted. There is no evidence that Councilmember Kaplan urged City staff to prioritize funding for, or development of, Estuary Park.

Item 7 - Stipulation and Exhibit Summary

Councilmember Kaplan admits to the PEC that she made an error in not reporting her interest in the condo sooner, and in not recusing herself on the votes affecting the park near her property. Regarding the non-reporting violations, Councilmember Kaplan states that she did not fully understand the reporting requirements, particularly in light of the fact that she was not renting out the condo and sometimes used it herself over the years, though she never considered it to be her primary residence until 2018. Regarding her failure to recuse herself from the votes on which she was conflicted, Councilmember Kaplan admits that this was an oversight on her part and that, given that her understanding was that she was voting to move along a project that had already been approved by voters, she did not give much thought to the potential impact of her votes on the value of her property.

SUMMARY OF LAW AND LEGAL ANALYSIS

Councilmember Kaplan Was Required to Timely Report Her Ownership of the Condo on Her Form 700s

City of Oakland officials, including elected officials listed in Government Code Section 87200, under penalty of perjury, must report investments, business positions, and sources of income, including all interests in real property within their agency's jurisdiction (i.e. the city of Oakland).

Here, Councilmember Kaplan failed to timely report a condo within Oakland that she co-owned with her parents since December 2013 and did not use as her primary residence until 2018. She should have disclosed it in a manner timely on her Form 700s, but did not do so until her Form 700 covering 2019.

Councilmember Kaplan Should Not Have Voted on Matters Affecting a Park Next Door to Her Condo

The Oakland Municipal Code provides that a Public Servant (including elected officials such as City Councilmembers) shall not make, participate in making, or seek to influence a decision of the City in which the Public Servant has a financial interest.

For a conflict of interest to exist there does not need to have been any wrongdoing committed, harm caused, or advantage realized. The existence of a conflict is independent of any actual adverse impact. There are four elements to determine whether a public official has a prohibited conflict of interest under the Act.¹ Those elements are:

1. Is it reasonably foreseeable that the governmental decision will have a financial effect on any one of the public official's financial interests?
2. Will the reasonably foreseeable financial effect be material?
3. Can the public official demonstrate that the material financial effect on the public official's financial interest is indistinguishable from its effect on the public generally? If not,
4. If after applying the three steps above and determining the public official has a conflict of interest, absent an exception the official may not make, participate in

¹ 2 Cal. Code of Regulations § 18700.

Item 7 - Stipulation and Exhibit Summary

making or in any way attempt to use the official's position to influence the governmental decision.

Here, it reasonably foreseeable that the Councilmember Kaplan's votes would impact the property value of her condo. There is a presumption within the law that any governmental decision involving a project located within 500 feet of an official's real property will necessarily have a material financial impact on their property. In this case, Councilmember Kaplan voted on matters affecting the development of a park located within 500 feet of her property, therefore the material financial effect on her property is presumptive.

It should be noted that the approval and funding for the Estuary Park project had already been passed by voters via ballot measure long before the Councilmember assumed office. Her Council votes in this matter facilitated that project, including the timing of it, but were not fundamental to the project's existence. Furthermore, by voting to delay approval of the Hargreaves contract until the Council could be assured that the proper bidding procedure had been followed, Councilmember Kaplan was essentially voting against her own economic interest. While these circumstances do not relieve the Councilmember of liability in this matter, they should be taken into consideration as mitigating factors.

Thus, Councilmember Kaplan was prohibited by the Oakland Municipal Code from making, participating in making or seeking to influence actions of the City regarding the park that was adjacent to a property in which she had a financial interest.

SETTLEMENT

Respondent, Rebecca Kaplan, has agreed to settle claims regarding the following violations of the Oakland Municipal Code:

Counts 1-3: Failure To Timely Disclose A Property Interest On A Statement Of Economic Interest Form 700

On or between January and December 2016, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2015 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

On or between January and December 2017, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2016 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

On or between January and December 2018, Respondent, Rebecca Kaplan, City of Oakland Councilmember, violated O.M.C 2.25.040 (B), when she failed to disclose her Year-2017 financial or property interest in an Oakland condominium on her Statement of Economic Interest Form 700.

Count 4: Conflict of Interest

On December 13, 2016, Respondent Rebecca Kaplan, City of Oakland Councilmember violated O.M.C. 2.25.040 (A) of the Oakland Campaign Reform Act when she made, participated in making, or sought

Item 7 - Stipulation and Exhibit Summary

to influence a decision of the City in which she had a financial interest, specifically via her vote to authorize bond funds for Measure DD Projects including Estuary Park.

Count 5: Conflict of Interest

On July 11, 2017, February 13, 2018, February 20, 2018, and July 28, 2020, Respondent Rebecca Kaplan, City of Oakland Councilmember violated O.M.C. 2.25.040 (A) of the Oakland Campaign Reform Act when she made, participated in making, or sought to influence a decision of the City in which she had a financial interest, specifically via her votes to approve an architect for the Estuary Park project.

PENALTIES

The Enforcement Penalty Guidelines authorize the Commission to impose maximum administrative penalties of up to \$5,000, or three times the amount of the not lawfully reported (whichever is greater), for a violation of GEA O.M.C. 2.25.040(B). The Base level penalty for a violation of O.M.C. 2.25.040 is \$1,000(B).²

For a violation of O.M.C. 2.25.040 (A) the maximum administrative penalty is also \$5,000, or three times the amount unlawfully given or received (whichever is greater). The Base level penalty for a violation of O.M.C. 2.25.040 (A) is \$3,000.³

The PEC will consider all relevant mitigating and aggravating circumstances surrounding a violation when deciding on a penalty, including, but not limited to, the following factors:

1. The seriousness of the violation, including, but not limited to, the extent of the public impact or harm;
2. The presence or absence of any intention to conceal, deceive, or mislead;
3. Whether the violation was deliberate, negligent, or inadvertent;
4. Whether the violation was isolated or part of a pattern;
5. Whether the respondent has a prior record of violations and/or demonstrated knowledge of the rule or requirement at issue;
6. The extent to which the respondent voluntarily and quickly took the steps necessary to cure the violation (either independently or after contact from the PEC);
7. The degree to which the respondent cooperated with the PEC's enforcement activity in a timely manner;
8. The relative experience of the respondent.

² See, Enforcement Penalty Guidelines (2018) page 5.

³ See also, Enforcement Penalty Guidelines (2018) page 5.

Item 7 - Stipulation and Exhibit Summary

The PEC has broad discretion in evaluating a violation and determining the appropriate penalty based on the totality of circumstances. This list of factors to consider is not an exhaustive list, but rather a sampling of factors that could be considered. There is no requirement or intention that each factor – or any specific number of factors - be present in an enforcement action when determining a penalty. As such, the ability or inability to prove or disprove any factor or group of factors shall in no way restrict the PEC's power to bring an enforcement action or impose a penalty.

Aggravating Factors

Here, the circumstances of the Respondent's conduct establish aggravating factors that should substantially increase the severity of the penalty:

1. The Respondent is an experienced elected official and lawyer with knowledge of and experience with the Government Ethics Act (GEA), particularly Financial Conflicts of Interest and Form 700 disclosure requirements. The Respondent was one of the Councilmembers who voted to adopt the GEA in 2014.
2. The violation was serious because the Respondent's multiple failures to timely disclose a property interest hindered the community's ability to hold elected officials accountable and potentially undermined the public trust in the transparency and effectiveness of City government.
3. The Respondent's conduct was a pattern, including multiple failures to disclose her property interest and recuse herself from Council votes affecting that interest.
4. Regarding Counts 4-5, the Councilmember's financial interest in the votes was unreported on her Form 700s at the time.
5. Regarding Count 5, the Councilmember's initial votes delayed the completion of the project.

Mitigating Factors

1. The Respondent cooperated with the Public Ethics Commission enforcement investigation.
2. The violations were negligent rather than deliberate.
3. There is no evidence that the Councilmember acted with any intent to enrich herself. On July 11, 2017, she voted against her own financial interest when she voted to delay the project in order to ensure that the bidding process had comported with City Council's directed process.
4. The Councilmember eventually self-reported her property interest on her Form 700, without prompting from the PEC.
5. The Councilmember takes responsibility for her error and worked with the PEC in good faith to resolve this matter in a fair and timely manner.

Item 7 - Stipulation and Exhibit Summary

6. The park in question had already been approved and funded by voters, and thus, although the Councilmember should not have participated in the subject votes affecting the timing and manner of the project implementation, the scope of her discretion was more limited than it would have been had voters not already approved and funded the project.
7. Regarding Count 4, this was a consent calendar vote.
8. Regarding Count 5, although the Councilmember voted to delay the project, this was done to ensure the integrity of the bidding process and was against her own financial interest.

In light of these factors, and taking into consideration the PEC’s penalty guidelines, Staff recommends that the Commission settle the case with the following penalties:

Count	Violation	Guideline Penalty	Recommended Penalty
Count 1	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$2,500
Count 2	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$3,500
Count 3	Failure to Disclose A Financial Interest on Form 700	Base level Penalty: \$1,000 Maximum penalty: \$5,000, or three times the unreported amount	\$4,500
Count 4	Conflict of Interest	Base level Penalty: \$3,000 Maximum penalty: \$5,000, or three times the amount unlawfully given or received	\$4,000
Count 5	Conflict of Interest	Base level Penalty: \$3,000	\$4,500

Item 7 - Stipulation and Exhibit Summary

		Maximum penalty: \$5,000, or three times the amount unlawfully given or received	
			Total = \$19,000

RECOMMENDATION

Based on the facts and analysis above, Staff recommends that the Commission approve the attached Stipulated Agreement and impose the following Penalties: Count 1, \$2,500; Count 2, \$3,500; Count 3, \$4,500; Count 4, \$4,000; Count 5, \$4,500, for a total of \$19,000.



Arvon J. Perteet, Chair
Ryan Micik, Vice-Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Suzanne Doran, Acting Executive Director
DATE: November 29, 2022
RE: 2022 LPF Program Summary

This memorandum provides an overview of the disbursement of public financing through the Limited Public Financing program administered by the Public Ethics Commission during the November 2022 election.

Background of the Limited Public Finance Act

The Limited Public Financing Act (LPFA or Act), enacted in 1999 and last amended in 2022, provides District City Council candidates with public funds by way of reimbursements for qualified expenditures used for campaign expenses with the goal of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process.

The stated purposes of the Act are as follows:

- To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.
- To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.
- To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- To encourage competition for elective office.
- To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- To ensure that serious candidates can raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.
- To help preserve public trust in governmental and electoral institutions.

2022 Implementation

The process for applying for LPF funds began in late August after the City Clerk certified the names of all the November 2022 candidates running for City Council District offices, a total of eight. The

Item 9 - Staff Memo

combined total amount in the Election Campaign (LPF) Fund for fiscal years 2021-22 and 2022-23 was \$177,000 available for the November 2022 election.

Initially, all eight certified candidates were invited to the LPF training and given the opportunity to participate in the LPF program. Seven candidates and/or their representatives attended the mandatory LPF training conducted by Commission staff as required for program eligibility. Only one candidate chose not to attend the training and was not responsive to Staff communications. All seven candidates that attended the training opted-in to receive public financing and were permitted to apply for an initial allocation of \$25,285 each, the amount of the election fund balance divided among the seven candidates.

To maximize the use of LPF funds by candidates, staff continued the two-phased process of reimbursement allocations first implemented in the 2014 election cycle. Under the two-phased approach, candidates were required to file their first reimbursement claim by September 19 to use their first allotment and remain eligible for a second redistribution of the remaining funds.

After the Phase 1 deadline, two of the seven candidates were ineligible to receive funds. Both candidates became ineligible because they did not meet the required 5 percent contribution and expenditure thresholds necessary to qualify for the program. According to pre-election campaign statements filed, neither of the candidates reached both of the required 5 percent thresholds even after the September 19 deadline.

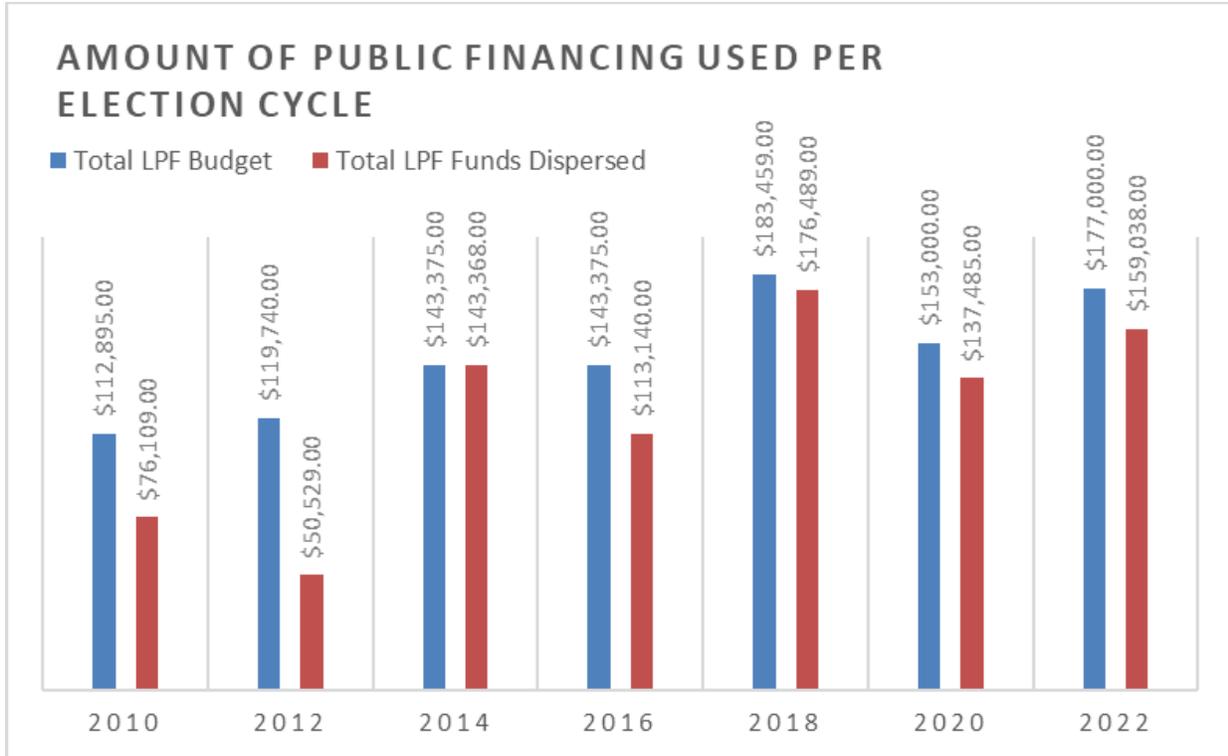
Therefore, the initial disbursement of \$25,285 previously allocated to both now ineligible candidates was redistributed to the other participating candidates. This redistribution resulted in a new maximum amount of \$35,400 for each remaining eligible candidate, an increase of \$10,115 each.

Below is a list of the participating candidates and the total amount received by each through the LPF program.

Candidate	District	Total Public Funds Received	Percent of Max Funds Available to the Candidate
Nikki Fortunato Bas (Incumbent)	2	\$35,400	100%
Harold Lowe	2	\$35,400	100%
Janani Ramachandran	4	\$35,400	100%
Nenna Joiner	4	\$35,338	99%
Kevin Jenkins	6	\$17,500	49%

The total amount of reimbursement funds distributed to candidates during the November 2022 election was \$159,038 or 90 percent of the total funds available.

In the past five elections, the percentage of total funds used and overall participation has continued to be high, which in part is attributable to the implementation of the two-phased approach in addition to more direct and earlier Commission Staff outreach to candidates. Below is a summary of the total funds available and disbursed out of the program for the last seven elections.



The table below illustrates the number of certified candidates per election and the percentage that participated in the LPF program over the same period.

Year	Total Ballot Certified Candidates	Candidates Opted-In to LPF	LPF Opt-In Rate	Total Candidates Receiving Reimbursements	LPF Participation Percentage ¹
2010	12	N/A	N/A	5	42%
2012	20	15	75%	6	30%
2014	12	11	92%	8	67%
2016	9	7	78%	4	44%
2018	15	12	80%	10	67%
2020	17	15	88%	7	41%
2022	8	7	88%	5	63%

Conclusion

The continued participation and use of public funds by candidates during election cycles suggests that candidates find the Limited Public Financing program helpful. With the passage of Measure W Oakland Fair Elections Act in the November 2022 election, this will be the final election cycle of the LPF program in its current format. Beginning in 2024, the voter-approved Democracy Dollar voucher program will be implemented expanding public financing for elections in the City of Oakland.

¹ LPF participation percentage reflects candidates that met all program eligibility requirements and received public financing.



Item 10a - Staff Memo with timeline

Arvon Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Acting Executive Director
DATE: December 2, 2022
RE: Measure W Oakland Fair Elections Act Implementation Update for the December 14, 2022, PEC Meeting

With the passage of Measure W, the Oakland Fair Elections Act, the Public Ethics Commission (PEC or Commission) is planning for a transition of growth in staffing, structure, and responsibilities as administrator of a completely re-designed public financing program. This memorandum provides a broad overview of the operational changes required by the new law and associated amendments with a tentative timeline for implementation tasks.

Background

On November 8, 2022, Oakland voters approved ballot Measure W, which replaced all existing language in the Limited Public Financing Act with the Oakland Fair Elections Act (OFEA) including a newly designed public financing program that disperses \$100 in Democracy Dollar vouchers to eligible Oakland residents who can then assign the Dollars to their preferred candidate. The new law outlines criteria for participation and thresholds that a candidate must meet to qualify for the program and receive assigned vouchers, including campaign spending limits and participation in a certain number of public forums. It also includes a significant outreach component, to be led by the PEC, as well as a variety of new duties for the PEC and its staff.

Measure W also amended the City Charter to add required funding as well as four new PEC staff positions to implement the new program. In addition, the legislation adjusts contribution and spending limits for Oakland campaigns and extends the post-employment lobbying ban for City officers from one-year to three years.

While some provisions of the law and amendments are effective January 1, 2023, the staffing levels and program budget are not effective until July 1, 2023.

Operational Changes and Tasks

Budget and Staffing

1. Effective July 1, 2023, the City shall appropriate at least \$1,250,000 to administer the Democracy Dollars Program, as well as at least \$4,000,000 for the purpose of funding Democracy Dollars. In addition, for the 2023 fiscal year, at least \$700,000 for start-up costs

associated with initiating the Democracy Dollars Program will be appropriated to the PEC budget. Staff is meeting with the City's Finance Department in December to prepare for the fiscal year 2023-2024 and 2024-2025 budgeting process, which takes place in the first quarter of 2023, to ensure timely allocation and availability of new program funds.

2. Effective July 1, 2023, the City must provide adequate staffing necessary to properly administer the Democracy Dollars Program, including at least four additional full-time positions reporting to the Executive Director. To implement the program in 2024, it is imperative that hiring processes start now to place staff into these positions by July 2023. To that end, Commission staff has begun work with the City's Human Resources department to develop the job specifications, design the civil service examination process, and conduct recruitment, so that the interview and selection process can commence by March 2023.
3. Given the Commission's expanded duties and staffing, the Commission will need additional space that is easily-accessible to the public and Commission clients. Commission staff will explore options for office space to accommodate the additional staff.

Administrative Processes and Technology

1. The Commission must develop a technology system to administer the program, from creating Democracy Dollar records with unique identifiers to tracking the Democracy Dollar vouchers throughout processing from assignment to validation to creating invoices for fund disbursements to candidates. In addition, the system must track performance metrics identified in the law and publish metrics and data in a searchable, user-friendly public transparency portal. Immediate next steps for Commission staff are drafting a business requirements document in collaboration with the IT department, which will be the basis of a request for proposals (RFP), so system development can start in July when program start-up funds are available. Additionally, creating and distributing Democracy Dollars to all Oakland registered voters and eligible residents requires coordination with the appropriate agencies, including the Alameda County Registrar of Voters and the Oakland City Clerk, for all information required to identify and validate eligible residents. Staff conducted preliminary research on public finance administration systems in other jurisdictions as well as analysis of the legislation, and business requirements documentation is underway.
2. Administrative procedures must be developed as well as all forms and documents necessary to administer the Program, such as the candidate certification process and a design for the Democracy Dollar including elements specified by law. System controls to ensure compliance and an audit program of certified candidates are required. Performance measures and goals must be in place enabling a post-election review of the program in coordination with the Race and Equity Department that will be submitted to City Council. In the next six months, outlining workflows and procedures, particularly those that will inform development of the technology solution, will be prioritized until the program is fully-staffed.

Policy

1. Although the Program is effective for the first election in 2024, the Commission has discretion to adjust the timing and main conditions of the Program as needed. Setting deadlines and milestones required for Program roll-out in 2024, such as minimum staffing levels and successful deployment of the technology system, are also a high priority next step.
2. The Commission is also tasked with adopting rules and regulations necessary to carry out the Oakland Fair Elections Act. Identifying policy questions requiring Commission action prior to 2024 launch can begin in the months prior to full program implementation.

Outreach

1. Once the program is fully staffed, staff will develop a plan for education and outreach, in coordination with community organizations and the City's Race and Equity Department, to ensure all City residents are informed about the program. Engagement on this scale will require partnering with community-based organizations and other supporters and may also involve requests for proposals to produce and distribute marketing materials. There will be many additions that need to be made to the content of the Commission's website as well as candidate resources and training. Commission staff will make updates incrementally over the next six months and beyond to ensure Commission content reflects the new legislation and associated amendments.

Attached is the full Measure W text, the Staff Memo to the Commission dated 3/31/2022 providing a detailed summary of new provisions and amendments effected by Measure W, and a tentative implementation timeline to highlight key dates.

OAKLAND FAIR ELECTIONS ACT – DEMOCRACY DOLLARS

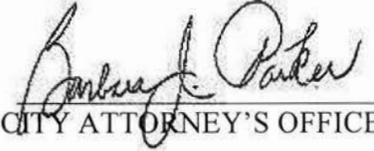
Implementation Overview with Key Dates

Phase 1: Preliminary Tasks	
Nov 2022 – June 2023 Activities and Outcomes	
Nov 2022	<ul style="list-style-type: none"> • Research and analysis of requirements for program administration. • Begin coordination with other City stakeholders and agencies.
Dec 2022 – Jan 2023	<ul style="list-style-type: none"> • Preparation for 2023 – 2025 fiscal year budget process. • Develop the job specifications and design the civil service examination process for new staff positions in partnership with HR. • Develop tech business requirements in partnership with ITD.
Feb 2023	<ul style="list-style-type: none"> • Draft tech system RFP in partnership with ITD. • Develop program webpages to chart implementation progress.
Mar 2023	<ul style="list-style-type: none"> • Issue tech system RFP in partnership with ITD. • Drafting RFP for Democracy Dollar design, printing, and distribution.
Apr – Jun 2023	<ul style="list-style-type: none"> • Vendor selection and approval in partnership with ITD, Finance Departments. • Recruitment for new positions, examination/interview process. • Preliminary development of forms, systems for program administration. • Identify policy questions requiring Commission action prior to 2024 launch. • Determine milestones, success metrics for program roll-out. • Ongoing engagement with stakeholders to raise awareness of the Democracy Dollars program and gain input through various available channels.
Phase 2: Program Foundations	
Jul - Dec 2023	
Jul – Aug 2023	<ul style="list-style-type: none"> • Program funds budgeted and available for 2023 – 2024. • New positions filled and staff onboarded. • Tech system development begins. • Outreach plan development in partnership with City and community partners.
Sep – Oct 2023	<ul style="list-style-type: none"> • Democracy Dollar and packet design selected. • Commission adopts regulations prior to 2024 launch, as needed. • Outreach and training materials developed for Oakland residents, candidates. • Monitor milestones required for 2024 launch date.
Nov – Dec 2023	<ul style="list-style-type: none"> • Tech system MVP tested and ready to deploy.
Phase 3: Program Launch	
Jan - Nov 2024	
Jan – Mar 2024	<ul style="list-style-type: none"> • Democracy Dollars funds available announced. • Candidate application process begins. • Ongoing outreach to raise awareness of Democracy Dollars program.
Apr 2024	<ul style="list-style-type: none"> • Democracy Dollars distributed to Oakland registered voters by April 1, 2024. • Voucher assignment system and public program dashboard live.
May – Nov 2024	<ul style="list-style-type: none"> • PEC staff processes DD vouchers, disburses funds to candidates.
Phase 4: Post-election Evaluation	
Dec 2024 - ongoing	<ul style="list-style-type: none"> • Candidates return unused funds. • Program audit, performance evaluation reports for Commission and City Council. • Tech system and outreach development continues, user-experience, data-informed improvements.

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OAKLAND

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89316 C.M.S.

INTRODUCED BY COUNCILMEMBER DAN KALB, COUNCIL PRESIDENT NIKKI FORTUNATO BAS, AND COUNCILMEMBER CARROLL FIFE

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION A MEASURE THAT WOULD ESTABLISH PUBLIC FINANCING FOR ELECTIONS OF CITY AND SCHOOL BOARD OFFICIALS, INCREASE TRANSPARENCY REGARDING INDEPENDENT SPENDING ON CITY ELECTIONS, AND FURTHER RESTRICT THE ABILITY OF FORMER CITY OFFICIALS AND DIRECTORS TO ACT AS LOBBYISTS BY:

(1) REPEALING THE LIMITED PUBLIC FINANCING ACT AND ADOPTING THE FAIR ELECTIONS ACT TO ENABLE RESIDENT ALLOCATION OF PUBLIC FINANCING FOR ELECTIVE OFFICE CAMPAIGNS;

(2) AMENDING THE CAMPAIGN REFORM ACT AND LOBBYIST REGISTRATION ACT; AND

3) AMENDING SECTION 603 OF THE CHARTER OF THE CITY OF OAKLAND TO FUND PUBLIC ETHICS COMMISSION STAFF TO IMPLEMENT THE FAIR ELECTIONS ACT;

AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION, AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL MUNICIPAL ELECTION

WHEREAS, the City of Oakland has a history of supporting campaign finance and governmental ethics laws in order to improve transparency, reduce the appearance of corruption, and increase opportunities for people to run for local office. These laws include the Limited Public Financing Act, the Oakland Campaign Reform Act, Oakland's Lobbyists Registration

law, and Section 603 of the Charter, which lays the structure, authority and independence of the Oakland Public Ethics Commission; and

WHEREAS, In November of 2015, voters in Seattle, WA passed campaign finance reform that included democracy vouchers to Seattle residents, and studies have shown increased geographic and economic diversity of political donors in that city. Studies also revealed an 86% increase in the number of candidates and a decrease in incumbent electoral success.¹ Moreover, a 2021 study found that first-time eligible voters who used at least one Democracy Dollars voucher in Seattle’s 2017 municipal elections was 11.75 times more likely to vote than a similarly situated person who did not,² and low-propensity voters who used at least one voucher in Seattle’s 2017 municipal elections were 7.4 times more likely to vote than a low-propensity voter who did not;³ and

WHEREAS, In September 2020, the Oakland Public Ethics Commission issued a report, *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race*, that reviewed outcomes from Oakland’s existing public financing program and overall campaign finance system and recommended a new approach for Oakland to expand and diversify participation and influence in the campaign process, particularly with regard to how some Oaklanders lack political power in the campaign finance process, which relies on those with money to make contributions to political campaigns. The Commission explored best practices in other jurisdictions, including other public financing models, and concluded that a Democracy Dollars program “shows the most promise for bringing equity to the campaign finance process since it equips all voters with campaign ‘cash’ to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior engagement;” and

WHEREAS, gaps in existing municipal law deprive Oakland voters of access to information about how big independent spenders are spending money to influence their votes; and

WHEREAS, existing municipal restrictions on lobbying by city officials immediately after they leave government service are inadequate to ensure that city government is free from corruption and the appearance of corruption. Extending the lobbying ban from one year to two years after a city official leaves government service is a necessary safeguard to curb corruption, including quid pro quo corruption, and the appearance of corruption, and will thereby better protect the integrity of city government; and

WHEREAS, the City Council wishes to amplify the voices of Oakland residents in Oakland elections by replacing the current Limited Public Financing Act with a program establishing resident allocation of public financing of candidate election campaigns, increasing funding and staffing for the Public Ethics Commission in order to implement such a “Democracy

¹University of Washington, “Seattle Democracy Vouchers Increase Donations, Number of Candidates in City Elections,” May 26, 2022. Available at: <https://www.newswise.com/politics/seattle-democracy-vouchers-increase-donations-number-of-candidates-in-city-elections>

² Win Win Network, “Honest Elections Seattle Initiative: Democracy Voucher Usage and Low-Turnout Voter Engagement Evaluation in 2017 and 2019,” Aug. 14, 2021. Available at: <https://drive.google.com/file/d/1mkMHu6rajpOLu2lkBxayv0H-Ucrpr-JC/view>.

³ Id.

Dollars” program, enhancing transparency regarding independent spending on Oakland elections, and increasing the current one year limit on former city elected officials, department heads, and budget directors from being able to act as local government lobbyists; and

WHEREAS, the City Council finds that amendments to the Oakland Campaign Reform Act further the purposes of that ordinance, including reducing the influence of large contributors, limiting expenditures by ensuring their thorough public disclosure, encouraging competition for elective office, and promoting public discussion of important issues in political campaigns, as well as furthering new purposes as proposed for addition to the Act; and

WHEREAS, the City Council finds that amendments to the Lobbyist Registration Act further the purposes of that ordinance, by strengthening the existing limit on former city elected officials, department heads, and budget directors acting as lobbyists; now, therefore, be it

RESOLVED: That the Oakland City Council finds and determines the forgoing recitals are true and correct and adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That the Oakland City Council submits to the qualified voters of the City, at the November 8, 2022 election, a proposal to (1) repeal the Limited Public Financing Act, Chapter 3.13 of the Oakland Municipal Code (“O.M.C.”), and replace it with the addition of a new ordinance, O.M.C. Chapter 3.15, entitled the Fair Elections Act, (2) amend O.M.C. Chapter 3.12 (Campaign Reform Act), (3) amend O.M.C. Section 3.20.190 and add an Article VII (Miscellaneous) header and Section 3.20.250 within Chapter 3.20 (Lobbyist Registration Act), and (4) amend Section 603 of the City Charter, as set forth below. Added text is shown as underscoring type; deleted text is shown as ~~strikethrough~~ type; portions of the provisions not cited or not shown in underscoring or strikethrough type are not changed.

The people of the City of Oakland do ordain as follows:

SECTION 1. Repeal of Oakland Municipal Code Chapter 3.13. Oakland Municipal Code Chapter 3.13, *Limited Public Financing Act*, is hereby repealed in its entirety.

~~Chapter 3.13—LIMITED PUBLIC FINANCING ACT~~

~~Article I.—Findings and Purpose.~~

~~3.13.010—Title.~~

~~This chapter shall be known as the “Limited Public Financing Act of the City of Oakland.”~~

~~3.13.020—Findings and declarations.~~

~~The findings of this Act are as follows:~~

- ~~A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.~~
- ~~B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial~~

~~stake in matters under consideration by city government. This has caused the public perception that votes are being improperly influenced by monetary contributions.~~

- ~~C. High campaign costs are forcing officeholders to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting officeholders from urgent governmental matters.~~

~~3.13.030 Purpose of this Act.~~

~~The purpose of this Act is to accomplish the objectives stated in Oakland's Campaign Reform Act as follows:~~

- ~~A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.~~
- ~~B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.~~
- ~~C. To reduce the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.~~
- ~~D. To encourage competition for elective office.~~
- ~~E. To allow candidates and office holders to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.~~
- ~~F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of important issues involved in political campaigns.~~
- ~~G. To help preserve public trust in governmental and electoral institutions.~~

~~Article II. Definitions~~

~~3.13.040 Interpretation of this Act.~~

~~Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in Chapter 3.12 of this Code and in Government Code Sections 81000 et seq. as amended govern the interpretation of this Act.~~

~~For purposes of this Act, "principal residence" shall mean the place in which a person's habitation is fixed, wherein the person has the intention of remaining, and to which, whenever he or she is absent, the person has the intention of returning.~~

~~For purposes of this Act, "primary place of doing business" shall mean the street address of a corporation's or association's principal executive office as filed with the California Secretary of State or the street address of an unincorporated association's principal office as filed with the California Secretary of State.~~

~~Article III. Election Campaign Fund~~

~~3.13.050—Election campaign fund.~~

~~There is hereby established an account within a special revenue fund of the city to be known as the "Election Campaign Fund."~~

~~3.13.060—Appropriation of funds.~~

- ~~A. The city council shall appropriate to the election campaign fund, under the city's current two-year budget cycle, an amount sufficient to fund all candidates eligible to receive public financing for the office of district city councilmember.~~
- ~~B. The city public ethics commission shall provide in the form and at the time directed by the mayor and city administrator a written estimate of the amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all eligible candidates. The amount of funds to be allocated to the election campaign fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the election campaign fund shall not exceed \$500,000.00 for any two-year budget cycle.~~
- ~~C. The election campaign fund shall be established as an interest bearing account. Unspent funds in the election campaign fund at the end of a two-year budget cycle shall remain in the fund and accrue for disbursement to candidates eligible for public financing in future elections and for administrative costs.~~
- ~~D. Up to seven and one-half percent of the amount allocated to the election campaign fund pursuant to Subsections 3.13.060(a) and (b) may be utilized by the public ethics commission to cover the anticipated cost of administering the provisions of this Act.~~

~~3.13.065—Allocation of election campaign fund.~~

~~No later than seven days after the city clerk has certified the names of all candidates to appear on the ballot, the public ethics commission shall determine at a publicly noticed meeting whether, based on the number of potentially eligible candidates, the amount of money in the election campaign fund is adequate to provide the maximum amount to potentially eligible candidates. If the commission determines that the election campaign fund will not be adequate to provide the maximum amount of funds to potentially eligible candidates, the commission shall order the disbursement of available funds on a pro-rata or other equitable basis. The commission may at any time revise the disbursement plan consistent with these rules and prevailing law.~~

~~Article IV.—Eligibility for Public Financing.~~

~~3.13.070—Application and withdrawal procedures.~~

- ~~A. Each candidate for district city council shall file a statement with the city clerk on a form approved for such purpose indicating acceptance or rejection of the voluntary spending ceilings pursuant to Section 3.12.190.~~
- ~~B. Each candidate for district city council shall file with the public ethics commission a statement of acceptance or rejection of public financing on a form approved by the public ethics commission no later than 14 calendar days after the date the city clerk has certified the names of candidates to appear on the ballot for the election in which public financing~~

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~~will be sought. The statement of acceptance or rejection of public financing shall advise and require that the candidate's decision to reject public financing is irrevocable for the election in which his or her name appears on the ballot. The failure to timely file a statement of acceptance or rejection of public financing shall constitute a rejection of public financing.~~

~~C. If a candidate declines to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(a) and 3.12.060(a) and shall not be eligible for public financing.~~

~~D. If a candidate agrees to accept the voluntary expenditure ceilings prescribed in Section 3.12.200, the candidate shall be subject to the contribution limits of Subsections 3.12.050(b) and 3.12.060(b) as adjusted pursuant to Subsections 3.12.050(g) and 3.12.060(g), and shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.~~

~~E. In the event expenditure ceilings are lifted pursuant to Section 3.12.200, a candidate who accepted expenditure ceilings shall be permitted to receive public financing but shall no longer be subject to expenditure ceilings.~~

~~3.13.080—Qualification procedures.~~

~~A candidate shall be approved to receive public financing if the candidate meets all of the following requirements:~~

~~A. The candidate has filed a timely statement of acceptance of the voluntary spending ceilings and acceptance of public financing.~~

~~B. The candidate is certified to appear on the ballot for the election for which public financing is sought.~~

~~C. The candidate has (1) received contributions in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought from contributors whose principal residence or whose primary place of doing business is located within the city and which residence or business address appears on the written instrument used to make the contribution, and (2) made qualified campaign expenditures in an aggregate amount of at least five percent of the expenditure ceiling for the office being sought. Contributions from the candidate's own funds shall not be counted towards meeting this five percent requirement. The candidate shall provide copies of the contribution checks received and records of payments made to meet the five percent eligibility requirements.~~

~~D. The candidate is opposed by another candidate for the same office.~~

~~E. The candidate agrees to all conditions and requirements of this Act and to submit to any reasonable audit deemed appropriate by the public ethics commission or other civil authorities.~~

~~F. The candidate or his or her campaign treasurer or designee attends a training program conducted or sponsored by the public ethics commission.~~

~~G. The candidate has filed, and completely and accurately executed, all pre-election campaign statements that are due at the time public financing is payable. All candidates~~

~~receiving public financing shall timely file, and completely and accurately execute, all post-election campaign statements for each election in which they received public financing.~~

~~3.13.090— Use of personal funds.~~

~~A candidate who accepts public financing shall not receive contributions or loans from the candidate's own funds which aggregate total exceeds ten percent of the voluntary expenditure ceiling for the office being sought. If the voluntary expenditure ceilings for the office being sought are lifted, this provision shall not apply.~~

~~Article V.— Disbursement of Public Financing~~

~~3.13.100— Duties of the public ethics commission and office of the city auditor.~~

~~A. The public ethics commission shall develop any and all forms necessary to carry out the provisions of the Act. The public ethics commission may, in its discretion, require any document or form to be filed in an electronic format that is provided by the public ethics commission to the candidates free of charge.~~

~~B. The public ethics commission shall review records submitted to determine a candidate's eligibility to receive public financing and requests for reimbursement promptly. For any candidate determined not to be eligible for public financing, the commission or its designee shall inform the candidate of the reasons why the candidate is not eligible and what actions, if any, the candidate may take to correct any insufficiencies.~~

~~C. The city auditor may conduct a discretionary audit of the Public Ethics Commission's disbursement of public financing funds to candidates or may conduct discretionary audits of the campaign committee of any candidate who receives public financing. The audit report shall be a public record and provided to the public ethics commission. The city auditor shall conduct all audits in accordance with generally accepted government auditing standards.~~

~~3.13.110— Requests for public financing.~~

~~A. Public financing pursuant to this Act shall be provided solely by reimbursing eligible candidates for certain qualified campaign expenditures lawfully made by the candidate and his or her campaign committee.~~

~~B. The qualified campaign expenditures eligible for reimbursement are:~~

- ~~1. Candidate filing and ballot fees;~~
- ~~2. Printed campaign literature and production costs;~~
- ~~3. Postage;~~
- ~~4. Print advertisements;~~
- ~~5. Radio airtime and production costs;~~
- ~~6. Television or cable airtime and production costs; and~~

~~7. Website design and maintenance costs.~~

~~C. The following conditions and restrictions shall apply to any request for reimbursement:~~

~~1. All requests for reimbursement shall be made on a form authorized by the public ethics commission and shall include: (a) a copy of the billing invoice for which reimbursement is sought; (b) a copy of the check(s) by which the candidate's campaign committee made payment on the billing invoice; and (c) a copy, when applicable, of the campaign literature, advertisement, radio or television script, or website configuration.~~

~~2. All requests for reimbursement shall include a sworn declaration by the candidate and his or her campaign treasurer that (a) the check(s) used to make payment on the billing invoice represents payment in full of the billing invoice submitted for reimbursement and that sufficient funds exist in the campaign account to provide payment, and (b) any money received from the election campaign fund has not been previously earmarked or specifically encumbered to pay or to secure payment of any loan, return of contribution or of any expenditure other than the one for which reimbursement was sought.~~

~~D. Any decision made by the executive director to deny a request for reimbursement may be appealed to the commission whose decision shall be final. A request to agendize an appeal of the executive director's decision shall be made in writing and delivered to the office of the public ethics commission no more than ten calendar days after receiving written notice of the executive director's decision.~~

~~E. The total amount of public financing allocated to each candidate shall not exceed 30 percent of the voluntary expenditure ceiling per election for the office being sought.~~

~~3.13.120 Disbursement and deposit of public financing.~~

~~A. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement to the public ethics commission in minimum increments of \$1,000.00 or more.~~

~~B. A candidate or candidate's controlled committee, certified as eligible to receive public financing, shall submit requests for reimbursement in minimum increments of \$500.00 or more ten calendar days before the election.~~

~~C. The public ethics commission or its designee shall have ten calendar days to cause the review and approval or denial of the request for reimbursement and disburse funds from the election campaign fund to the candidate or candidate's controlled committee.~~

~~D. All funds disbursed from the election campaign fund shall be made payable to the candidate's controlled committee and shall be deposited directly into the candidate's campaign checking account within thirty calendar days of receipt.~~

~~3.13.150 Return of surplus funds.~~

~~A. Surplus campaign funds remaining at the end of the post election reporting period following the election for which public financing was received shall be returned to the election campaign fund no later than 31 calendar days from the last day of the semi-~~

~~annual reporting period following the election in an amount specified by this section. A candidate shall not be required to return any surplus funds in an amount greater than the amount of public financing received. The amount of surplus campaign funds to be returned to the election campaign fund shall be calculated by multiplying the amount of surplus campaign funds by the percentage that total public financing received represents of total monetary contributions received for the election period.~~

~~B. For purposes of this Act, campaign funds shall be considered "surplus" campaign funds to the extent that the total amount of contributions (excluding the receipt of public financing) exceed the total financial obligations of the candidate's campaign committee (excluding unlawful or non-qualified campaign expenditures) as of the last day of the semi-annual reporting period following the election. A financial obligation includes (1) accounts payable billed, or (2) accounts payable for which bills may be expected, for goods or services received during the election.~~

~~C. Public financing shall not be disbursed to the certified candidate from the election campaign fund following the day of the election or the candidate's withdrawal from the election, whichever occurs first, except that public financing may be disbursed to a certified candidate after the date of the election or withdrawal provided that the candidate submitted a properly documented request for reimbursement before the date of the election or the date of withdrawal from the election.~~

~~3.13.170—Public debates.~~

~~While not a condition for receiving public financing, candidates receiving public financing are strongly encouraged to participate in one or more nonpartisan candidate debates for each election.~~

~~3.13.180—Enforcement.~~

~~The public ethics commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the public ethics commission, the commission shall promptly advise in writing the city attorney and the appropriate prosecuting enforcement agency.~~

~~3.13.190—Criminal misdemeanor actions.~~

~~Any person who knowingly or willfully (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is guilty of a misdemeanor. Prosecution shall be commenced within four years after the date on which the violation occurred.~~

~~3.13.200—Enforcement actions.~~

~~A. Any person who intentionally or negligently (1) misrepresents his or her eligibility for public financing, (2) makes a material misrepresentation in connection with a request for reimbursement, or (3) causes, aids or abets any other person to violate the provisions of this Act, is subject to enforcement proceedings before the public ethics commission pursuant to the public ethics commission general rules of procedure.~~

- ~~B. If two or more persons are responsible for any violation, they shall be jointly and severally liable.~~
- ~~C. Any person alleging a violation of this Act shall first file with the public ethics commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The public ethics commission shall review, investigate and make determinations regarding any alleged violation consistent with the public ethics commission's general complaint procedures.~~
- ~~D. The commission has full authority to settle any action involving public financing in the interest of justice.~~
- ~~E. If the commission determines a violation has occurred, the commission is hereby authorized to administer appropriate penalties and fines not to exceed \$1,000.00 per violation and to order the repayment of public financing received or expended in violation of law.~~
- ~~F. The public ethics commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.~~
- ~~G. No complaint alleging a violation of any provision of this Act shall be filed more than four years after the date the violation occurred.~~

~~3.13.220 Construction.~~

~~The Act shall be liberally construed to accomplish its purposes.~~

~~3.13.240 Applicability of other laws.~~

~~Nothing in this Act shall exempt any person from applicable provisions of any other laws of the city, state or other appropriate jurisdiction.~~

~~3.13.260 Severability.~~

~~If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.~~

SECTION 2. Adoption of Oakland Municipal Code Chapter 3.15. Oakland Municipal Code Chapter 3.15, Oakland's Fair Elections Act, is hereby adopted as follows:

Article I. - Findings and Purpose.

3.15.010 – Title.

This Chapter shall be known as the “Oakland Fair Elections Act,” hereinafter referred to as the “Act.”

3.15.020 – Findings and Declarations.

The Findings of this Act are as follows:

- A. Residents of Oakland have a right to participate in Oakland's elections, and the voices of residents of Oakland should matter.
- B. Spending in Oakland elections has increased significantly, reaching nearly \$5 million in candidate contributions and independent expenditures in the 2020 election.
- C. Oakland candidates rely primarily on large contributions. In the 2020 election, only 6% of contributions to candidates came from donors who gave \$100 or less. By contrast, 45% of contributions to candidates came from donors who gave \$500 or more.
- D. Candidate contributions in Oakland elections come disproportionately from Oakland's wealthiest neighborhoods. In 2020, Oakland zip codes with a median household income greater than \$75,000 were responsible for 66% of candidate contributions while comprising only 40% of Oakland's population. The six Oakland zip codes with median household incomes below \$60,000 provided merely a quarter of candidate contributions while comprising nearly half of Oakland's population.
- E. The rapidly increasing costs of political campaigns are forcing officeholders to spend more time on fundraising and less time on the public's business. Because of these increasing costs and the need to fundraise, officeholders increasingly rely on large contributions from interest groups and donors with specific financial stakes in matters under consideration by the city government.
- F. Candidates' reliance on large contributions from a limited number of powerful contributors creates the opportunity for and appearance of corruption in city government. This undermines the integrity of the governmental process and participation in campaigns by Oakland residents.
- G. Candidates' reliance on large contributions from a limited number of wealthy contributors also gives incumbents an advantage over potential challengers and inhibits potential candidates for elected office who lack existing networks of wealthy contributors from running for office, thereby decreasing the competitiveness of elections in Oakland.
- H. Meaningful participation in financing the campaigns of candidates for elected office in Oakland should not be limited to people and entities with significant wealth that are able to make large contributions.
- I. Based on existing circumstances in Oakland, including those enumerated above, the programs and reforms in this Act will curb corruption, including quid pro quo corruption, and its appearance in Oakland elections and government. The programs and reforms in this Act will also ensure the right of Oakland residents to participate in democratic self-governance through effective participation in Oakland elections and government and their right to elected officials who are responsive to constituents.
- J. The Democracy Dollars Program created by this Act additionally will enlarge public discussion and participation in elections by amplifying the voices of Oakland residents in elections through their participation in the Democracy Dollars program. The Democracy Dollars Program will also support candidates for elected office who lack networks of wealthy contributors, and will encourage candidates across the political spectrum and from

different backgrounds to seek elected office, thereby resulting in a pool of candidates that is more reflective of the diversity of Oakland residents and resulting in more competitive elections.

3.15.030 – Purpose.

- A. The purpose of this Chapter is to build fair elections in the City of Oakland, expand public participation in the local democratic process and empower all Oakland residents with an opportunity to engage meaningfully in the campaign process, and prevent corruption and its appearance by:
1. Ensuring all Oakland residents have an opportunity to participate in local elective and governmental processes and to have their voices heard in their local democracy;
 2. Ensuring candidates for office are free to focus on communicating with all Oakland residents and considering policy issues rather than devoting excessive time to fundraising;
 3. Ensuring that access to networks of wealthy contributors is not a prerequisite for candidates to run competitive campaigns for elected office;
 4. Ensuring a fair elections process that holds local elected leaders accountable to the people of Oakland by strengthening residents' engagement with the City of Oakland's government;
 5. Ensuring candidates who receive public financing participate in public debates to assist residents with making an informed decision about each candidate and understand each candidate's stance on the issues affecting the City;
 6. Placing reasonable limits on the amount individuals may contribute to political campaigns in municipal elections;
 7. Ensuring that candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns;
 8. Ensuring that local officials and high-ranking staff are responsive to the needs of their constituencies and do not unfairly use the contacts and status earned in public service to lobby for private industries that have financial stakes in the matters under consideration by the City;
 9. Tightening prohibitions on lobbying by former elected officials (the “revolving door” problem) to ensure that local officials are responsive to all of the residents of Oakland instead of wealthy special interests;
 10. Providing full and fair enforcement of all the provisions in this Chapter; and
 11. Creating a Democracy Dollars public finance program to expand the pool of candidates and donors for City of Oakland offices and to safeguard the people's control of the elections process in the City of Oakland.

- B. This Chapter shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

Article II. - Definitions

3.15.040 – Definitions.

- A. Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the text, the definitions set forth in the City of Oakland Campaign Reform Act (Chapter 3.12 of the Oakland Municipal Code) and in the California Political Reform Act (Government Code Sections 81000 et seq.), as amended, govern the interpretation of this Act.
- B. For purposes of this Act:
1. “Democracy Dollars” means the four Democracy Dollar Vouchers, each worth twenty-five dollars (\$25.00), of campaign money from the Fund, that are to be distributed to eligible residents under section 3.15.090 of this Act.
 2. “Applicant candidate” means a candidate for a covered office who has filed a notice of intent to apply for certification in the Program under Section 3.15.080(A).
 3. “Certified candidate” means a candidate who has received certification in the Program under Section 3.15.080.
 4. “Commission” means the Oakland Public Ethics Commission.
 5. “Contested election” means an election for a covered office in which an applicant or certified candidate is opposed by:
 - a. Another certified candidate for the same covered office; or
 - b. Another candidate for the same covered office who has received contributions or made expenditures that, in the aggregate, equal or exceed ten thousand dollars (\$10,000). “Covered office” means the office of Mayor, City Attorney, City Auditor, City Council, or School Board of Directors.
 6. “Executive Director” means the Executive Director of the Oakland Public Ethics Commission.
 7. “Eligible resident” means a natural person who satisfies all of the following conditions:
 - a. Is at least 18 years old on the date of the election for which the Democracy Dollars are distributed;
 - b. Currently resides in the City and has resided in the City for more than 30 days;
 - c. Is not prohibited from making a contribution under 52 U.S.C. 30121.

8. “Fund” means the Oakland Democracy Dollars Fund created under Section 3.15.060. This definition does not apply to “funds” or any use of “fund” preceded by an adjective, such as “General Fund.”
 9. “Nomination period” means the period in which candidates for City office must file their nomination documents with the City Clerk pursuant to Section 3.08.040 of the Oakland Municipal Code.
 10. “Program” means the Democracy Dollars Program established by this Act.
 11. “Qualifying contribution” means a monetary contribution, excluding a loan, made by an eligible resident to an applicant candidate in an amount of at least ten dollars (\$10) and not more than the contribution limit under Section 3.12.050(B) of the Oakland Municipal Code.
 12. “Qualifying period” means the period beginning January 1 in the year of an election and ending fourteen (14) days after the close of the nomination period for the election.
 13. “Uncontested election” means an election for a covered office that is not a contested election.
- C. For purposes of this Act, any reference to a candidate includes the candidate’s controlled committee for City office, the treasurer of the candidate’s controlled committee for City office, and any agent of the candidate or the candidate’s controlled committee for City office.

Article III. – Agency Duties

3.15.050 – Duties of the Commission.

- A. The Commission shall implement and administer the Program in accordance with the findings and purposes of this Act.
- B. Following the first election after the effective date of this Act and by an affirmative vote of at least five (5) of its members, the Commission may:
 1. Adjust any of the following if the Commission determines that the adjustment furthers the purposes of this Act:
 - a. The number or value of Democracy Dollar Vouchers to be distributed to each eligible resident, so long as the total value of the Democracy Dollars distributed to each eligible resident for a given election does not exceed the amount of the current contribution limit under Section 3.12.050(B);
 - b. The date by which the initial distribution of Democracy Dollars occurs in an election year, pursuant to Section 3.15.090(A);
 - c. The total number of qualifying contributions that candidates for each covered office must receive for certification in the Program under Section 3.15.080;
 - d. The qualifying period;

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- e. Other conditions of participation in the Program, including limits on use of personal funds under Section 3.15.150, limits on use of campaign funds under Section 3.15.160, and the number of public debates or forums in which candidates must participate under Section 3.15.080(A)(3);
 - f. Other Eligibility requirements as dictated by Section 3.15.080.
- C. In addition to all other functions and duties of the Commission prescribed by this Act, the Commission shall:
- 1. Adopt rules, regulations, and procedures to carry out this Act;
 - 2. Develop all forms and documents necessary to administer the Program;
 - 3. Design a Democracy Dollar voucher that includes all of the following elements:
 - a. The covered election for which the Commission issues the Dollar;
 - b. A means of uniquely identifying the voucher;
 - c. The amount of campaign money that the Democracy Dollar represents;
 - d. Pre-printed information for identification and verification purposes, such as the resident's name, address, or other data as required;
 - e. A place to write the date on which the eligible resident assigns the Democracy Dollar;
 - f. A place to write the name of the candidate to whom the eligible resident assigns the Democracy Dollar;
 - g. A statement, in plain language, that informs each eligible resident of all of the following:
 - i. The eligible resident may not revoke an assignment of the Democracy Dollar;
 - ii. The eligible resident may not transfer the Democracy Dollar;
 - iii. The Democracy Dollar has no monetary value;
 - iv. The eligible resident may assign the Democracy Dollar only as provided under Section 3.15.110;
 - h. A statement that affirms the eligible resident assigns the Democracy Dollars voluntarily, free from duress, and not in exchange for any consideration;
 - i. A signature line;
 - j. Any additional information that the Commission determines is necessary to implement the Democracy Dollars Program.
 - 4. Create a technology system that provides an option for eligible residents to receive and/or redeem Democracy Dollar Vouchers electronically;
 - 5. Educate and inform candidates and the public about the Program as follows:

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- a. Publish informational materials about the Program written in plain language, including guides, manuals, instructions, and brochures, for candidates and the public;
- b. Make informational materials about the Program available in all of the following formats:
 - i. Online, such as the Commission's or another website;
 - ii. In paper form;
 - iii. Translated into any and all languages in which ballots are required to be provided in Alameda County pursuant to Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503) and those languages spoken by residents of Oakland who are at least 2% of the adult population and speak English "less than very well," according to the most recent U.S. Census;
- c. Publish a timeline of important dates in the Program;
- d. Develop and conduct trainings about the Program for candidates and treasurers;
- e. Develop a comprehensive citywide outreach plan before each election cycle. This outreach plan shall be coordinated with the City Administration and the Department of Race and Equity and should utilize city resources, including any and all databases that the Commission deem appropriate. In addition, outreach should involve collaboration with chambers of commerce, community-based organizations, neighborhood associations, business improvement districts, and good government organizations. This outreach plan shall describe how the Commission will inform all City residents about the Program and include all of the following:
 - i. A statement of the Commission's outreach goals;
 - ii. An approximate timeline of proposed outreach activities, which may include but are not limited to attending community events, distributing informational materials to community-based organizations, posting informational materials in public places, and placing public announcements in print media, newsletters, social media, websites, radio, or television;
 - iii. A description of those proposed outreach activities that will be used to reach groups or categories of City residents that have been historically underrepresented in the political process or underserved by City government;
 - iv. The approximate cost of proposed outreach activities;
- f. Conduct outreach activities in collaboration with chambers of commerce, community-based organizations, neighborhood organizations, business improvement districts, good government organizations, and other City

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departments and agencies, as informed by the outreach plan described in Subsection (C)(5)(e).

6. Create and maintain a public-facing website that does all of the following:
 - a. Displays the following information for each Democracy Dollar assigned by an eligible resident:
 - i. The full name of the eligible resident;
 - ii. The date on which the eligible resident assigned the Democracy Dollar;
 - iii. The name of and covered office sought by the candidate to whom the Democracy Dollar was assigned;
 - iv. The date the candidate redeemed the Democracy Dollar for proceeds with the Commission, if applicable;
 - v. The unique identifier of the Democracy Dollar;
 - b. Displays the total number of Democracy Dollars assigned to and redeemed by each applicant or certified candidate to date;
 - c. Displays the total number of qualifying contributions received by each applicant candidate to date;
 - d. Provides electronic access to campaign statements and reports filed with the Commission by each applicant or certified candidate;
 - e. Provides a mechanism by which an eligible resident may request a Democracy Dollar pursuant to Section 3.15.090(A)-(B).
7. Conduct audits and investigations of certified candidates as necessary to oversee compliance with this Act;
8. Issue oral advice and formal written opinions, in consultation with the City Attorney when necessary, regarding compliance with this Act;
9. Within six (6) months of after each election, conduct a review of the program in collaboration with the Department of Race and Equity and submit a post-election report to City Council that contains all of the following:
 - a. The number and names of, and covered offices sought by, all certified candidates, and the total amount of contributions received and expenditures made by those candidates, in the last election;
 - b. The number and names of, and covered offices sought by, all applicant candidates who were not certified in the program, and the total amount of contributions received and expenditures made by those candidates, in the last election;
 - c. The number and names of, and covered offices sought by, all candidates who did not seek certification in the program, and the total amount of contributions received and expenditures made by those candidates, in the last election;

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- d. The total number of Democracy Dollars:
 - i. Distributed to eligible residents;
 - ii. Distributed to but not used by eligible residents;
 - iii. Assigned to applicant or certified candidates;
 - iv. Redeemed by certified candidates;
 - e. Total public funding available in the Fund before and after the last election;
 - f. The number and nature of program education and public outreach events conducted by the Commission for the last election, and the approximate number of public attendees at those events;
 - g. Review of the costs of the Program in the last election;
 - h. Projected revenue available in the Fund for each of the next three (3) election cycles;
 - i. Analysis of the Program's impact on the last election, including its equity impacts, as defined under Section 2.29.170.3(B) of the Oakland Municipal Code, and its effects on the sources and amounts of campaign funding and spending, the level of participation by eligible residents in each City Council District, and the number of candidates for covered offices;
 - j. Legislative recommendations for improvements or adjustments to the program;
 - k. Any other information that the Commission determines to be relevant;
- D. In the event of a special election for a covered office, the Commission may reasonably modify conditions, procedures, or deadlines under the Program, as necessary, to make the Program available to candidates in the special election if it would not unduly deplete revenue available in the Fund for regularly scheduled elections.
- E. In the first election cycle following voter approval of this ordinance, the Commission may, by a vote of at least five (5) of its members, delay the implementation of the Program in part or in its entirety if the Commission is not able to meet all of the requirements of the Program as provided by this ordinance. In making this determination, the Commission should consider all possible alternatives to avoid delaying Program implementation in its entirety, including but not limited to partial implementation by issuing only mailed Democracy Dollars, or limiting the Program to only certain races, or changing Program components.

Article IV. – Democracy Dollars

3.15.060 – Oakland Democracy Dollars Fund.

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A. There is hereby established the dedicated, non-lapsing Oakland Democracy Dollars Fund to be used for disbursing proceeds to certified candidates who redeem Democracy Dollars under Section 3.15.120.

For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate to the Fund no less than \$4,000,000.00 for the purpose of funding the Democracy Dollars Fund. The City shall consider additional appropriations to the Fund as requested by the Commission to ensure sufficient money in the Fund. After July 1, 2023, for every two-year budget cycle beginning on July 1 of odd-numbered years, the required minimum appropriation under this subsection shall be increased by the increase in the consumer price index over the preceding two years.

B. Additional monies may be deposited into the Fund from these sources:

1. Special Tax.
2. Democracy Dollar proceeds returned by candidates under Section 3.15.170.
3. Voluntary donations made to the Fund.

C. Any unspent revenue remaining in the Fund after an election shall remain in the Fund and accrue for making future disbursements under Subsection A. Funds remaining in the Democracy Dollars Fund shall not exceed double the amount of the budgeted Fund at any one time. Any excess beyond twice the amount of the \$4,000,000, as adjusted over time for inflation, shall be returned to the General Fund. In addition, after all money has been distributed to candidates in an election cycle, the Commission may use up to twenty (20) percent of the remaining Democracy Dollars Fund for outreach efforts intended to increase candidate and resident participation in the Democracy Dollar Program in future election cycles.

D. For the two-year budget cycle beginning July 1, 2023 and each subsequent two-year budget cycle beginning on July 1 of odd-numbered years, the City shall appropriate for the Public Ethics Commission no less than \$350,000.00 for the purpose of non-staff costs for administering the Democracy Dollars Program, in addition to staff budgeting required by Oakland City Charter Section 603(g). Upon receiving notice from the Commission under Oakland City Charter Section 603(b)(4), the City shall consider additional appropriations to the Commission to ensure sufficient funds are provided to administer the Democracy Dollars Program. After July 1, 2023, for every two-year budget cycle beginning on July 1 of odd-numbered years, the required minimum appropriations under this subsection shall be increased by the increase in the consumer price index over the preceding two years. For the 2023-24 fiscal year, or earlier, the City shall appropriate an additional amount of no less than \$700,000.00 for the purpose of startup costs associated with initiating the Democracy Dollars Program, with any remaining funds to be carried forward into future fiscal years.

E. The minimum budget set-aside in this section may be reduced, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution. A reduction may occur only as a part of a general reduction in expenditures across multiple departments.

3.15.070 – Administration of the Fund.

- A. The Commission shall administer the Fund only for the purposes specified under Section 3.15.060(A).
- B. No later than six (6) months after each election, the Commission shall review use of the Fund in the last election and develop projections of revenue to and disbursements from the Fund for each of the next two (2) election cycles.
- C. Prior to January 1 of the year in which an election occurs, the Commission shall project and publish the amount of money available in the Fund for the next election. In making its projection, the Commission shall reasonably ensure that revenue in the Fund will be sufficient to disburse the Democracy Dollar proceeds up to the maximum amounts under Section 3.15.130(A) to the number of candidates likely to be certified in the Program in the next election.
- D. If at any time the Commission determines that revenue available in the Fund is not or may not be sufficient to disburse the Democracy Dollar proceeds up to the maximum amounts under Section 3.15.130(A) to all certified candidates in the next election, the Commission shall promptly request an appropriation from City Council to account for the deficit in the Fund. In an election year, the City Council may consider such a request if a Democracy Dollar contingency fund was budgeted in a prior year.
- E. If the Commission does not receive an appropriation requested under Subsection D within a reasonable time, the Commission shall do each of the following:
 - 1. Provide notice to the public and to all applicant or certified candidates that the Fund does not have sufficient revenue to disburse the Democracy Dollar proceeds up to the maximum amounts under Section 3.15.130(A);
 - 2. Establish a modified deadline for eligible residents to assign the Democracy Dollars;
 - 3. After the modified deadline under Subsection (E)(2), disburse the Democracy Dollar proceeds to certified candidates on a pro rata or other equitable basis.
- F. The Commission shall coordinate with the appropriate agencies, including the Alameda County Registrar of Voters and the Oakland City Clerk, for all information required for the proper administration of the Program. The Commission shall develop the means by which the information needed to administer the program is stored and received.

3.15.080 – Requirements for Certification in the Program.

- A. To become certified in the Program, a candidate for a covered office must file with the Commission a notice of intent to apply for certification in the Program, signed by the candidate and the candidate’s treasurer, during the qualifying period. On the notice of intent, the candidate must attest to all of the following:
 - 1. The candidate will comply with all conditions of the Program, including contribution and expenditure limits, and with other State or local law, as applicable, during the election cycle;
 - 2. The candidate and the candidate’s treasurer will attend at least one training for the Program conducted by Commission staff;

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3. Candidates for Mayor will personally participate in at least five (5) public debates or forums; candidates for any office other than Mayor will participate in at least three (3) public debates or forums. Only public debates or forums to which all other applicants or certified candidates for the covered office sought by the candidate are invited to participate shall be counted for the purposes of this section. Within five (5) days of the candidate's participation in each public debate or forum required under this Section, the candidate must notify the Commission, in writing, of their participation in the debate or forum;
 4. If certified in the Program, the candidate will submit to audits by the Commission.
- B. During the qualifying period, an applicant candidate may submit a written application for certification in the Program to the Commission attesting that the candidate satisfies all of the following conditions:
1. The candidate has filed with the Commission a notice of intent to apply for certification in the Program under Subsection A;
 2. The candidate meets the requirements for holding the covered office set forth in the City Charter and state law;
 3. The candidate has qualified or has taken out nomination papers to become qualified to appear on the ballot in the election;
 4. The candidate has filed and will continue to file, completely and accurately, all campaign statements and reports required by State or local law;
 5. The candidate owes no outstanding fine or penalty for a violation of State or local election law;
 6. The candidate has complied with and will continue to comply with all conditions of the Program for the election cycle;
 7. Within the qualifying period, the candidate has received the minimum number of qualifying contributions required for the covered office, as follows:
 - a. For Mayor, at least four hundred (400), including ten (10) qualifying contributions from each City Council district;
 - b. For City Attorney, City Auditor, or at-large City Councilmember, at least one hundred fifty (150), including five (5) qualifying contributions from each City Council district;
 - c. For District Councilmember, at least one hundred twenty-five (125), including twenty-five (25) qualifying contributions from the candidate's Council district;
 - d. For School Board Director, at least seventy-five (75), including twenty (20) qualifying contributions from the candidate's School Board Director district.
- C. As part of an application for certification in the Program, an applicant candidate shall include documentation, as prescribed by the Commission, establishing the validity of each qualifying contribution required under Subsection (B)(7).

- D. An applicant candidate may not be certified in the Program if the applicant candidate:
1. Has accepted a contribution in excess of the limit under Section 3.12.050(B) or 3.12.060(B) of the Oakland Municipal Code, unless, within ten (10) days of being notified by the Commission, the candidate remits the portion of the contribution that is in excess of the limit under Sections 3.12.050(B) or 3.12.060(B) of the Oakland Municipal Code to the Commission;
 2. Has unpaid fines, penalties, fees or other amounts of money owed to the Commission which are past due;
 3. Has failed to file any campaign statements which remain past due.
- F. No later than fourteen (14) days after an applicant candidate submits an application for certification in the Program, the Executive Director shall determine whether the candidate has met the requirements of Subsection B and do the following:
1. If the requirements are met, certify the candidate in the Program and provide written notice to the candidate of the certification;
 2. If the requirements are not met, provide written notice to the candidate of the denial of certification and provide an opportunity for the candidate to:
 - a. Cure any deficiencies in the application;
 - b. Appeal a denial of certification by the Executive Director to the Commission within fourteen (14) days of the Executive Director's decision to deny.
- F. The Executive Director may revoke a candidate's certification in the Program if the candidate:
1. Fails to qualify to appear on the ballot for the covered office election; or
 2. Withdraws from the election.
- G. A Certified Candidate whose certification in the program is revoked under subsection F may appeal his revocation to the Commission. The Commission shall develop a procedure for a candidate who submits a petition under Subsection F or any other candidate for the same covered office to appeal to the Commission a determination made by the Executive Director under Subsection F. Upon making a final decision on an appeal filed under this Subsection, the Commission shall promptly notify the candidate who submitted the petition and all other candidates for the same covered office of its final decision.
- H. The Commission may revoke a candidate's certification in the Program if the candidate:
1. Fails to meet, misrepresents, or no longer meets the requirements in Subsection B;
 2. Commits any other violation of this Act or a violation of the Oakland Campaign Reform Act resulting in a mainline penalty, as determined by the Commission;
 3. Is assessed a monetary penalty by the Fair Political Practices Commission as the result of a mainline settlement, default judgment, administrative law judge decision, or civil action;

4. Is convicted of a criminal violation of this Act, the Oakland Campaign Reform Act, or the Political Reform Act, any felony, or a misdemeanor for a crime of moral turpitude.
- I. The Executive Director shall provide a written determination to a candidate whose certification in the Program is revoked under Subsection F or H that includes both of the following:
 1. The specific reason under Subsection F or H for revoking the candidate's certification;
 2. The specific facts found by the Commission that form the basis for revoking the candidate's certification.
- J. A candidate whose certification in the Program is revoked under Subsection F or H shall return to the Commission, for deposit in the Fund, any remaining Democracy Dollar proceeds in the candidate's campaign account in accordance with Section 3.15.170. If the candidate's certification is revoked pursuant to Subsection H, the candidate shall be personally liable for any Democracy Dollar proceeds expended by the candidate, other than the Democracy Dollar proceeds the candidate expended in good faith before receiving notice of the revocation.
- K. A candidate whose certification is revoked under Subsection F or H may appeal the final decision of the Commission to the Alameda County Superior Court on the ground that the decision was arbitrary and capricious or contrary to law.

3.15.090 – Distribution of Democracy Dollars.

- A. Except as provided in Subsection C, the Commission shall mail to each eligible resident who is registered to vote, at the eligible resident's address listed in voter registration records, the number of Democracy Dollar Vouchers allocated to each resident on a date no later than April 1 of the year in which an election occurs. Thereafter, the Commission shall mail to any eligible resident who becomes registered to vote after the initial mailing the same number of Democracy Dollars periodically until October 1. The Commission may then mail to any eligible resident who becomes registered to vote after the initial mailing the same number of Democracy Dollars periodically until at least the election day.
- B. The Commission shall electronically distribute Democracy Dollar Vouchers under Subsection B to an eligible resident who submits a request, via a means developed by the Commission, to receive Democracy Dollars electronically and who attests under penalty of perjury to being an eligible resident or authorized agent of an eligible resident who has not made any other request for Democracy Dollars.
- C. Prior to the last day for assigning a Democracy Dollar under Section 3.15.110(D)(4), an eligible resident who does not receive Democracy Dollars in a mailing under Subsection A, or electronic mailing under Subsection B, may submit a request, via a means developed by the Commission, to receive Democracy Dollars from the Commission. After the Commission verifies that the person submitting the request is an eligible resident and that the provision of Democracy Dollars to the eligible resident is otherwise permitted under this Act, the Commission shall provide the eligible resident the same number of Democracy Dollars mailed to eligible residents under Subsection A.

- D. An eligible resident may apply to the Commission to replace a Democracy Dollar if the eligible resident submits to the Commission a statement, via a means developed by the Commission, that the Democracy Dollar was lost or stolen.
- E. The Commission shall develop a procedure to determine whether to issue a replacement Democracy Dollar to an eligible resident who submits a statement under Subsection E.
- F. The Commission shall cancel a Democracy Dollar if the Commission determines that it is lost or stolen.

3.15.110 – Assignment of Democracy Dollars.

- A. In order to assign a paper Democracy Dollar Voucher to an applicant or certified candidate, an eligible resident shall do all of the following:
 - 1. Write the name of the candidate on the Democracy Dollar;
 - 2. Sign and date the Democracy Dollar;
 - 3. Submit the Democracy Dollar by doing any of the following:
 - a. Mailing the Democracy Dollar to the Commission. A Democracy Dollar shall be considered properly assigned if it is postmarked no later than 30 days after the day of the election;
 - b. Personally delivering the Democracy Dollar to a candidate or a representative of the candidate who is registered with the Commission for the purpose of receiving a Democracy Dollar on behalf of the candidate;
 - c. Personally delivering the Democracy Dollar to the Commission.
- B. As used in subsection (A)(3)(b), the Commission shall determine the means by which candidates or representatives of candidates shall register with the Commission for the purpose of receiving a Democracy Dollar on behalf of the candidate. Only the following individuals may be registered as a “representative of the candidate” under this section:
 - 1. Unpaid volunteers for the candidate’s campaign; and
 - 2. Members of the candidate’s campaign staff that are regularly employed by the campaign.
- C. In order to assign Democracy Dollar Vouchers distributed electronically, an eligible resident shall use the technology as provided in section 3.15.050(C)(4) and the process developed by the Commission.
- D. An eligible resident may not do any of the following:
 - 1. Change the assignment of a Democracy Dollar after the eligible resident assigns the Democracy Dollar to a candidate;
 - 2. Assign a Democracy Dollar by proxy, power of attorney, or agent, unless necessary to accommodate an eligible resident with a disability;
 - 3. Assign a Democracy Dollar in a manner other than as provided under Subsection A;

4. Assign a Democracy Dollar later than thirty (30) days after the day of the election.
- E. A Democracy Dollar expires and may not be assigned once the person to whom the Democracy Dollar was distributed no longer qualifies as an eligible resident.

3.15.120 – Redemption and Disbursement of Democracy Dollar Proceeds.

- A. A certified candidate may redeem the Democracy Dollar assigned to the candidate pursuant to Section 3.15.110(A) by mailing or delivering the Democracy Dollars to the Commission up to thirty (30) days after the day of an election.
- B. For each Democracy Dollar assigned to an applicant or certified candidate pursuant to Section 3.15.110(A), the Commission shall disburse Democracy Dollar proceeds from the Fund to the candidate if the Commission verifies all of the following:
 1. The candidate to whom the Democracy Dollar is assigned is a certified candidate at the time the Commission disburses the Democracy Dollar proceeds;
 2. The Democracy Dollar was properly assigned by an eligible resident;
 3. Disbursement of Democracy Dollar proceeds would not cause the candidate to exceed the maximum amount of Democracy Dollar proceeds available under Section 3.15.130(A)
- C. Subject to Subsections D and E, the Commission shall determine and publish, in its timeline under Section 3.15.050(C)(5)(c), all dates on which the Commission will disburse Democracy Dollar proceeds to certified candidates in the year of an election.
- D. Except as provided in Subsection E, the Commission shall disburse Democracy Dollar proceeds to certified candidates no less frequently than twice per month.
- E. During the month immediately preceding the month in which an election occurs and continuing until the election occurs, the Commission shall disburse Democracy Dollar proceeds to certified candidates at least once per week.
- F. Candidates receiving disbursed Democracy Dollar proceeds shall deposit them in their campaign checking account as required by Oakland Municipal Code section 3.12.110.

3.15.130 – Maximum Amounts of Democracy Dollar Proceeds.

- A. In a contested election, the Commission shall not disburse to a certified candidate more than the maximum amount of Democracy Dollar proceeds available for the covered office, which shall be two-thirds (2/3s) of the adjusted limits specified in Section 3.15.140.
- B. Notwithstanding Subsection A, the Commission may not disburse more than ten thousand dollars (\$10,000) in Democracy Dollar proceeds to any certified candidate in an uncontested election, subject to adjustment under Section 3.15.200.
- C. If an uncontested election becomes a contested election, the Commission shall disburse proceeds, on the next published date of disbursement, for all Democracy Dollars properly assigned to a certified candidate to date, up to the amounts specified in Subsection A.

Article V. – Limits and Restrictions

3.15.140 – Expenditure Limits.

- A. In an election cycle, an applicant or certified candidate may not make qualified campaign expenditures, as defined in Oakland Municipal Code section 3.12.040, in excess of the expenditure limit for the covered office, subject to adjustment under Section 3.15.200, as follows:
1. For Mayor: five hundred thousand dollars (\$500,000);
 2. For City Auditor: two hundred fifty thousand dollars (\$275,000);
 3. For City Attorney: two hundred fifty thousand dollars (\$275,000);
 4. For City Councilmember-at-large: two hundred fifty thousand dollars (\$275,000);
 5. For District City Councilmember: one hundred fifty thousand dollars (\$150,000);
 6. For School Board Director: one hundred thousand dollars (\$100,000).
- B. An applicant or certified candidate may petition the Executive Director, via a means developed by the Commission, to release the candidate from the applicable expenditure limit under Subsection A.
- A. The Executive Director shall release a candidate from the applicable expenditure limit if the evidence demonstrates, and the Director verifies, that the sum of any of the following amounts exceeds the applicable expenditure limit by any amount:
1. The value of all contributions received by another candidate for the same covered office, plus all Democracy Dollar proceeds disbursed to that candidate to date under Section 3.15.120, plus the value of Democracy Dollars assigned to that candidate but not yet disbursed;
 2. The value of independent expenditures opposing the candidate who submitted the petition; and
 3. The value of independent expenditures supporting another candidate for the same covered office.
- B. If the Executive Director determines that release from the applicable expenditure limit is required for an applicant or certified candidate under Subsection C, the Commission shall continue to disburse Democracy Dollar proceeds to the candidate, pursuant to Section 3.15.120, up to an amount that:
1. Does not exceed the maximum amount of Democracy Dollar proceeds available to the candidate under 3.15.130; and
 2. Does not cause the sum of the total Democracy Dollar proceeds disbursed to the candidate plus the value of all monetary or in-kind contributions received by the candidate to exceed the applicable expenditure limit under Subsection A.
- C. Within five (5) business days of the date on which a candidate submits a petition under Subsection B, the Executive Director may do both of the following:
1. Review the petition and determine whether the candidate’s release from the applicable expenditure limit is required under Subsection C;

2. Notify the candidate who submitted the petition and all other candidates for the same covered office of the Executive Director's determination regarding the petition.
- D. The Executive Director may review statements filed pursuant to State and local law, including Government Code Section 84204, to determine whether an independent expenditure opposes or supports one or more candidates for a covered office.
- E. A candidate who submits a petition under Subsection B or any other candidate for the same covered office may appeal to the Commission a determination made by the Executive Director under Subsection E. Upon making a final decision on an appeal made under this Subsection, the Commission shall promptly notify the candidate who submitted the petition and all other candidates for the same covered office of its final decision.

3.15.150 – Limits on Contributions and Use of Personal Funds.

- A. An applicant or certified candidate may not solicit or receive a contribution that exceeds the limits in Sections 3.12.050(B) and 3.12.060(B) of the Oakland Municipal Code, as applicable.
- B. An applicant or certified candidate may not knowingly solicit contributions for a local committee or any other person or entity that has made or will make independent expenditures to support or oppose a candidate for City office.
- C. An applicant or certified candidate may not make expenditures from or use the candidate's personal funds or property or the funds or property jointly held with the candidate's spouse, domestic partner, or unemancipated children in connection with the candidate's election, except as a contribution to the candidate's campaign committee in an amount that does not exceed 8 percent (8%) of the adjusted limits specified in Section 3.15.140 or \$20,000, whichever is lower.

3.15.160 – Use of Campaign Funds.

- A. An applicant or certified candidate may use campaign funds, including Democracy Dollar proceeds or contributions, only for making qualified campaign expenditures, as defined in the Oakland Municipal Code.
- B. In addition to any other restrictions in State or local law, an applicant or certified candidate may not use campaign funds, including Democracy Dollar proceeds or contributions, for any of the following:
 1. Personal use;
 2. A payment in violation of any law;
 3. A payment of any fine or penalty assessed under State or local law;
 4. A payment in connection with any administrative or judicial proceeding;
 5. Compensation to the candidate or a family member of the candidate, or a payment to a business in which the candidate or an immediate family member of the candidate has a 10% or greater ownership interest;
 6. A contribution or loan to another candidate or committee;

7. An independent expenditure;
8. A cash payment for any purpose;
9. A gift, except for campaign items of de minimis value such as signs, buttons, or brochures;
10. A payment for goods or services in excess of fair market value;
11. An inaugural expense;
12. A payment to any person to collect Democracy Dollars on behalf of the candidate, except for compensation paid to a regularly employed member of the candidate's campaign staff;
13. Any other use prohibited by the Commission.

3.15.170 – Return of Remaining Funds.

A. A certified candidate shall return to the Commission, for deposit into the Fund, any remaining campaign funds of the candidate up to an amount calculated by multiplying the amount of remaining campaign funds by the percentage that total Democracy Dollars proceeds received by the candidate represents of total monetary contributions and miscellaneous increases to cash received as of the date before the election. Such remaining campaign funds shall be returned to the Commission no later than three (3) months after any of the following:

1. The Executive Director or Commission revokes the candidate's certification in the program under Section 3.15.080(F) or (H);
2. The candidate withdraws from the election or dies;
3. The date of the election.

B. For purposes of Subsection A, remaining campaign funds to be returned shall not exceed either the amount of Democracy Dollar proceeds received by the candidate or the total amount of contributions and miscellaneous increases to cash received before election day less the total expenditures of the candidate's campaign committee made or incurred before or on election day.

3.15.180 – Unlawful Sale, Transfer, or Use of Democracy Dollars.

A person may not do or attempt to do any of the following:

- A. Purchase, sell, or transfer a Democracy Dollar for consideration;
- B. Obtain or control a Democracy Dollar with the intent to deprive an eligible resident of its lawful use;
- C. Transfer a Democracy Dollar obtained or controlled as provided under Subsection B;
- D. Alter or assign a Democracy Dollar distributed to another person;
- E. Collect or receive a Democracy Dollar assigned by another person, except as permitted by Section 3.15.110(A);

- F. Create and distribute a forged or inauthentic Democracy Dollar with the intent to hold out the Democracy Dollar as authentic;
- G. Any other activity proscribed by rule of the Commission.

Article VI. - Enforcement

3.15.190 - Enforcement.

- A. Any person who violates this Act is subject to criminal, civil and administrative penalties under this section.
 - 1. No civil or administrative action alleging a violation of this Act may be commenced more than five (5) years after the date of the violation. No criminal prosecution alleging a violation of this Act may be commenced more than four (4) years after the date of the violation.
 - 2. Commencement of an administrative action is the date the Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.
 - 3. The date of the violation means the earliest date when the complainant or the Commission has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant or Commission to know or suspect under the facts of the situation.
- B. Any person who knowingly or willfully misrepresents their eligibility for financing under this Act, makes a material misrepresentation in connection with a request for redemption of Democracy Dollars, or causes, aids or abets any other person do either of the former is guilty of a misdemeanor.
 - 1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless the court, as the time of sentencing, specifically determines that this provision shall not be applicable.
 - 2. For purposes of this Section, a plea of nolo contendere shall be deemed a conviction.
- C. Any person who violates this Act, causes another person to violate this Act, or aids and abets another person in violating this Act shall be liable, for each violation of this Act, in a civil action brought by the Commission or the City Attorney for an amount up to five thousand dollars (\$5,000) per violation, or up to three (3) times the amount at issue in the violation, including but not limited to the amount the person unlawfully transferred, received, contributed, expended, gave, used, misrepresented, or failed to return or report properly, whichever is greater.
 - 1. In assessing a civil penalty under this Section, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.

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2. If two (2) or more persons are responsible for a violation of this Act, they shall be jointly and severally liable.
 3. A decision by the Commission to initiate a civil enforcement action under this Act requires an affirmative vote of at least five (5) of its members.
- D. Any person who violates this Act, causes another person to violate this Act, or aids and abets another person in violating this Act shall be liable, for each violation of this Act, in an administrative proceeding before the Commission held pursuant to the Commission's complaint procedures. The Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000) per violation, or up to three (3) times the amount at issue in the violation, including but not limited to the amount the person unlawfully transferred, received, contributed, expended, gave, used, misrepresented, or failed to return or report properly, whichever is greater. In addition to administrative penalties, the Commission may issue warnings or require other remedial measures.
1. For knowing and willful violations of this Act, the Commission shall impose administrative penalties in an amount of at least one thousand dollars (\$1,000) per violation.
 2. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
- E. The Commission, City Attorney, or any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance under this Act. Any person, other than the Commission or City Attorney, before filing a civil action under this subsection shall first file with the Commission and City Attorney a written request for the Commission and/or City Attorney to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Commission and City Attorney shall each respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an action for injunctive relief. If either indicates in the affirmative and files an action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Commission or City Attorney is dismissed without prejudice. If the Commission needs additional time to determine whether to file an action or needs additional time to file the action, the Commission may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety day time period by another sixty (60) days. If both the Commission and City Attorney indicate they will not pursue the matter, or if neither entity files an action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit for injunctive relief. No resident may bring an action under this subsection if the Commission commenced administrative action arising out of the same facts, resulting in either the imposition of or stipulation to remedial measures to prevent reoccurrence of the violation or compel compliance.
- F. Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's General Fund up to the amount of the financial benefit received, including Democracy Dollars, as a result of the violation.
- G. The Commission shall develop guidelines for imposing penalties and exercising enforcement discretion under this Act. In addition to civil and administrative penalties, the Commission may issue warnings or impose other remedial measures to enforce and oversee compliance with this Act.

Article VII. – Miscellaneous

3.15.200 – Adjustments for Inflation.

- A. Beginning in January of 2025 and in January of every odd-numbered year thereafter, the Commission shall increase all of the following:
 - 1. The maximum amount of Democracy Dollar proceeds under Section 3.15.130(B) by the percent increase, if any, in the Consumer Price Index, rounding to the nearest five hundred dollar (\$500) value;
 - 2. The expenditure limits under Section 3.15.140(A) by the percent increase, if any, in the Consumer Price Index, rounding to the nearest five hundred dollar (\$500) value.
- B. For the purpose of this section, the Commission shall use the Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics, or if such an index is discontinued, then the most similar successor index.
- C. The Commission shall publish the adjusted amounts under Subsection A no later than the 1st of February of the year in which the adjustment occurs.
- D. If the Commission makes a finding that the percent increase in the Consumer Price Index is very high, the increases required in subsection (A) shall be limited to three (3) percent, rounding to the nearest five hundred dollar (\$500) value.

3.15.210 – Initial Applicability.

This Act shall first apply to elections in 2024 and in election cycles thereafter.

3.15.220 – Severability.

If a provision of this Act or its application to any person or circumstances is held invalid, the invalidity shall not affect any other provisions or applications of this Act that can be given effect without the invalid provision or application.

3.15.230 – City Council Amendments.

The City Council may make any amendments to this Act that: (1) are consistent with its purpose and approved by a two-thirds vote of the Councilmembers, provided that the Commission has first approved specific findings and recommendations by a two-thirds vote of the Commissioners that the City Council amend the Act; or (2) the Council determines are required by law.

SECTION 3. Repeal and Reenactment of Oakland Municipal Code Chapter 3.12. Oakland Municipal Code Chapter 3.12, *Oakland Campaign Reform Act*, is hereby repealed and reenacted as follows with deleted text shown as ~~struck through~~ and new text underscored:

Article I. - Findings and Purpose.

3.12.010 - Title.

This Chapter shall be known as the City of Oakland Campaign Reform Act, hereinafter "the Act."

3.12.020 - Findings and Declarations.

The Oakland City Council finds and declares each of the following:

- A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.
- B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by the City government. This has caused the public perception that votes are being improperly influenced by monetary contributions. This perception is undermining the credibility and integrity of the governmental process.
- C. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns.
- D. High campaign costs are forcing elected City Officials to spend more time on fundraising and less time on the public's business. The constant pressure to raise contributions is distracting elected City Officials from urgent governmental matters.
- E. Elected City Officials are responding to high campaign costs by raising larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.
- F. Based on existing circumstances in Oakland, including those enumerated in the Oakland Fair Elections Act, the contribution limits established by this Act will not prevent candidates from raising the resources necessary to run an effective campaign.
- G. Disclosure of donors who have financial interests with the City of Oakland and also of City Officials who solicit contributions safeguards against potential conflicts of interest.
- ~~H~~I. For transparency, and to protect our democracy, including from the risk of secretive big money, it is important that the public have a right to know who is paying for, and who is sending, advocacy and campaign communications.
- I. The enhanced transparency requirements established by this Act will ensure the right of Oakland residents to know who is spending big money to influence their vote by requiring disclosure for big independent spenders and by requiring ads run by political committees to identify additional top donors. This additional transparency will enable voters to better evaluate the sources and credibility of the electoral advertising they are receiving.
- ~~H~~J. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

~~K.~~ This Act shall be liberally construed and vigorously enforced to ensure its purposes are fulfilled.

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

- A. To ensure that all individuals and interest groups in our City have a fair and equal opportunity to participate in elective and governmental processes.
- B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the City, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland
- C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.
- D. To reduce the advantage of incumbents and thus encourage competition for elective office.
- E. To allow candidates and elected City Officials to spend a smaller proportion of their time on fundraising and a greater proportion of their time dealing with issues of importance to their constituents and the community.
- F. To ensure that serious candidates are able to raise enough money to communicate their views and positions adequately to the public, thereby promoting public discussion of the important issues involved in political campaigns.
- G. To curb corruption and the appearance of corruption by providing reasonable limits on contributions to candidates and their campaign committees and requiring disclosure of the sources of money spent to influence elections in Oakland.
- H. To ensure that residents of Oakland have more information about the sources of funds that are used to influence their vote by enhancing the public disclosure of independent spending and requiring additional information in on-ad disclaimers by political committees.
- I. To help restore public trust in governmental and electoral institutions.

Article II. - Definitions

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in the California Political Reform Act (California Government Code Sections 81000 through 91014), as amended, and California Fair Political Practices Commission Regulations (Title, Section 18110, et seq., of the California Code of Regulations), as amended, shall govern the interpretation of this Act.

- A. "Broad-based political committee" means a committee of persons which has been in existence for more than six (6) months, receives contributions from one hundred (100) or more persons, and acting in concert makes contributions to five (5) or more candidates.

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- B. "Candidate" means any candidate, as defined by the California Political Reform Act, for City Office.
- C. "City" means the City of Oakland.
- D. "City Office" includes, but is not limited to, City of Oakland Mayor (Mayor), City of Oakland City Attorney (City Attorney), City of Oakland City Auditor (City Auditor), City of Oakland City Councilmembers (Councilmembers), and Oakland School Board Directors (School Board Directors).
- E. "City Official" means any person holding a City Office, any member of a City board or commission, and any City employee.
- F. "Election" means any election for City Office.
- G. "Election cycle" means a four-year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1st, and ending on December 31st of the fourth year thereafter.
- H. "Entity" means any person, other than an individual.
- I. "Local committee" means any committee, as defined in the California Political Reform Act, that is required by the California Political Reform Act to file campaign statements with the City.
- J. "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business, trust, company, corporation, association, committee, and any other organization or group of persons acting in concert.
- K. "Qualified campaign expenditure" for candidates means and includes all of the following:
 - 1. Any expenditure made by a candidate, elected City Official or committee controlled by the candidate or elected City Official, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate.
 - 2. A non monetary contribution provided at the request of or with the approval of the candidate, elected City Official or committee controlled by the candidate or elected City Official.

"Qualified campaign expenditure" does not include any payment if it is clear from the surrounding circumstances that it was not made in any part for political purposes.

Article III. - Contribution Limitations

3.12.050 - Limitations on contributions from persons.

- A. No person shall make to any candidate and the controlled committee of such a candidate, and no candidate and the candidate's controlled committee shall receive from any such person, a contribution or contributions totaling more than ~~one hundred dollars (\$100.00)~~ six hundred dollars (\$600.00), adjusted bi-annually pursuant to Subsection (~~F~~D), for each election except as stated in Subsection (B) of this Section.

~~B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act For candidates who qualify as an applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, no person shall make to a candidate and the controlled committee of such candidate, and no such candidate and the controlled committee of such candidate shall receive contributions totaling more than ~~five~~six hundred dollars (\$~~5~~600.00), adjusted bi-annually pursuant to Subsection (~~F~~D), ~~from any person for each election. A Democracy Dollar assigned by an eligible resident pursuant to Section 3.15.110 of the Oakland Fair Elections Act and any public funds disbursed to participating candidates pursuant to Section 3.15.120 of the Oakland Fair Elections Act shall not be considered a contribution under this Act.~~~~

~~C. Any person who makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City Office in excess of the amounts stated in Subsection A.~~

~~D.C.~~ This Section is not intended to prohibit or regulate contributions to persons or broad based political committees for the purpose of influencing elections for offices other than City offices.

~~E. Persons making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a person has separately accounted for such contributions and expenditures for such elections for City office, contributors to that person may contribute more than the amount set forth in Subsection (A) of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.~~

~~F.D. Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year. Beginning in January of 2025 and in January of every odd-numbered year thereafter, the Commission shall increase the contribution limitation amounts by the percent increase, if any, in the Consumer Price Index for the preceding two years, rounding to the nearest fifty dollar (\$50) value. The Commission shall use the Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics, or if such an index is discontinued, then the most similar successor index. The Commission shall publish the adjusted contribution limits no later than the 1st of February of the year in which the adjustment occurs.~~

3.12.060 - Limitations on contributions from broad-based political committees.

A. No broad-based political committee shall make to any candidate and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or

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contributions totaling more than ~~two hundred fifty dollars (\$250.00)~~ one thousand two hundred dollars (\$1,200.00), adjusted ~~bi-annually~~ pursuant to Subsection (~~FD~~), for each election except as stated in Subsection (B) of this Section.

- B. ~~For candidates who adopt the expenditure ceilings as defined in Article IV of this Act~~ For candidates who qualify as applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand two hundred dollars (\$1,0200.00), adjusted ~~bi-annually~~ pursuant to Subsection (~~FD~~), for each election.
- C. ~~Any broad based political committee that makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City office in excess of the amounts stated in Subsection A. of this Section.~~
- ~~D.C.~~ This Section is not intended to prohibit or regulate contributions to persons or broad-based political committees for the purpose of influencing elections for offices other than City offices.
- E. ~~A broad based political committee making independent expenditures supporting or opposing a candidate shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for City office. Where a broad based political committee has separately accounted for such contributions and expenditures for such elections for City office, contributors to that broad based political committee may contribute more than the amounts set forth in Subsection A. of this Section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for City office.~~
- ~~FD.~~ Beginning January 1, 2017, the Public Ethics Commission shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The Public Ethics Commission shall publish the contribution limitation amounts no later than February 1st of each year. Beginning in January of 2025 and in January of every odd-numbered year thereafter, the Public Ethics Commission shall increase the contribution limitation amounts by the percent increase, if any, in the Consumer Price Index for the preceding two years, rounding to the nearest fifty dollar (\$50) value. The Commission shall use the Consumer Price Index for all Urban Consumers in the San Francisco-Oakland-San Jose, CA metropolitan statistical area, as published by the United States Department of Labor, Bureau of Statistics, or if such an index is discontinued, then the most similar successor index. The Commission shall publish the adjusted contribution limits no later than February 1 of the year in which the adjustment occurs.

3.12.065 - Contributions made under legal name.

No contributions shall be made, directly or indirectly, by any person in a name other than the name by which such person is identified for legal purposes.

3.12.070 - Return of Contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor no later than five (5) business days after the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

3.12.080 - Aggregation of Contributions.

For purposes of the contribution limitations enumerated in this Act, the following shall apply:

A. Two (2) or more entities' contributions shall be aggregated when any of the following circumstances apply.

1. The entities share the majority of members of their boards of directors.
2. The entities share three (3) or more, or a majority of, officers.
3. The entities are owned or controlled by the same majority shareholder or shareholders.
4. The entities are in a parent-subsidary relationship.
5. One entity finances, maintains, or controls the other entity's contributions or expenditures.
6. Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decision to make contributions.
7. The contributions of an entity whose contributions are directed and controlled by any person shall be aggregated with contributions made by that person and any other entity whose contributions are directed and controlled by that same person.
8. If two (2) or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

B. No committee and no broad-based political committee which supports or opposes a candidate shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee or broad-based political committee shall act in concert with, or solicit or make contributions on behalf of, any other committee or broad-based political committee. This subdivision shall not apply to treasurers of committees if these treasurers do not participate in or control in any way a decision on which a candidate or candidates receive contributions.

3.12.090 - Loans.

A. A loan shall be considered a contribution from the maker and the guarantor of the loan and shall be subject to the contribution limitations of this Act.

~~B. Every loan to a candidate or the candidate's controlled committee shall be by written agreement and shall be filed with the candidate's or committee campaign statement on which the loan is first reported.~~

~~C.B.~~ The proceeds of a loan made to a candidate by a commercial lending institution in the regular course of business on the same terms available to members of the public and which is secured or guaranteed shall not be subject to the contribution limitations of this Act.

~~D.C.~~ Other than loans pursuant to Subsection (C) of this Section, extensions of credit in excess of one thousand five hundred dollars (\$1,500.00) for a period of more than ninety (90) days are subject to the contribution limitations of this Act, unless the candidate can demonstrate good faith evidence of an intent to repay through a set payment schedule which is being adhered to through repayment of the extension of credit on a regular basis.

3.12.100 - Family contributions.

- A. Contributions by two (2) individuals married to each other shall be treated as separate contributions and shall not be aggregated.
- B. Contributions by children under eighteen (18) years of age shall be treated as contributions by their parents or legal guardian and attributed proportionately to each parent (one-half (½) to each parent or the total amount to a single custodial parent or legal guardian).

3.12.110 - One campaign committee and one checking account per candidate.

A candidate shall have no more than one campaign committee and one checking account for the City office being sought, into which all contributions shall be deposited and out of which all expenditures for that office shall be made. This Section should not prohibit the establishment of savings accounts, but no qualified campaign expenditures shall be made out of these accounts.

3.12.115 - Ballot measure committees controlled by candidates or elected City Officials.

A candidate or elected City Official who controls a ballot measure committee may not directly or indirectly use or influence the use of ballot measure committee funds to support the candidate's or elected City Officials' election or to support or oppose other candidates, and may not transfer such funds to another committee supporting the candidate's or elected City Officials' election, or supporting or opposing other candidates. The foregoing notwithstanding, the prohibitions of this Section shall not apply to a committee created to oppose or support the qualification of a recall measure and/or the recall election of the controlling candidate or controlling elected City Official.

3.12.116 - Disclosure of principal officers of all non-candidate controlled committees, including ballot measure and independent expenditure committees.

All non-candidate controlled recipient committees, including ballot measure committees and general purpose committees, required to file campaign statements in the City of Oakland, must disclose the principal officers of the committee. Such disclosure must include the full name, street address, e-mail address, and telephone number of at least one (1) principal officer, as well as all principal officers up to a total of three (3). This disclosure shall be made on the statement of organization (FPPC Form 410) by the filing deadlines required by the California Political

Reform Act statute and regulations, or, if no Form 410 is required for that committee, the next required campaign statement. Such information shall be filed with the Public Ethics Commission and made available to the public.

3.12.117 - Reporting by City Officials who solicit campaign contributions from persons contracting or proposing to contract with the City.

A. Any public servant, as defined by Section 2.25.030(D), who is required to file a statement of economic interests (Form 700) and who successfully solicits a contribution of five thousand dollars (\$5,000.00) or more per calendar year to any committee from any person who contracts or proposes to contract with the official's department during the contractor prohibition time period specified in Section 3.12.140, must disclose such solicitation within thirty (30) days of the solicitation to the Public Ethics Commission using a process provided by the Public Ethics Commission.

1. Mayor, Members of the Council, and their Senior Staff Members. For purposes of this section, the "department" of the Mayor, member of the Council, or Senior Staff Member to either the Mayor or member of Council shall be the City, and the disclosure requirement shall apply when the solicitation is made to a person contracting or proposing to contract with the City.

a. For purposes of this section, a "senior staff member" to either the Mayor or a member of the Council means an individual employed in any of the following positions: Chief of Staff, Deputy Chief of Staff, Communications or other Director, Legislative or Policy Aide, or any other position in the Mayor's or Council Member's office who is required to file a Form 700.

3.12.120 - Money received by elected City Officials and candidates treated as contributions, income or gifts.

Any funds received by any elected City Official, candidate, or committee controlled by an elected City Official or candidate shall be considered either a campaign contribution, income or a gift. All campaign contributions received by such persons shall be subject to the provisions of this Act unless such campaign contributions are used exclusively for elections held outside the jurisdiction. All income and gifts shall be subject to the disqualification provisions of the California Political Reform Act. This section shall not apply to Democracy Dollars received by candidates for Oakland offices pursuant to the Fair Elections Act.

3.12.130 - Contributor identification and restriction on use of cash.

A. No contribution of one hundred dollars (\$100.00) or more shall be deposited into a campaign checking account of a candidate or local committee unless the name, address, occupation, and employer of the contributor is on file in the records of the recipient of the contribution.

B. No person shall make, and no candidate or local committee shall receive, a contribution of one hundred dollars (\$100.00) or more in cash.

C. No candidate or local committee shall make an expenditure of one hundred dollars (\$100.00) or more in cash.

- D. No person shall make a contribution of one hundred dollars (\$100.00) or more other than an in-kind contribution unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Government Code Section 84302.

3.12.140 - Contractors doing business with the City or the Oakland Unified School District prohibited from making contributions.

- A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the City for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, for selling or leasing any land or building to the City, or for purchasing or leasing any land or building from the City, whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or the termination of negotiations for such contract.
- B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District, for selling or leasing any land or building to the School District, or for purchasing or leasing any land or building from the School District, whenever the value of such transaction would require approval by the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such elected City Official or candidate at any time between commencement of negotiations and one hundred eighty (180) days after the completion or termination of negotiations for such contract.
- C. If a person is an entity, the restrictions of Subsections A. and B. also apply to all of the entity's principals, including, but not limited to, the following:
 - 1. The entity's board chair, president, chief executive officer, chief operating officer, chief financial officer, and any individual who serves in the functional equivalent of one or more of those positions;
 - 2. Any individual who owns an ownership interest in the entity of twenty (20) percent or more; and
 - 3. An individual employee, independent contractor, or agent of the entity, that represents or is authorized to represent the entity before the City in regards to the contract or proposal contract.
- D. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.
- E. For contributions to elected City Officials other than School Board Directors, transactions that require approval by the City Council include but are not limited to:

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1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars (\$15,000.00).
 2. Contracts for the procurement of services exceeding fifty thousand dollars (\$50,000.00), other than contracts for professional or consulting services.
 3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars (\$50,000.00).
 4. Contracts for the sale or lease of any building or land to or from the City.
 5. Amendments to contracts described in Subsections E.1., 2., 3., and 4. of this Section.
- F. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:
1. Professional services and consulting contracts exceeding twenty-five thousand dollars (\$25,000.00), including personal service agreements.
 2. Contracts requiring School Board approval under Public Contract Code Section 20111.
 3. Construction contracts exceeding twenty-five thousand dollars (\$25,000.00) whether or not they are subject to the provisions of the Public Contract Code.
 4. Contracts for the sale or lease of any building or land to or from the School District.
 5. Amendments to contracts described in Subsections F.1., 2., 3., and 4. of this Section.
- G. "Commencement of negotiations" for City contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any City Official or when a City Official formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- H. Reserved.
- I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.
- J. "Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.
- K. "Completion of negotiations" occurs when the City or the School District executes the contract or amendment.

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- L. "Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by a City Official or an appointed or elected School District officer or employee.
- M. The Oakland City Administrator shall be responsible for implementing procedures for City contracts to ensure contractor compliance with this Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be ~~received and filed by~~ submitted to the Public Ethics Commission City Clerk, in a manner proscribed by the Commission, at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. ~~The City Clerk shall keep an updated list of current contractors available for inspection.~~

- N. The Oakland Superintendent of Schools shall be responsible for implementing procedures for Oakland School District contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

The signed and dated statement must be received and filed with the School District at the same time the proposal is submitted. Contracts may not be awarded to any contractors who have not signed this certification. The School District shall keep an updated list of current contractors available for inspection.

- O. A person who contracts with the City or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City or the School District, or for selling any land or building to the City or the School District or for purchasing any land or building from the City or the School District, or for leasing any land to or from the School District, whenever the value of such transaction would require approval by the City Council or the School Board, and who violates Subsection A. of this Section, shall be subject to the enforcement provisions of Article IX of this Act.
- P. Candidates and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland or the Oakland Unified School District (OMC § 3.12.140).

3.12.150 - Officeholder fund.

- A. Every elected City Official shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected City Official. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars (\$25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars (\$30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars (\$50,000.00) per year in office.
- B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in Subsection C.1. through 5. of this Section. Such allowable expenditures shall include, but are not limited to the following categories:
 - 1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;
 - 2. Expenditures for office equipment, furnishings and office supplies;
 - 3. Expenditures for office rent;

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4. Expenditures for salaries of part-time or full-time staff employed by the elected City Official for officeholder activities;
5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;
6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the elected City Official; (2) a member of the elected City Officials' staff; or (3) such other person designated by the elected City Official who is authorized to perform such government duties;
7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the elected City Official, (2) a member of the elected City Officials' staff, (3) such other person designated by the elected City Official who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;
8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;
9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;
10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;
11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the elected City Official or a member of the elected City Officials Staff in the performance of his or her governmental responsibilities;
12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;
13. Expenditures for mailing to persons within the City which provide information related to City-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;
14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the elected City Official communicates in his or her official capacity;

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15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;
 16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
 17. Expenditures for ballot measures.
- C. Officeholder expense funds shall not be used for the following:
1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;
 2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;
 3. Membership in any athletic, social, fraternal, veteran or religious organization;
 4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City Official;
 5. Any expenditure that would violate the provisions of the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.
- D. No funds may be transferred from the officeholder fund of an elected City Official to any other candidate committee.
- E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.
- F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.
- 3.12.160 - Allowance for donation of office space.
- A. Donation of office space for use by elected City Officials in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:
1. The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
 2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the Commission~~City Clerk~~.
- B. Use of office space donated pursuant to this Section by an elected City Official shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

3.12.170 - Legal expense funds.

- A. An elected City Official or candidate may receive contributions for a separate legal expense fund, for deposit into a separate account, to be used solely to defray attorney's fees and other legal costs incurred in the candidate's or elected City Officials' legal defense to any civil, criminal, or administrative action or actions arising directly out of the conduct of the campaign or election process, or the performance of the candidate's or elected City Officials' governmental activities and duties. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. The legal expense fund may be in the form of a certificate of deposit, interest bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund. ~~All funds contributed to an elected City Official or candidate for legal expense fund must be deposited into the elected City Official's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.~~
- B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.
- C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.180 - Volunteer services exemption.

Volunteer personal services, and payments made by an individual for ~~their~~^{his or her} own travel expenses if such payments are made voluntarily without any understanding or agreement that they shall be directly or indirectly repaid to ~~him or her~~, are not contributions or expenditures subject to this Act.

~~Article IV. — Expenditure Ceilings~~

~~3.12.190 — Expenditure ceilings.~~

~~All candidates who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in Subsections 3.12.050.B. and 3.12.060.B. of this Act. Before receiving any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the Public Ethics Commission on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.~~

~~3.12.200 — Amount of expenditure ceilings.~~

~~A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents (\$0.70) per resident for each election in which the candidate is seeking elective office. A candidate for other Citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents (\$0.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents (\$1.50) per resident in the electoral district for~~

~~each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar (\$1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.~~

~~Beginning on January 1, 2017, the Public Ethics Commission shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.~~

~~3.12.210—Reserved.~~

~~3.12.220—Expenditure ceilings lifted.~~

~~If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if any person makes one or more independent expenditures totaling more than fifteen thousand dollars (\$15,000.00) on a District City Council or School Board election or seventy thousand dollars (\$70,000.00) in a City Attorney, Auditor, Councilmember at Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Subsections 3.12.050.B. and 3.12.060.B. of this Act. The independent expenditure committee amounts of fifteen thousand dollars (\$15,000.00) and seventy thousand dollars (\$70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.200 of this Chapter.~~

Article IV. - Independent Expenditures Political Communications

~~3.12.2300 - Independent expenditures for mass mailings, slate mailings or other campaign materials~~Disclaimers.

- A. Any person who makes independent expenditures required to be disclosed by Section 3.12.210 ~~for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate~~ shall incorporate ~~place~~ the following statements on the mailing in typeface of no smaller than fourteen (14) points:

Notice to Voters

(Required by the City of Oakland)

1. “This mailing is nNot authorized by or coordinated with ~~approved by~~ any City candidate, committee controlled by a candidate, or election official.” This statement is not required if the independent expenditure supports or opposes only a City ballot measure.

2. It is p“Paid for by” immediately followed by the person’s name, address, and city, and, if the person is a committee, the committee identification number provide by the

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California Fair Political Practices Commission. If an acronym is used to specify a committee name, the full name of the sponsoring committee shall also be included.

3. "Major funding provided by [names of the three contributors who gave the most to the committee in the six months prior to the date of the payment for the independent expenditure communication], in the amount of [the total amount of contributions made by those contributors in the same six-month period]."

a. The amount of the contributions is not required in an audio communication.

b. If the committee had only one contributor of at least \$5,000 in the six months prior to the date of the payment for the independent expenditure communication, the statement may refer only to that contributor.

c. This statement is not required if the person did not have any contributors of at least \$5,000 in the six months prior to the date of the payment for the independent expenditure.

by (name) _____

_____ (address, city, state)

4. "Funding details are available on the Oakland Public Ethics Commission's website. Total cost of this communication mailing is:" (amount) immediately followed by the cost amount.

B. A person shall incorporate the following statements in a campaign, officeholder, or legal defense communication:

1. "Paid for by" immediately followed by the name, address, and city of that candidate or committee, and the committee identification number provided by the California Fair Political Practices Commission, if a committee. The address and city are not required in an audio communication.

a. If the communication is made by a controlled committee, the name of the person controlling the committee shall also be included.

b. If an acronym is used to specify a committee name, the full name of any sponsoring organization of the committee shall also be included.

2. "Funding details are available on the Oakland Public Ethics Commission's website."

C. A committee must disclose the names of persons from whom the committee received its two (2) highest cumulative contributions of five thousand dollars (\$5,000.00) or more in the same manner as required by California Political Reform Act Section 84506 on all mass mailings and television advertisements that are independent expenditures supporting or opposing a candidate or measure being voted upon only in the City. All

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disclaimers shall be presented in a clear and conspicuous manner to give the reader, observer, or listener adequate notice. Minimum requirements are specified below:

1. For written communications up to 24 inches by 36 inches, disclaimers shall be printed using a bold, sans serif typeface that is easily legible to an average reader and is not less than 14-point type in a color that contrasts with the background on which it appears.
 2. For written communications larger than 24 inches by 36 inches, the total height of the disclaimer shall constitute at least five percent of the total height of the communication, be printed using a bold, sans serif typeface that is easily legible to an average reader, and be printed in a color that contrasts with the background on which it appears.
 3. For video communications, the disclaimer shall be written in a bold, sans serif typeface that is easily legible to an average reader, in a color that contrasts with the background on which it appears, and shall appear for at least four seconds at either the beginning or the end of the communication. A spoken disclaimer is also required if the written disclaimer does not appear for at least five seconds of a communication that is 30 seconds or less or for at least ten seconds of a communication that is longer than 30 seconds. A spoken disclaimer shall be clearly audible and spoken at the same speed and volume as the rest of the communication.
 4. For audio communications, disclaimers shall be spoken in a clearly audible manner at either the beginning or end of the communication. The disclaimers shall be spoken at the same speed and volume as the rest of the communication and shall last at least five seconds.
- D. The disclaimers required by this section shall not be required for slate mailers, wearing apparel, small promotional items, such as pens, pencils, mugs, and potholders, and other items on which a disclaimer cannot be displayed in easily legible typeface.
- E. When the size limitations of an electronic communication render it impractical to include the full disclaimer, the disclaimer must state, at a minimum, "Paid for by" immediately followed by the committee identification number provided by the California Fair Political Practices Commission, or, if the person is not a committee, the person's name. In addition, when a user interacts with the communication, the interaction must provide the user with the full disclaimer in a format that is easily legible and identifiable, such as through a rollover or pop-up on the landing page or a linked website or application.

3.12.210 – Disclosure of Independent Expenditure Communications.

- A. A person required by state law to file a “24-hour” or “10-day” Independent Expenditure Report via California Fair Political Practices Commission Form 496 or any successor form with the Commission shall also submit a supplemental notification to the Commission as follows:
1. The notification is due at the same time as the corresponding Form 496.

2. The notification shall be submitted in a manner as prescribed by the Commission.
- B. The notification shall include a declaration under penalty of perjury signed by the person and, if applicable, the committee treasurer, specifying the following:
1. That the communication was not behested by any of the candidates who benefited from it;
 2. The dates the communication was distributed or displayed, if applicable;
 3. The name and address of the payee, if applicable, and any vendor or subvendor that provided service for the communication;
 4. Contributions of \$100 or more that the person made in the current calendar year to City candidates, City controlled committees, City ballot measure committees, City recall committees, committees primarily formed to support or oppose City candidates or measures, and City general purpose recipient committees;
 5. Any other information required by the Commission in furtherance of this Section.
- C. The notification shall include a copy of the communication distributed, displayed, or sent to voters.
1. If the communication is of a video, audio or verbal nature, a copy of the script and recording shall be provided.
 2. The Commission, upon request from any member of the public, shall send to that member of the public a copy of each requested independent expenditure communication.
 3. The Commission may not judge, edit or comment on the content of any independent expenditure communication, except for non-compliance with any required disclaimer on each communication.

3.12.220 – Social Media Accounts.

- A. A candidate for elected City office, a City controlled committee, a City recall committee, a City ballot measure committee, a City general purpose committee, a committee primarily formed to support or oppose City candidates or ballot measures, or a person who makes independent expenditure communications in City elections that qualifies as a committee under the Political Reform Act and elects to use social media accounts to disseminate political communications subject to the requirements of Section 3.12.200 shall include the following statement on each account's home page: "This account is being used for campaign purposes by [name of candidate or committee]."
1. The statement shall be prominent, in a typeface that is easily legible to an average reader and in a color that contrasts with the background on which it appears.

2. The statement shall be displayed from the time the candidate or committee first begins to use the account for campaign purposes until the election for which it is used is over.
- B. An elected City officer may not use a social media account or Web site for campaign purposes if the account or site is paid for, sponsored by, or hosted by the City. If an elected City officer communicates about campaign activity or City business using a social media account or Web site that is not City sponsored, the home page for the account or site shall include the following statement: "This [account or site] is not paid for, sponsored by, or hosted by the City." The statement shall be prominent, in a typeface that is easily legible to an average reader and in a color that contrasts with the background on which it appears.
- C. The Commission may modify the disclosure statement requirements of this section by adoption of regulations.

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

- A. Electronic Filing of Campaign Statements. Any person required by State or local law to file a campaign statement or report with the local filing officer, shall file the statement or report in an electronic format with the Public Ethics Commission provided that the Public Ethics Commission has prescribed the format at least sixty (60) days before the statement or report is due to be filed.
- B. Continuous Filing of Electronic Statements. Once a committee is subject to the electronic filing requirements imposed by this Section, the committee shall remain subject to the electronic filing requirements, regardless of the amount of contributions received or expenditures made during each reporting period, until the committee terminates pursuant to this Act and the California Political Reform Act.
- C. Late Filing Fees. If any person files an original statement or report after the deadline imposed by State or local law, ~~that person~~ ~~he or she~~ shall, in addition to any other penalties or remedies established by this Act or State law, be liable in the amount of ten dollars (\$10.00) per day after the deadline until the statement or report is filed, to the Public Ethics Commission. No liability under this Subsection shall exceed the cumulative amount stated in the late statement or report, or one hundred dollars (\$100.00), whichever is greater. The Public Ethics Commission shall deposit any funds received under this Section into the City's General Fund.
- D. Adoption of General Law. Except as otherwise provided in, or inconsistent with, this Act or other provisions of local law, the provisions of the California Political Reform Act relating to local elections including any subsequent amendments are hereby incorporated as part of this article.

3.12.245 - Recordkeeping requirements.

Every person required by State or local law to file a campaign statement or report with the City shall prepare and retain detailed records (including bills, receipts, and other documents) needed to comply with the filing requirement. The records shall be retained for at least four (4) years following the date the campaign statement or report was filed with the Public Ethics Commission.

Article VII. - Violations Related to Enforcement

3.12.250 - Violations Related to Enforcement.

False Charges and Information. A person shall not knowingly furnish false, fraudulent, or misleading complaints, evidence, documents, or information to the Public Ethics Commission, or District Attorney, or knowingly misrepresent any material fact, or conceal any evidence, documents, or information relevant to an investigation by the Public Ethics Commission or District Attorney of an alleged violation of this Act.

Article VIII. - Agency Responsibility and Authority

3.12.260 - Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

- A. Oversee compliance with the Act.
- B. Serve as the local filing officer for campaign statements and reports pursuant to the California Political Reform Act.
- C. Adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of this Act, subject to Section 2.24.070 of the Oakland Municipal Code.

3.12.265 - Duties of the City Clerk.

The City Clerk shall provide the Public Ethics Commission with all election-related information necessary for the Public Ethics Commission to notify persons and committees of their campaign reporting obligations and availability of public funds, if applicable, and to determine campaign reporting requirements and filing deadlines, including:

- A. Providing a copy of any Candidate Intention Statement (California Form 501) received by the City Clerk's office;
- B. Providing the list of candidates qualified for the ballot immediately upon qualification;
- C. Providing materials about campaign reporting requirements and public financing as requested by the Public Ethics Commission with the nomination packets given to candidates;
- D. Providing materials about campaign reporting requirements designated by the Public Ethics Commission with information given to individuals seeking to place a measure on the ballot;
- E. Notifying the Public Ethics Commission when petitions are issued to qualify a measure for an upcoming ballot;

- F. Notifying the Public Ethics Commission when a measure qualifies for an upcoming ballot immediately upon qualification; and
- G. Notifying the Public Ethics Commission of the dates when a Special Election is scheduled.

Article VIIIX. - Enforcement

3.12.270 - Penalties.

Any person who violates this Act is subject to criminal, civil, administrative, and other penalties provided for in this Section. In the event criminal violations of this Act come to the attention of the Public Ethics Commission, it may forward the information to the appropriate law enforcement agency.

- A. Criminal Penalties. Any person who knowingly or willfully violates any provision of this Act is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable under the provisions of this Act.
 - 1. No person convicted of a misdemeanor under this Act shall act as a lobbyist or as a City contractor for a period of four (4) years following the date of the conviction unless a court, at the time of sentencing, specifically determines that this provision shall not be applicable.
 - 2. For the purposes of this Section, a plea of nolo contendere shall be deemed a conviction.
- B. Civil Penalties. Any person who violates any provision of this Act shall be liable in a civil action for an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed expended, gave or received, whichever is greater. A decision by the Public Ethics Commission to bring a civil action requires an affirmative vote of at least five (5) of its members.
 - 1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.
 - 2. In determining the amount of liability, a court may take into account the seriousness of the violation and the degree of culpability of the defendant.
- C. Administrative Penalties. Any person who violates any provision of this Act, who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be liable in an administrative proceeding before the Public Ethics Commission held pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission may impose administrative penalties in an amount up to five thousand dollars (\$5,000.00) per violation, or up to three (3) times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. In addition to administrative penalties, the Public Ethics Commission may issue warnings or require other remedial measures.

1. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

3.12.280 - Injunctive relief.

- A. The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, VI, and VII of this Act.
- B. Any individual residing within the City may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of Articles III, IV, V, and VI of this Act.
- C. Any individual, other than the Public Ethics Commission, before filing a civil action pursuant to this Section, shall first file with the Public Ethics Commission a written request for the Public Ethics Commission to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The Public Ethics Commission shall respond in writing within ninety (90) days after receipt of the request indicating whether they intend to file an administrative or civil action. If the Public Ethics Commission indicates in the affirmative and brings an administrative or civil action within sixty (60) days thereafter, no other action may be brought unless the action brought by the Public Ethics Commission is dismissed without prejudice.
- D. If the Public Ethics Commission needs additional time to determine whether to bring an action or needs additional time to bring an action, it may, by resolution indicating evidence of good cause and notice thereof to the requestor, extend the ninety (90) day time period by another sixty (60) days. If the Public Ethics Commission indicates they will not pursue the matter, or if it does not pursue an administrative or civil action within the sixty (60) day period following their affirmative response to the requestor, the requestor may file suit pursuant to this Section. No resident may bring an action pursuant to this Section if the Public Ethics Commission has commenced an administrative action or a law enforcement agency has commenced criminal action arising out of the same facts.

3.12.290 - Forfeiture.

Any person who receives a financial benefit as a result of a violation of this Act by any person shall be liable for disgorging to the City's general fund up to the amount of the financial benefit received as a result of the violation.

3.12.300 - Costs of litigation.

The court may award to a party, other than the City or any of its commissions, boards, departments or agencies, who prevails in any civil action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

3.12.310 - Limitation of actions.

- A. A criminal action alleging a violation of this Act may only be commenced by the Alameda County District Attorney or the California Attorney General and no more than four (4) years after the date of the violation.
- B. A civil action alleging a violation of this Act may only be commenced by the Public Ethics Commission or an individual residing in the City and no more than five (5) years after the date of the violation.

- C. An administrative action alleging a violation of this Act may only be commenced by the Public Ethics Commission and no more than five (5) years after the date of the violation.
- D. Commencement of an administrative action is the date the Public Ethics Commission sends written notification to the respondent of the allegation pursuant to the Commission's Complaint Procedures.
- E. Unless otherwise prescribed by applicable law, the date of the violation means the earliest date when the complainant, the Public Ethics Commission, or other prosecuting authority has, or reasonably should have, knowledge of the violation and its cause, and a suspicion of wrongdoing. Suspicion shall be determined from an objective standpoint of what is reasonable for the complainant, the Public Ethics Commission, or other prosecuting authority to know or suspect under the facts of the situation.

3.12.320 - Liability.

- A. In addition to a committee itself, persons who qualify under the California Political Reform Act as principal officers of the committee are jointly and severally liable for violations by the committee. For committees controlled by a candidate, the candidate and the committee's treasurers are deemed to be principal officers.
- B. In addition to a person whose conduct is required or prohibited under this Act, an agent acting on behalf of that person is jointly and severally liable for a violation that arises out of the agent's actions. There is a rebuttable presumption that the following persons are agents of a committee:
 - a. A current or former officer of the committee;
 - b. An employee of the committee;
 - c. A person who has received compensation or reimbursement from the committee; and
 - d. A person who holds or has held a position within the committee organization that reasonably appears to be able to authorize expenditures for committee activities.
- C. This Section does not limit potential liability for persons who cause another person to violate this Act or who aids and abets another person in a violation.

3.12.330 - Disqualification.

In addition to any other penalties prescribed by law, if a candidate receives a contribution in violation of Sections 3.12.050 and 3.12.060, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which the contributor has a financial interest. The provisions of Government Code Sections 87100 et seq. and the regulations of the California Fair Political Practices Commission shall apply to interpretations of this Section.

Article IX. - Miscellaneous Provisions

3.12.340 - Applicability of other laws.

Nothing in this Act shall exempt any person from applicable provisions of any other laws of this State or jurisdiction.

3.12.350 - Reference to other laws.

All references in this Act to other laws refer to those laws as amended.

3.12.360 - Severability.

If any provision of this Act, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Act to the extent it can be given effect, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Act are severable.

3.12.370 – City Council Amendments.

The City Council may make any amendments to this Act that are consistent with its purpose.

SECTION 4. Repeal and Reenactment of Oakland Municipal Code, Section 3.20.190.

Oakland Municipal Code, Section 3.20.190, *Restriction on former elected city officers from acting as a local governmental lobbyist*, is hereby repealed and reenacted as follows with deleted text shown as ~~strike through~~ and new text shown as underscored.

3.20.190 - Restriction on former elected city officers from acting as a local governmental lobbyist.

No officer of the City or person who has held the position of department head or budget director shall be permitted to act as a local governmental lobbyist for a period of ~~one (1) year~~ two (2) years after leaving office.

SECTION 5. Repeal and Reenactment of O.M.C. Chapter 3.20, Article VI, into Articles VI

and VII. Oakland Municipal Code, Article VI, *Enforcement*, of Chapter 3.20, *Lobbyist Registration Act*, is hereby repealed and reenacted as Articles VI, *Enforcement*, and VII, *Miscellaneous*, as follows with deleted text shown as ~~strike through~~ and new text shown as underscored.

Article VI. - Enforcement

3.20.200 - Administrative action.

A. Any person who violates this Act is subject to administrative proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission's Complaint Procedures. The Public Ethics Commission shall not commence an administrative action alleging a violation of this Act more than four (4) years after the date of the alleged violation.

B. If the Public Ethics Commission finds a violation of this Act, the Public Ethics Commission may: (1) find mitigating circumstances and take no further action; (2) issue a public statement or

reprimand, or (3) impose an administrative penalty of up to one thousand dollars (\$1,000.00) for each violation.

C. Commencement of an administrative action is the date that the Public Ethics Commission sends written notification of the allegation to the respondent pursuant to the Public Ethics Commission's Complaint Procedures.

D. If any penalty imposed by the Public Ethics Commission is not timely paid, the Public Ethics Commission shall refer the debt to the appropriate City agency or department for collection.

3.20.210 - Civil penalties.

A. Civil penalties shall be imposed by resolution of the Public Ethics Commission.

B. Except as otherwise specified in this Act, the Commission may impose penalties of up to one thousand dollars (\$1,000) for each complaint sustained.

C. If any civil penalty imposed by the Public Ethics Commission is not timely paid, the Commission shall refer the debt to the appropriate city agency or department for collection.

3.20.220 - Criminal violation.

A. Any person who knowingly or willfully violates this Act is guilty of a misdemeanor.

B. The prosecution of any misdemeanor violation of this Act shall commence within four (4) years after the date on which the alleged violation occurred.

C. No person convicted of a misdemeanor violation of this Act may act as a local governmental lobbyist, render consultation or advice to any registered client, or otherwise attempt to influence a governmental action for compensation for one (1) year after such conviction.

Article VII. – Miscellaneous

3.20.230 - Effective date.

The effective date of this Act shall be September 1, 2002. ~~All amendments to this Act shall go into effect immediately.~~

3.20.240 - Severability.

The provisions of this Act are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Act, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this Act, or the validity of its application to other persons or circumstances.

3.20.250 – City Council Amendments.

The City Council may make any amendments to this Act that are consistent with its purpose.

SECTION 6. Amendment of Section 603 of the Charter of the City of Oakland. Section 603, *Public Ethics Commission*, of the Charter of the City of Oakland is hereby amended as follows with deleted text shown as ~~strikethrough~~ and new text shown as underscored:

Section 603. Public Ethics Commission.

- (a) Creation and Role. There is hereby established a Public Ethics Commission which shall be responsible for: (1) enforcement of laws, regulations and policies intended to assure fairness, openness, honesty and integrity in City government, including compliance by the City of Oakland, its elected officials, officers, employees, boards and commissions, and other persons subject to laws within the jurisdiction of the Commission; (2) education and responding to issues regarding the aforementioned laws, regulations and policies, and; (3) impartial and effective administration and implementation of programs to accomplish the goals and purposes of the Commission as defined by this Section. Such laws, regulations, policies, and programs shall include those relating to campaign finance, lobbying, transparency, and governmental ethics, as they pertain to Oakland. The Commission shall have the power to make recommendations to the City Council on matters relating to the foregoing. Nothing in this Section shall preclude other City officials, agencies, boards and commissions from exercising authority heretofore or hereafter granted to them, with the exception of Charter Section 603(b)(5).
- (b) Functions and Duties. It shall be the function and duty of the Public Ethics Commission to:
 - (1) Foster and enforce compliance with:
 - (i) Sections 218 ("Non-interference in Administrative Affairs"), 907 ("Nepotism"), 1200 ("Conflict of Interest") and 1202 ("Conflict in Office") of this Charter, for violations occurring on or after January 1, 2015;
 - (ii) The Oakland Campaign Reform Act, ~~Limited Public Financing Act~~ Oakland Fair Elections Act, False Endorsement in Campaign Literature Act, Oakland's Conflict of Interest Code, code of ethics and governmental ethics ordinance, the Oakland Lobbyist Registration Act, the Oakland Sunshine Ordinance, any ordinance intended to protect City whistleblowers from retaliation, and other Oakland laws regarding campaign finance, lobbying, transparency, or governmental ethics, as provided by ordinance or this Charter;
 - (iii) Related state laws including, but not limited to, the Political Reform Act, Ralph M. Brown Act, and Public Records Act, as they pertain to Oakland.
 - (2) Report to the City Council concerning the effectiveness of all local laws regarding campaign finance, lobbying, transparency, and governmental ethics.
 - (3) Issue oral advice and formal written opinions, in consultation with the City Attorney.

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- (4) Within the time period for submission of such information for the timely completion of the City's regular budget process, provide the Mayor and City Council with an assessment of the Commission's staffing and budgetary needs.
 - (5) Act as the filing officer and otherwise receive and retain documents whenever the City Clerk would otherwise be authorized to do so pursuant to Chapter 4 of the California Political Reform Act of 1974 (Government Code Section 81000, et seq.), provided that this duty shall be transferred to the Commission during the 24 months following the effective date of this provision and the Commission shall be the sole filing officer for the campaign finance programs by January 1, 2017.
 - (6) Educate and promote understanding regarding the requirements under the Commission's oversight and study any significant non-compliance problems or trends with Oakland's campaign finance, lobbying, transparency, and governmental ethics laws and identify possible solutions for increasing compliance.
 - (7) Review and make recommendations regarding all City systems used for public disclosure of information required by any law within the authority of the Commission.
 - (8) Perform such other functions and duties as may be prescribed by laws of this Charter or City ordinance.
- (c) Councilmember Salary Increases. The Public Ethics Commission shall set Council compensation as provided for in Charter Section 202.
- (d) Appointment, Vacancies, Terms. The Public Ethics Commission shall consist of seven (7) members who shall be Oakland residents. Commissioners shall serve without compensation.

The Commission shall be appointed as follows in subsection (1) and (2).

- (1) Appointments by Mayor, City Attorney and City Auditor. The Mayor shall appoint one member who has represented a local civic organization with a demonstrated history of involvement in local governance issues.

The City Attorney shall appoint one member who has a background in public policy or public law, preferably with experience in governmental ethics or open government matters.

The City Auditor shall appoint one member who has a background in campaign finance, auditing of compliance with ethics laws, protection of whistleblowers, or technology as it relates to open government.

Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting. The Mayor, City Attorney, and City Auditor may not appoint an individual who was paid during the past two years for work by a committee controlled by the official.

Upon the effective date of this section, the three members appointed by the Mayor prior to 2015 shall continue to serve the remainder of their terms. Vacancies in the three positions appointed by the Mayor shall be filled in the following manner: the City Attorney shall appoint a member to fill the first vacancy; the City Auditor shall appoint a member to fill the second vacancy and the Mayor shall appoint the member to fill the third vacancy. Thereafter, the positions appointed by the Mayor, City Attorney and City Auditor shall be filled in the same manner and upon consideration of the same criteria as the initial appointments.

The appointments made by the Mayor, City Attorney, and City Auditor may be rejected by City Council Resolution within 45 days of receiving formal notice of the appointment. An appointment shall become effective once written notice is made by the appointing authority to the City Clerk. Upon receiving such written notice, the Clerk shall promptly provide formal notice to the City Council.

- (2) Commission Appointments. The four members of the Commission who are not appointed by the Mayor, City Attorney or City Auditor shall be appointed, following a public recruitment and application process, by the affirmative vote of at least four (4) members of the Commission. Any member so appointed shall reflect the interests of the greater Oakland neighborhood, nonprofit and business communities.

Prior to appointment, all appointees must attest in their application for appointment to attendance of at least one Public Ethics Commission meeting.

- (3) Terms of office. All categories of member shall be appointed to staggered terms. Members of the Commission shall be appointed to overlapping terms, to commence upon date of appointment, except that an appointment to fill a vacancy shall be for the unexpired term only. Members of the Commission shall serve for a term of three years. No member may serve more than two consecutive full three-year terms. If a member is appointed to fill an unexpired term which term is for more than 1.5 years, ~~he/she~~such member may serve only one additional consecutive three-year term. If a member is appointed to fill an unexpired term which term is for less than 1.5 years, ~~he/she~~such member may serve two consecutive full three-year terms.
- (4) Quorum. Four members shall constitute a quorum.
- (5) Vacancy. A vacancy on the Commission will exist whenever a member dies, resigns, ceases to be a resident of the City or ~~is absent~~absents himself/herself continuously from the City for a period of more than 30 days without permission from the Commission, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of a member, or is removed. A finding of disability shall require the affirmative vote of at least four members of the Commission after considering competent medical evidence bearing on the physical or mental capability of the member.

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Vacancies not filled by the Mayor, City Attorney, or City Auditor within 90 days of the occurrence of such vacancy may be filled by the City Council in the same manner as provided by Charter, Section 601.

- (6) Removal. Members of the Commission may be removed by their appointing authority, with the concurrence of the Council by Resolution, only for conviction of a felony, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three consecutive regular meetings except on account of illness or when absent by permission of the Commission, or violation of this Charter section, after written notice of the grounds on which removal is sought and an opportunity for a written response.
- (c) Qualifications and Restrictions. Each member of the Commission shall be a resident of Oakland and registered to vote in Oakland elections. No member of the Commission shall:
- (1) Have an employment or contractual relationship with the City during the member's tenure and for a period of one year after the date of separation.
 - (2) Be a registered Oakland lobbyist or be required to register as an Oakland lobbyist, or be employed by or receive gifts or other compensation from a registered Oakland lobbyist during the member's tenure and for a period of one year after the date of separation.
 - (3) Seek election to any other public office in a jurisdiction that intersects with the geographic boundaries of Oakland, or participate in or contribute to an Oakland municipal campaign.
 - (4) Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.
- (f) Enforcement.
- (1) Authority. In furtherance of Charter Section 603(b)(1) and (5), the Public Ethics Commission is authorized to:
 - (i) Conduct investigations;
 - (ii) Conduct audits of compliance with disclosure requirements with the Commission;
 - (iii) Conduct public hearings as provided by the Commission's complaint procedures or other law;
 - (iv) Issue subpoenas to compel the production of books, papers, records and documents and take testimony on any matter pending before the Commission. The Commission may seek a contempt order as provided by the general law of the state for a person's failure or refusal to appear, testify, or to produce required books, papers, records and documents;
 - (v) Impose penalties, remedies and fines, as provided for by ordinance. Ordinances enforced by the Public Ethics Commission shall not be

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subject to the \$1,000 limit on fines provided Sections 217 and 1208 of this Charter. The Commission's decision to impose penalties and fines for violation of any regulation or ordinance over which the Commission has authority shall be appealable to the Alameda County Superior Court by filing a petition for writ of mandamus;

- (vi) Submit referrals to other enforcement authorities, including but not limited to the Alameda County District Attorney, California Fair Political Practices Commission, and California Attorney General;
 - (vii) Seek remedial relief for violations and injunctive relief;
 - (viii) By an affirmative vote of at least five members, reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 218 and 1202 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;
 - (ix) Reprimand, censure, or impose administrative remedies, as provided by a governmental ethics ordinance adopted by the City Council, for violations of Section 907 of this Charter, according to the Commission's due process procedures as provided in the Commission's complaint procedures;
 - (x) Perform other functions as authorized by law.
- (2) Final enforcement action. Final enforcement action by the Commission on a matter, including but not limited to the imposition of fines or dismissal of a case, shall be made by an affirmative vote of at least four members.
- (3) Investigations. Preliminary review by Commission staff of allegations shall be confidential, to the extent permitted by law, until any of the following occurs:
- (i) Placement of the item on a Public Ethics Commission meeting agenda;
 - (ii) Passage of one year since the complaint was filed;
 - (iii) Action by the Executive Director closing the file without placing it on the agenda, pursuant to the Commission's complaint procedures or policies;
or
 - (iv) Expiration of the Statute of Limitations.
- (4) Penalty guidelines and Enforcement Discretion. The Public Ethics Commission shall develop a policy setting forth standards for imposing penalties and exercising enforcement discretion. Commission staff shall adhere to the policy when recommending penalties under each of the different penalty provisions that the Commission has the power to enforce.
- (5) Per diem late filing fees. Regarding per diem fees that are authorized due to the late filing of disclosure reports, including campaign finance statements, lobbyist

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reports, and other ethics-related disclosures filed with the Commission by law, the following shall apply:

- (i) Assessments. Any instance of late filing that triggers the assessment of a fee of \$1,000 or more by the Commission shall be placed on a Commission meeting agenda before issuance of the fee;
 - (ii) Waiver guidelines. The Commission shall establish waiver guidelines in accordance with state law, which the Commission, as the filing officer, shall follow in determining whether or not to grant a waiver. These guidelines shall be published on the Commission's website. The Commission shall prescribe criteria for appeal to the Commission of waiver decisions made by the Executive Director. At each regular Commission meeting, the Executive Director shall provide a written report, which shall be published online, regarding any waivers decisions made since the previous regular meeting;
 - (iii) Referral of final, uncollected fees to collections. Unpaid non-investigatory, per diem late filing fees for disclosure programs that are past due for more than 90 days shall be referred to a City delinquent revenue collection office.
- (6) Private right of action. Oakland residents shall have a private right of action to file suits to enforce the Oakland Campaign Reform Act, Oakland Lobbyist Registration Act, Oakland Sunshine Ordinance, and any City governmental ethics ordinance when the City does not impose or stipulate to a penalty or file suit for a particular violation. Such private right of action shall be enabled for a given ordinance once criteria for such suits, including but not limited to a required notice period, actionable violations and remedies that may be sought, are prescribed by the ordinance.
- (g) Staff Assistance & Budget.
- (1) The City shall appropriate a sufficient budget for the Public Ethics Commission to fulfill the functions and duties as set forth above.
 - (2) Sufficient staffing shall not be less than the following minimum staffing requirement. ~~Effective July 1, 2015, the City shall meet a minimum staffing requirement for the Commission. The minimum staffing shall consist of the following full-time positions or their equivalent should classifications change: Executive Director; Enforcement Chief; One Deputy Director; One Ethics Investigator; One Ethics Program Analyst I or Operations Support Specialist; One Ethics Program Analyst II; One Administrative Assistant I.~~ Effective July 1, 2023, the City shall also provide additional adequate staff necessary to properly administer the Democracy Dollars Program established by the Oakland Fair Elections Act, including but not limited to one full-time Democracy Dollars Program Manager and three Full Time Equivalent positions, to be determined as necessary by the Commission, all of whom shall report to the Executive Director of the Public Ethics Commission.

- (3) The minimum staffing budget set-aside may be suspended or reduced, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution.
- (3)(4) The Executive Director shall serve at the pleasure of the Commission. By an affirmative vote of at least four members, the Commission may terminate the Executive Director. Upon a vacancy, the Commission shall conduct a search for the Executive Director with staff assistance provided by the City Administrator. Upon completion of the search and its vetting of applicants, the Commission shall select two or three finalists and forward the selections to the City Administrator, who shall select one as the Executive Director. The City Administrator shall not have the authority to remove the Executive Director. The Commission shall periodically conduct a performance review of the Executive Director.
- (4)(5) The ~~Deputy Director~~Enforcement Chief shall serve at the pleasure of the Executive Director. Other than the Executive Director and Enforcement Chief~~Deputy Director~~, staff shall be civil service in accordance with Article IX of the City Charter. ~~After the effective date of this Charter provision, the Commission Executive Director shall identify special qualifications and experience that the Program Analysts and Operation Support Specialist candidates must have.~~ Candidates for ~~staff~~future vacancies shall be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time, except that said selective certification shall not be subject to discretionary approval by the Personnel Director.
- (5)(6) All staff are subject to the restrictions in Charter Section 603(e), except that staff are not prohibited from employment with the City and the one-year post-service restriction shall apply only to the Executive Director.
- (h) Amendment of Laws. Prior to enacting any amendments to laws that the Commission has the power to enforce, the City Council shall make a finding that the proposed changes further the goals and purposes of the ordinance or program in question and provide specifics substantiating the finding. Absent an urgency finding akin to suspending compliance with the Sunshine Ordinance, amendments to laws that the Commission has the power to enforce and proposed ballot measures that would amend such laws that are proposed by one or more members of the City Council shall be submitted to the Commission for review and comment, prior to passage of the amendments or approval of the proposed measures for the ballot by the City Council.
- (i) References to Other Laws in this Section. All references to other laws in this Section shall refer to these laws as they may be amended from time to time.

SECTION 7. Severability. Should any provision of this Measure, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Measure or the application of this Measure to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 8. Effective Date. This Measure shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council, except the amendments to the Oakland Campaign Reform Act and Lobbyist Registration Act shall go into effect on January 1, 2023.

; and be it

FURTHER RESOLVED: That each ballot used at the November 8, 2022 election shall have printed, in addition to any other matter required by law, the following:

Ordinance Enabling Resident Allocation of Public Financing for Election Campaigns and Charter Amendment Authorizing Public Ethics Commission Budget and Staffing Increases to Manage the Public Financing

MEASURE __

Measure __. Shall the Measure amending the Oakland Municipal Code and City Charter to establish resident public financing for candidate election campaigns, increase transparency regarding independent spending in City elections, further restrict former city officials from acting as lobbyists, and provide additional resources to the Public Ethics Commission for implementation be adopted?	Yes	
	No	

; and be it

FURTHER RESOLVED: That the City Council authorizes and directs the City Clerk of City of Oakland to file certified copies of this resolution with the Alameda County Clerk at least 88 days prior to November 8, 2022; and be it

FURTHER RESOLVED: That the City Council requests that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of City of Oakland; and be it

FURTHER RESOLVED: That the City Clerk is directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3 of the Oakland Municipal Code, the Government Code, and the Elections Code of the State of California; and be it

FURTHER RESOLVED: That in accordance with applicable law, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

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FURTHER RESOLVED: That the City Council requests that the Registrar of Voters of County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2022 General Municipal Election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 8, 2022 General Municipal Election, consistent with the laws of the City of Oakland and the State of California.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: **JUL 11 2022**

AYES - FIFE, ~~REID~~, KALB, ~~REID~~, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS - 6

NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - 2 Gallo
Kaplan

ATTEST:

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE _____

TITLE: MEASURE AMENDING THE OAKLAND MUNICIPAL CODE AND CITY CHARTER TO: (1) ESTABLISH RESIDENT PUBLIC FINANCING FOR CANDIDATE ELECTION CAMPAIGNS; (2) INCREASE TRANSPARENCY REGARDING INDEPENDENT SPENDING IN CITY ELECTIONS; (3) FURTHER RESTRICT FORMER CITY OFFICIALS FROM ACTING AS LOBBYISTS; AND (4) PROVIDE ADDITIONAL RESOURCES TO THE PUBLIC ETHICS COMMISSION FOR IMPLEMENTATION

FILED
OFFICE OF THE CITY CLERK
OAKLAND
22 JUL 28 PM 4:27

SUMMARY:

This measure would amend the Oakland Municipal Code to establish a program to allow Oakland residents to allocate public financing for candidates' campaigns for City of Oakland and Oakland School Board elections, increase transparency regarding independent spending in City elections, and further restrict former City officials from acting as lobbyists. This measure also would amend the City Charter to provide additional resources to the Oakland Public Ethics Commission for implementation of the new public financing program.

The measure would:

- repeal the existing Limited Public Financing Act (Oakland Municipal Code Chapter 3.13), which provides the City's current system for publicly financing candidate campaigns, and replace it with the Fair Elections Act, that would establish a new public financing program;
- make public financing available to candidates for any City or Oakland School Board elected office;
- allocate public financing by providing four "Democracy Dollars" vouchers to every eligible Oakland resident, who would be allowed to award their vouchers to participating candidates for redemption from the City at \$25 per voucher;
- establish budget set-aside requirements to fund the program.

Like the Limited Public Financing Act, the Fair Elections Act would be administered by the Public Ethics Commission.

This measure would eliminate lower contribution limits for candidates who decline the voluntary expenditure ceiling, providing all candidates the same contribution limits.

The measure would remove limits on contributions to independent (i.e., third-party) groups spending to influence voters in City elections. This measure also would expand disclosure requirements on campaign advertisements from such groups,

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requiring disclosure of their top three donors of \$5,000 or more, and requiring the filing of additional disclosures with the Public Ethics Commission. In addition, the measure would require "paid for by" disclosures on all campaign and officeholder communications, as well as disclosures on social media accounts used for campaign purposes.

The measure would prohibit former City officials from acting as local government lobbyists after leaving office for two years instead of the current one-year prohibition.

The measure would amend the City Charter to increase minimum staffing for the Public Ethics Commission, funding a Democracy Dollars Program Manager and three full time positions to administer the new public financing program.



Barbara J. Parker
City Attorney

22 JUL 28 PM 4:27

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE _____

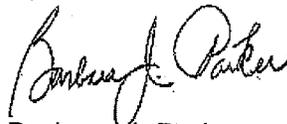
The Oakland Public Ethics Commission is responsible for oversight of various laws including the Campaign Reform Act, the Limited Public Financing Act, and the Lobbyist Registration Act. In 2014, Oakland voters approved a City Charter amendment that created a new section 603 to strengthen the Public Ethics Commission, which included provisions to set aside money for minimum staffing.

This measure would repeal the Limited Public Financing Act and replace it with the Fair Elections Act. The current public financing program is available only to candidates for City Council; and it caps public financing for an election at \$500,000 and allocates the financing by reimbursing qualifying candidates. The new program would be available to candidates for City Council, Mayor, City Attorney, City Auditor, and School Board and would require that the City set aside a minimum of \$4,000,000 for public financing, per election, unless the City faces extreme fiscal necessity. Residents of Oakland would receive "Democracy Dollars" vouchers and could assign the vouchers to qualified candidates of their choice. Candidates who receive vouchers would be able to redeem them from the City to receive public financing.

The measure would amend the Campaign Reform Act to, among other things, lower contribution limits for publicly financed candidates and heighten disclosure requirements for third-party campaign advertisements. Instead of requiring identification of the top two donors of \$5,000 or more only on mass mailings and television advertisements, the measure would require identification of the top three donors on all third-party advertisements.

This measure would amend the City Charter to increase minimum staffing for the Public Ethics Commission. The measure also would extend the restriction on former City officials acting as local government lobbyists after leaving office from one year to two years.

The Oakland City Council placed this measure on the ballot. A "yes" vote supports the replacement of the Limited Public Financing Act ordinance with the Fair Elections Act ordinance and amendment of the Campaign Reform Act and Lobbyist Registration Act ordinances and Section 603 of the City Charter. A "no" vote opposes replacement of the Limited Public Financing Act with the Fair Elections Act and amendment of the Campaign Reform Act, Lobbyist Registration Act, and Section 603 of the City Charter. A majority vote (i.e., more than 50% of the votes cast) is required to pass the measure.



Barbara J. Parker
City Attorney

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Fair Elections Act Ballot Measure November 2022
Impartial Financial Analysis
Office of The City Auditor
Page 2

FILED
OFFICE OF THE CITY CLERK
OAKLAND

22 JUL 29 PM 7:32

Summary

This measure, if approved by a majority of Oakland voters, would repeal the Limited Public Financing Act (LPFA), which has been in effect since 1999, and enacts the Fair Elections Act (Act) enabling resident allocation of public financing for elective office campaigns. It would also modify the Campaign Reform and Lobbyist Registration acts and fund the Public Ethics Commission (PEC) to implement the new Act. This Act would first apply to the 2024 elections.

The proposed measure would specifically create the Democracy Dollars Program, consisting of vouchers (four \$25 vouchers, totaling \$100) to be distributed to eligible Oakland residents to support the campaigns of candidates for City Council, Mayor, City Auditor, City Attorney, and school board. The purpose is to expand participation for elective offices in Oakland. The Act would also extend the lobbying ban from one year to two years after a City official leaves government service to curb corruption and the appearance of corruption.

Financial Analysis

If the measure passes, and if the City Council adopts such an ordinance in the future, we estimate the City would incur approximately \$700,000 in one-time start-up costs, approximately \$1,600,000 in annual operating costs, and \$3,845,000 in additional budget appropriation every two years to the Democracy Dollar Fund (Fund). These estimated costs are described below.

One-time start-up costs

We estimate the City will incur \$700,000 in one-time start-up costs which include integrating the new system requirements into the existing campaign financial reporting system and establishing technical requirements.

Annual operating costs

We estimate the City will incur \$1,600,000 in annual operating costs to administer the Act. This estimate includes \$350,000 in annual non-staff-related administrative costs and \$1,250,000 in additional staffing costs to hire four additional staff to administer the Act.

Biennial budget for the Fund

The legislation requires the City Council to appropriate \$4 million every two years to fund the vouchers. This new program would replace the existing LPFA program currently



Arvon Perteet, Chair
Michael B. MacDonald, Vice-Chair
Charlotte Hill
Jessica Leavitt
Ryan Micik
Joe Tuman

Whitney Barazoto, Executive Director

TO: Public Ethics Commission
FROM: Whitney Barazoto, Executive Director
DATE: March 31, 2022
RE: Proposed Legislation to Amend the Oakland Campaign Reform Act and
Lobbyist Registration Act and to Replace the Limited Public Financing Act with
the Oakland Fair Elections Act

SUMMARY

The Public Ethics Commission (PEC or Commission) is reviewing a proposal submitted by the Bay Area Political Equality Collaborative (BayPEC) to redesign Oakland's public financing system to facilitate meaningful participation by all Oaklanders in the campaign process through a Democracy Dollars program that provides \$100 to every Oakland voter to give to the candidate(s) of their choice.

Specifically, the proposed legislation would strike all existing language in the Limited Public Financing Act and replace it with the Oakland Fair Elections Act and a newly constructed public financing program that disperses \$100 in Democracy Dollars to each Oakland voter who can then assign the Dollars to their preferred candidate. The new law outlines criteria for participation and thresholds that a candidate must meet to qualify for the program and receive assigned vouchers, including campaign spending limits and participation in a certain number of public forums. It also includes a significant outreach component, to be led by the PEC, as well as a variety of new duties for the PEC and its staff.

The proposed legislation also amends the City Charter to add required funding as well as four new PEC staff positions to implement the new program. In addition, the legislation adjusts contribution and spending limits for Oakland campaigns and extends the post-employment lobbying ban for City officers from one-year to three years.

Below is a more detailed summary of the changes. Overall, Commission staff is supportive of the proposed legislation; however, staff will need more time to fully analyze all the detailed legal and practical implications of the newly proposed Democracy Dollars Program and work with the authors to ensure the provisions are clear and aligned with state and local laws. Staff suggests the creation of a subcommittee of Commissioners to be available alongside staff in coordinating with BayPEC and City Councilmembers on future amendments as this moves through the legislative process.

EXISTING LAW

The Public Ethics Commission is established in City Charter section 603, as amended by voters in 2014, and is tasked with the duty to implement and ensure compliance with the Oakland Campaign Reform Act, Limited Public Financing Act, and Lobbyist Registration Act, among other laws.¹ City Charter section 603 further requires that amendments to any law that the Commission has the power to enforce and that are proposed by a member of City Council must be submitted to the Commission for review and comment prior to passage by the Council.²

The state-level California Political Reform Act governs rules, requirements, and restrictions related to candidates and their committees. The Oakland Campaign Reform Act (OCRA) was passed by City Council in 1994 to impose additional requirements and restrictions on local candidates, including contribution limits, expenditure ceilings, electronic reporting requirements, and other restrictions. Candidates for City office must comply with both state and local campaign finance rules.

The Limited Public Financing Act (LPFA), enacted in 1999 and updated in 2010, provides District City Council candidates with some public funds by way of reimbursements for certain qualified expenditures, to be used for campaign expenses with the goal of helping ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The existing LPFA program is a reimbursement system in which candidates must meet certain contribution and expenditure threshold requirements in order to receive public funds by way of reimbursements for certain kinds of campaign expenditures; the program has been funded at \$155,000 per election cycle and provides roughly \$10,000-\$20,000 in public funds per eligible candidate per election. Campaign expenditure ceilings (capping total spending by a candidate's campaign during an election cycle) generally range between \$140,000-\$160,000 for each City Council district race.

The Lobbyist Registration Act (LRA), first adopted in 2002, requires lobbyists to register and file quarterly reports with the PEC and imposes limitations on lobbyist gifts, payments, and other activities, including a one-year ban on former City officers, department heads, or budget director lobbying the City after leaving office. "City officer" includes the Mayor, City Administrator, City Councilmembers, City Attorney, City Clerk, City Auditor, and executive officers and members of City commissions and boards.³

PROPOSED AMENDMENTS

The proposed legislation consists of four sections, each amending a separate local law as follows:

- I. **Amends Oakland Municipal Code Title 3 by deleting Chapter 3.13 (Limited Public Financing Act) and adding a new Chapter 3.15, titled "Oakland Fair Elections Act"**

¹ City Charter Sec. 603(b)(1)(ii).

² City Charter Sec. 603(h).

³ City Charter Sec 400.

Item 10c - Staff Memo dated March 31, 2022

This is the most substantive of the four categories of amendments whereby the existing Limited Public Financing Act (Chapter 3.13) is deleted in its entirety and is replaced by a new Democracy Dollars Program (Program) that distributes public funds to all Oakland residents who are registered to vote so that they may give the funds to the candidate(s) of their choice.

The Democracy Dollars Program includes the following main components:

1. Funding for Democracy Dollars
 - a. Establishment of a Democracy Dollars Fund of \$4 million for funding of four \$25 Democracy Dollars (for a total of \$100) for each election to be distributed to eligible residents who are registered to vote or who request Democracy Dollars electronically and meet specified criteria.
 - b. Appropriation of at least \$1,250,000 to the PEC for administration of the Program, subject to CPI increases every two years.
 - c. An additional appropriation of at least \$700,000 to cover initial start-up costs to build the Program (most likely to go toward technology needed to implement the Program)
2. PEC is Responsible for Administering the Program and Shall Do the Following:
 - a. Adopt rules, regulations, and procedures to implement the Program and has discretion to adjust main conditions of the Program as needed.
 - b. Design the Democracy Dollar to include elements specified by law.
 - c. Conduct education and outreach, including developing an outreach plan in coordination with community organizations and the City's Race and Equity Department, to ensure all City residents are informed about the Program.
 - d. Create and maintain an online portal with information such as the resident's name, date, candidate recipient name and office sought for each Democracy Dollar assigned, as well as broader information about the total number of DD's assigned to and redeemed by each candidate and an online mechanism for requesting and assigning DD's.
 - e. Conduct audits of all certified candidates.
 - f. Issue oral advice and written options.
 - g. Review the implementation of the Program in coordination with the Race and Equity Department and submit a post-election report to City Council.
 - h. Review the Fund, project the amount of revenue available in the Fund to ensure it will be sufficient to disburse DD proceeds up to the maximum amounts allowable under the Program and if not, request an appropriation from Council. If none provided, then proceed with modifications to the program as indicated by law.
3. PEC Creates and Distributes Democracy Dollars to Voters

Item 10c - Staff Memo dated March 31, 2022

- a. PEC shall mail to each eligible resident who is registered to vote four \$25 Democracy Dollars no later than April 1 of the year in which the election occurs.
 - b. PEC shall develop an electronic system for the administration of the Program to receive and maintain information regarding Democracy Dollars, electronically distribute Democracy Dollars to eligible residents upon request, and monitor the redemption of Democracy Dollars issued.
4. Residents Assign Democracy Dollars (DD)
- a. Residents may give, or “assign,” one or more of their four \$25 Democracy Dollars to the candidate(s) of their choice by writing the name of the candidate on the DD, signing and dating the DD, and submitting the DD to the PEC (by mail, personal delivery, or online) or to a candidate or representative of the candidate.
 - b. DD’s can be assigned by a resident up to 30 days after the election.
5. Candidates Must be Certified in the Program to Receive DD’s; Steps for Certification Include the Following:
- a. Candidate must submit a notice of intent to apply for certification in the Program during the qualifying period (Jan 1 of the election year through 14 days after the close of the nomination period, which is usually around early-August). On the notice of intent, candidates must attest to personally participating in at least three public debates or forums (five for Mayoral candidates), among other requirements.
 - b. Candidate must submit a written application for certification during the qualifying period attesting that they have met specified requirements and that they have received the minimum number of qualifying contributions required for the office sought:
- | Office Sought | Total # of Qualifying Contributions Needed | Minimum # Needed from Each District |
|---|--|-------------------------------------|
| Mayor | 400 | 10 |
| City Attorney, City Auditor, At-Large Councilmember | 150 | 5 |
| District Councilmember | 125 | 5 |
| School Board Director | 75 | 5 |
- c. PEC Director reviews and determines whether candidates have met requirements to become certified, and, once certified, may revoke a candidate’s certification if they fail to qualify for the ballot or withdraw from the election.
 - d. The Commission may revoke a candidate’s certification if the candidate violates or no longer meets certification requirements or commits other violations of state or local law.
 - e. A candidate whose certification is revoked must return remaining DD proceeds to the Fund and in some cases (legal violations) shall be personally liable for any DD proceeds already spent by the candidate.

Item 10c - Staff Memo dated March 31, 2022

6. Certified Candidates Redeem Democracy Dollars (DD's) for Payments to their Campaign

- a. A candidate may submit assigned DD's to the PEC by mail or personal delivery up to 30 days after the election day.
- b. The PEC shall distribute DD proceeds from the Fund to the candidate after verifying the candidate is certified, the DD was properly assigned by an eligible resident, and the disbursement of the DD proceeds will not cause the candidate to exceed the maximum amount of DD proceeds available to that candidate. Maximum amounts of DD proceeds available for each office are as follows, subject to CPI adjustment every two years:

Office Sought	Maximum Amount of DD Proceeds Available
Mayor	\$400,000
City Auditor, City Attorney, At-Large Councilmember	\$150,000
District City Councilmember	\$100,000
School Board Director	\$50,000
Uncontested Candidates	\$10,000

- c. Disbursements shall be issued pursuant to a timeline set by the PEC with disbursements occurring no less than twice per month, and, in October and November of an election year, no less than once per week until the election.

7. Certified Candidates Must Limit Campaign Spending

- a. An applicant or certified candidate may not make qualified campaign expenditures in excess of the expenditure limit for the office sought, as follows (subject to CPI increases every two years):

Office Sought	Campaign Expenditure Limit
Mayor	\$470,000
City Auditor, City Attorney, At-Large Councilmember	\$200,000
District City Councilmember	\$150,000
School Board Director	\$75,000

- b. The PEC Director shall release a candidate from the expenditure limit upon request and verification that an opponent has funds that exceed the expenditure limit or that independent expenditures exceeding the expenditure limit were made in opposition to the petitioning candidate or supporting another candidate for that office.

8. Additional rules, restrictions, and requirements limiting the use of personal funds and campaign funds, requiring return of surplus funds after an election, and prohibitions on the sale or transfer of Democracy Dollars, among other details.

9. PEC Enforcement includes administrative and civil penalties similar to those in other laws enforced by the PEC.

10. The new Democracy Dollars Program shall first apply to the 2024 elections and continue through subsequent elections.

II. Amends Oakland Municipal Code Chapter 3.12 (Oakland Campaign Reform Act)

This section makes several changes to the Oakland Campaign Reform Act (OCRA) to conform with the newly proposed Democracy Dollars Program as well as additional changes to enhance disclosure requirements for independent expenditure advertisements, among other amendments. Specifically, the new amendments do the following:

1. Deletes OCRA's unique term and definition for "broad-based political committee" and instead use the term "small contributor committee" which is defined by state regulations under the California Political Reform Act. (PEC-staff requested amendment to update/align local law with state rules)
2. Sets individual contribution limits for all candidates at \$400 (currently \$900), and for small contributor committees at \$800 (currently \$1,800), adjusted annually per the CPI. Clarifies that Democracy Dollars and public funds dispersed to candidates shall not be considered a "contribution" under OCRA.
3. Deletes the requirement that a loan to a candidate or committee shall be by written agreement to be filed with the candidate's campaign statement on which the loan was first reported. (PEC-staff requested amendment to simplify and reduce unnecessary requirements.)
4. Deletes the requirement that funds contributed to a candidate or official's legal defense fund must first be deposited into the campaign bank account prior to being deposited into the legal defense fund. (PEC-staff requested amendment to delete an outdated requirement that serves no purpose and that makes it more challenging to track activities and view campaign finance data.)
5. Deletes all sections related to campaign expenditure ceilings, which are now included within the public financing framework in the Fair Elections Act.
6. Expands disclosure of committees receiving contributions of \$5,000 or more from its top two to its top three highest contributors on all mass mailings and advertisements (not just TV ads) that are independent expenditures supporting or opposing Oakland candidates or measures.
7. Adds a new section to require a person to notify the PEC of an independent expenditure communication costing \$1,000 or more and to provide detailed information, as well as a copy of the communication such as telephone/audio/video scripts and a copy of the audio or video file or printed materials, to the Commission by specified deadlines. The PEC shall post all copies of IE communications filed with the Commission within 48 hours or receipt.
8. Adds language to require late filing fees and any funds forfeited to the City to be deposited into the Democracy Dollar Fund.
9. Expands City Clerk duties to ensure the Clerk's office provides the PEC with information and forms necessary to implement the Democracy Dollars Program and ensure compliance with OCRA rules.

10. Makes minor changes to the findings and declarations as well as the purpose of the OCRA to align the intent language with the new changes in the law.

III. Amends Oakland Municipal Code Chapter 3.20 (City of Oakland Lobbyist Registration Act)

This brief amendment extends the lobbying ban on former City officers from one year to three years after leaving office.

IV. Amends Oakland City Charter Section 603 (Public Ethics Commission)

This section makes conforming changes to City Charter section 603, regarding the establishment, activities, authority and staffing of the Public Ethics Commission, to integrate the new Oakland Fair Elections Act (OFEA) and provide sufficient staffing to implement the new Democracy Dollars Program. Specifically, the proposal adds the following:

1. Beginning on July 1, 2023, the City shall appropriate to the PEC at least \$1,250,000 to administer the Democracy Dollars Program, as well as at least \$4,000,000 for the purpose of funding Democracy Dollars. In addition, for the 2023 fiscal year, the City shall appropriate at least \$700,000 for the purpose of start-up costs associated with initiating the Democracy Dollars Program.
2. Effective July 1, 2023, the City shall provide adequate staffing necessary to properly administer the Democracy Dollars Program, including at least 4 additional full-time positions reporting to the Executive Director: a Program Director, two Program Analysts, and one Administrative Assistant.

ANALYSIS

In September 2020, the Commission issued a report, *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race*, that reviewed outcomes from Oakland's existing public financing program and overall campaign finance system and recommended a new approach for Oakland to expand and diversify participation and influence in the campaign process. The Commission conducted a comprehensive review of campaign finance data and activities and articulated the ways in which some Oaklanders lack political power, particularly in the campaign finance process which relies on those with money to make contributions to political campaigns. The Commission explored best practices in other jurisdictions, including other public financing models, and concluded that a Democracy Dollars program "shows the most promise for bringing equity to the campaign finance process since it equips all voters with campaign 'cash' to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior engagement."⁴

The PEC's 2020 report further concluded that "a Democracy Dollar system must be accompanied by broad public engagement infrastructure-building efforts... to ensure a fertile

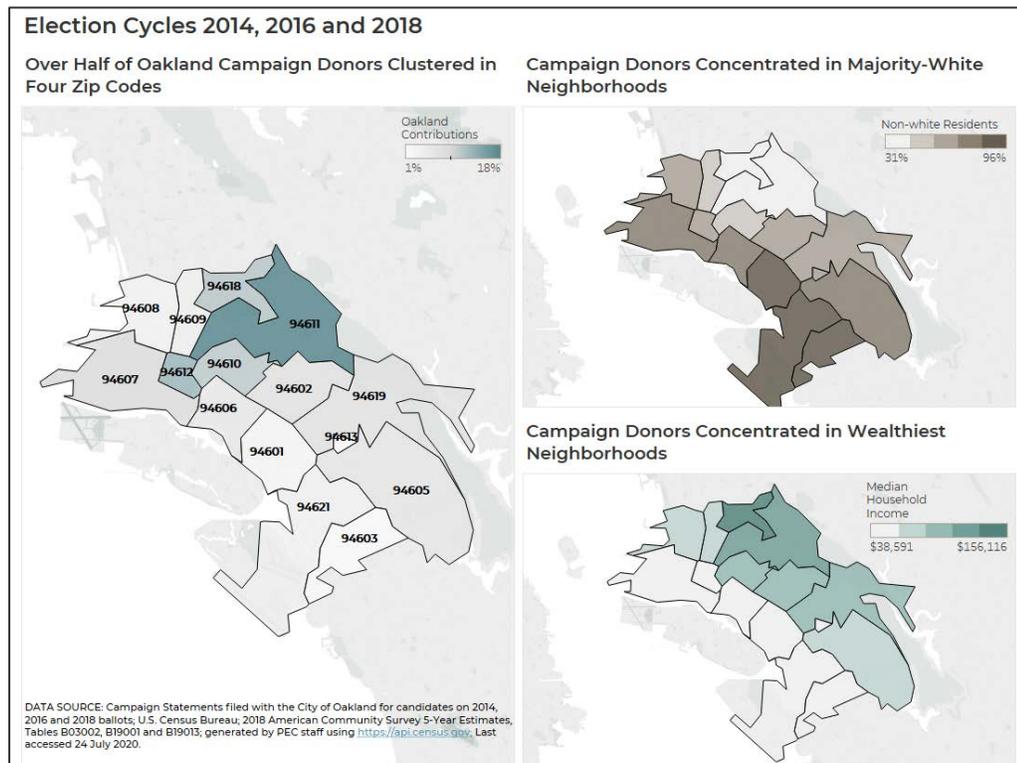
⁴ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 23.

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ecosystem of candidates and community leaders, connections between City liaisons and communities, effective communications and outreach, and other elements needed for successful integration of a new system of broader and more diverse participation.”⁵

Specifically, the Commission noted the following:

- The existing campaign finance system leaves out low-income communities and communities of color who donate and vote at lower rates than wealthier, whiter communities as evidenced by the source of contributions made to candidate campaigns far more densely clustered around neighborhoods that are disproportionately white, wealthy, and non-representative of the racial and socio-economic diversity of Oakland residents overall.⁶



- Further, the target of candidates’ campaign outreach and contribution solicitation efforts are prior voters and high propensity voters as well as potential campaign donors, which creates and further perpetuates these disparities since candidates, who want to win their election, are incentivized to continue to focus on engaging those most reliable donors and voters who have a record of engaging in the political process.⁷

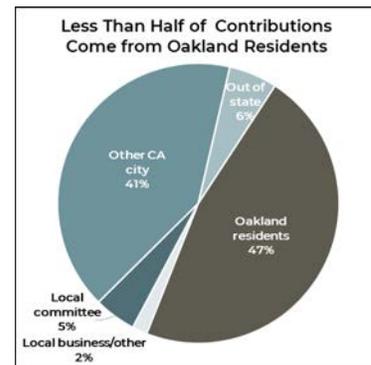
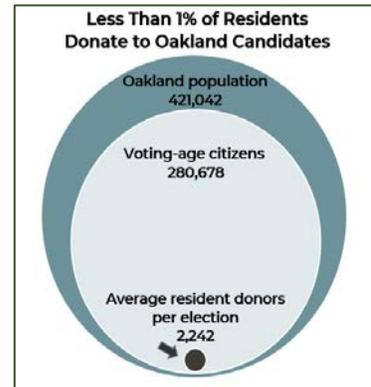
⁵ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 23.

⁶ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 6.

⁷ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 4.

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- With an average of 2,242 residents contributing to Oakland candidates across the 2014, 2016, and 2018 elections, that means less than 1% of Oaklanders participate in contributing to Oakland candidates.⁸
- Half of all contributions from Oakland residents come from neighborhoods in just four zip codes (94611, 94610, 94618, and 94612).⁹
- Oaklander contributions make up less than half of all contributions made to Oakland candidates.¹⁰
- Empirical research indicates that elected officials and candidates for office are most responsive to two groups: voters and political donors, that political donors are the most influential, and that non-constituent donors have more influence on policymakers than constituent non-donors.¹¹
- The existing LPFA program has not reduced the influence of large contributors in local elections and has not reduced the pressure faced by candidates to fundraise, nor led to an increase in the number of candidates pursuing local office.¹²



In sum, the PEC report found that Oakland's existing campaign finance system gives donors from outside of Oakland and Oakland residents in wealthier, whiter neighborhoods disproportionate influence in choosing elected officials and potentially shaping policy outcomes over everyone else. In a city like Oakland, where the candidate with the most funds behind them almost always wins, this means low-income residents and people of color are disproportionately missing from the political campaign decision-making process, creating a clear equity and public participation issue in a system that is supposed to share power democratically.

The proposed amendments are intended to create a new public financing system here in Oakland by dispersing a small amount of public funds in certificate form called Democracy Dollars directly to every Oakland voter rather than in lump sum to candidates. Candidates must then meet certain requirements to become a certified candidate to receive Democracy Dollars from Oaklanders, including public forums and reasonable campaign spending limits, among others. Candidates are then incentivized to seek out these small contributions that are in the hands of every Oakland voter to both raise money for their campaign and spread their campaign messages.

⁸ Id. Pg. 1.

⁹ Id. Pg. 6.

¹⁰ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 6.

¹¹ Id. Pg. 9, see citations within.

¹² Id. Pg. 4.

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This new model of equitizing campaign finance was first adopted by Seattle voters in 2015 and implemented in the City's 2017 election. As of September 2020, the following benefits had been reported from Seattle's new system:

- **Contributors Tripled** – Data from Seattle's first election cycle with vouchers in 2017 showed the number of campaign contributors tripled from the comparable election cycle for the same races in 2013, with more than 25,000 Seattle residents participating as campaign donors in 2017, three times the 8,200 resident donors in 2013.
- **New Contributors** – Roughly 84 percent of the 2017 election cycle's Seattle donors were estimated to be new donors; including about 20,900 individuals who had not contributed to city candidates in the 2015 or 2013 cycles. And 71 percent of these new donors were voucher donors.¹³
- **More Representative Contributors** – An academic review of Seattle's voucher program in 2018 found that “compared to cash contributors in the 2017 election, participants in the Democracy Voucher program were generally more representative of the Seattle electorate. Low and moderate-income residents comprise a substantially larger share of voucher users than cash donors. Voucher users are more likely than cash donors to come from the poorest neighborhoods in the city. Residents under 30 years old make up a larger share of voucher users than cash donors.”¹⁴
- **Earlier and More Participation in 2019** – In the first two months that vouchers were distributed by the city between February and April 2019, with all seven Seattle city council seats up for election in November 2019, more than 11,000 Seattle residents had redeemed their vouchers, which is already more individual donors participating in city campaigns than in all of 2015 before vouchers existed.¹⁵ By the end of the 2019 election, 38,092 residents submitted more than 147,128 Democracy Vouchers for a total disbursement of \$2.5 million in public financing.¹⁶

The PEC's report summarized further benefits regarding Seattle's system as follows:

Cash in the Hands of All Voters Changes Candidate Behavior

Candidates who ran in Seattle's first iteration of its voucher system experienced an entirely new framework for campaigning. Since every voter now had campaign “cash” to give to a campaign, all voters became the target of campaign outreach efforts. Under the new system, candidates were incentivized both to educate voters about how to use their own vouchers and to ask them to give their vouchers to support the candidate.

For example, Teresa Mosqueda, a former labor activist who is third-generation Mexican-American and the daughter of educators and social justice activists,

¹³ First Look: Seattle's Democracy Voucher Program, Reducing the Power of Big Money and Expanding Political Participation. Win/Win Network and Every Voice. P. 2. November 15, 2017.

¹⁴ Jennifer Heerwig and Brian J. McCabe. Expanding Participation in Municipal Elections: Assessing the Impact of Seattle's Democracy Voucher Program. University of Washington, Center for Studies in Demography & Ecology. P. 1. April 3, 2018.

¹⁵ Seattle's Democracy Voucher Program is Already Sparking a Lively Election Season. Margaret Morales. Sightline Institute. April 23, 2019.

¹⁶ Seattle Ethics and Elections Commission. Democracy Voucher Program Biennial Report 2019. P. 5.

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ran under the new voucher system for the at-large district 8 City Council seat in 2017. She said the new system incentivized candidates to go out and talk to every voter, so that is how she focused her campaign.¹⁷ “The democracy vouchers encourage candidates to spend time talking with actual residents, rather than asking wealthy donors to write large checks,” said Mosqueda about her campaign experience. “I spent my evenings and weekends in neighborhoods around Seattle talking about the issues we care about.” Mosqueda won her election to office with a 20-point lead and tipped the Seattle City Council toward a majority of people of color and a supermajority of women. “Candidates like me, who pledged to use democracy vouchers and refuse donations over \$250, were more connected to the city’s diverse population,” she added. As a result, she said, she spent her “first eight months in office bringing forward legislation that comes directly from community — from domestic workers protections to affordable housing solutions.”¹⁸

The new system also can change behavior for candidates who do not participate in the voucher program but who run against candidates who do. For example, one Seattle nonprofit leader shared his observation that Jenny Durkin, the winning mayoral candidate in the 2017 election who did not use the voucher system to fund her campaign opted to join in candidate forums that started to pop up in communities that previously were not the target of campaign efforts, simply because the new voucher availability in those communities drew the voucher system candidates there and she needed to stay competitive by being in the room with the other candidates. Durkin won, and she later hired staff into her Mayoral administration that she met in those new communities which, without the voucher system in place pushing the other candidates to reach out to those communities, she would never have encountered.¹⁹

After analyzing other alternative public financing programs, the PEC report concluded that a system of providing Democracy dollars (like the Seattle model) was the best approach for Oakland since it provides public funds to all City voters in a manner that is intended to provide equity across the board and incentivizes candidates to engage across all demographics regardless of wealth and history of prior engagement. The proposed legislation implements this ideal approach.

The proposed legislation further includes a significant outreach component, requiring the PEC to initiate an outreach program to ensure that all voters are aware of the Democracy Dollars Program. While this is important for the program, additional public engagement infrastructure-building efforts, will be critical to ensure successful integration of the new system of broader and more diverse participation, as the PEC discussed in its report:

¹⁷ Teresa Mosqueda. Seattle City Councilmember. Speaking at the Bay Area Political Equality Collaborative Convening. January 23, 2018.

¹⁸ Teresa Mosqueda. *I'm Still Paying Off My Student Loans — Here's How I Funded My Campaign (And Won)*. Bustle.com, August 14, 2018.

¹⁹ Aaron Robertson. Managing Director, Policy and Civic Engagement. Seattle Foundation. Interview August 17, 2018.

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While the [Seattle Democracy Dollars] system was significant as the first of its kind in the country, also significant is the level of community outreach specifically intended to engage communities of color into the campaign finance process, conducted parallel to the implementation of the voucher system. These civic engagement programs – some woven into the voucher program and others separate from it – provided a strong network of infrastructure that helped bridge different communities in a way that enhanced success of the program and other organizations with shared civic participation goals.²⁰

Overall, the proposed legislation is worthy of the Commission’s general support as an innovative model for providing public financing in a manner that distributes power out to all Oakland voters in the form of \$100 in Democracy Dollars as a means of ensuring candidate outreach across demographics and expanding citizen participation in the campaign process. Given the size, scope, and complexity of the proposal, PEC staff will need to engage further with the authors on the details of the legislation following the PEC’s initial review, including continuing to work with the authors and City Councilmembers as it proceeds through the legislative process.

RECOMMENDATION

Commission staff recommends the Commission support the proposal, create a PEC subcommittee for PEC staff to consult with to continue to analyze program details and identify technical or substantive amendments, and direct PEC staff to work with the author on amendments as needed and to bring any significant changes back to the Commission for review prior to final adoption by City Council.

²⁰ Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race. Public Ethics Commission. September 2020. Pg. 17. See also Pg. 18 for discussion of non-profit and county-level organizations doing parallel work to expand participation.



Arvon J. Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Ana Lara-Franco, Administrative Analyst
Suzanne Doran, Acting Executive Director
DATE: November 30, 2022
RE: Disclosure and Engagement Report for the December 14, 2022, Meeting

This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities since the last monthly meeting. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as required. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunities for dialogue between the Commission and community members.

Compliance with Disclosure Requirements

Commission staff conducts filing officer duties as required by state and local law and aims to help candidates, lobbyists and City officials submit required disclosure reports and ensure residents can easily access campaign finance, lobbyist, and ethics-related data and information. The goal is for the public and the PEC to be able to monitor filings, view information, and detect inconsistencies or noncompliance.

Campaign finance disclosure – All candidates that were on the November ballot raising or spending \$2,000 or more were required to file a second pre-election campaign statement in October. Ballot measure committees and other recipient committees with fundraising or spending activity connected with the November ballot were also required to file pre-election campaign statements.

Commission staff coordinated with the Fair Political Practices Commission (FPPC) to swiftly contact candidates that missed any pre-election deadlines. All candidates submitted their statements, and late fees were assessed against one candidate.

Campaign statements are available to view and download at the PEC's [Public Portal for Campaign Finance Disclosure](#).

Lobbyist Registration and Reporting – October 30 marked the deadline for quarterly lobbyist activity reports covering the period from July 1 through September 30, 2022. 72 reports were filed. Two lobbyists have not filed reports. Staff is conducting outreach to non-filers to reach compliance. An up-to-date list of registered lobbyists with links to view and search individual reports is available at the PEC’s [Lobbyist Dashboard and Data](#) webpage.

Advice and Engagement

The Commission’s Engagement program seeks to ensure Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.

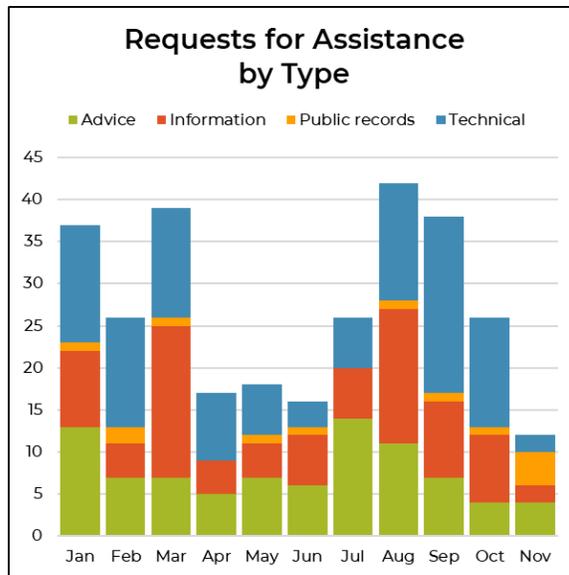
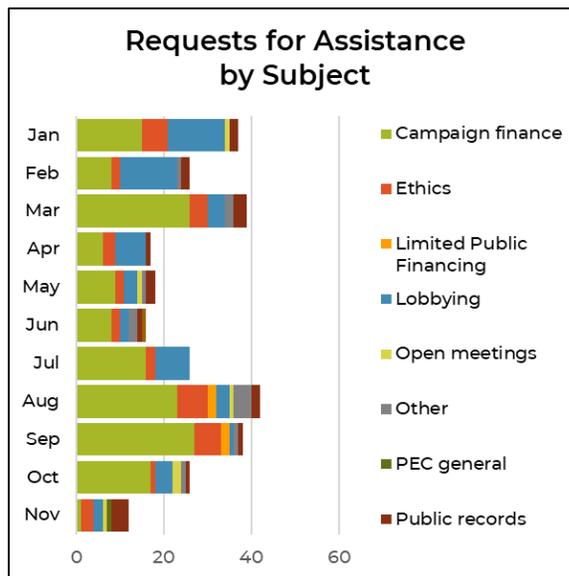
Advice and Technical Assistance – In November, Commission staff responded to 12 requests for information, advice or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues, for a total of 297 requests in 2022.

New Employee Orientation – Staff continues to make presentations at the City’s monthly New Employee Orientation (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). In November, Staff trained a total of 40 new employees on GEA provisions.

Ticket Distribution Training – On November 9, Staff met with District 1 Councilmember Dan Kalb and his staff for a training on the new ticket distribution policy. On November 30, Staff also provided the training to At-Large Councilmember Rebecca Kaplan and her staff. The training covered the purpose of the policy and recent changes to the rules including, the role of the Ticket Administrator, distribution procedures, limits on ticket use by officials, and new reporting requirements.

Limited Public Financing Program (LPF)

Commission staff administers the LPF program and provides training and ongoing interaction with candidates to facilitate program requirements and distribute the maximum amount of available public funds.



Item 12 - Disclosure Report

To date, \$159,038 of the \$177,000 available through the election fund has been claimed and processed for reimbursements to participating candidates. Each of the participating candidates were able to claim up to \$35,400 in reimbursements for qualified campaign expenditures.

The next LPF program deadline is January 31, 2023, in which LPF participants must return any surplus funds remaining in their campaign account as of December 31, 2022. Staff will continue to work with candidates to close out the LPF program for the 2022 election.

General Outreach

The Commission conducts outreach activities to ensure Oakland residents and the regulated community know about the Commission and that the Commission is responsive to their complaints and questions about government ethics, campaign finance, or transparency concerns.

Community Outreach/PEC Roadshow – On November 3, Chair Perteet and Commission staffer Jelani Killings presented at the Acorn & Oak Community Neighborhood Council meeting to share the Commission’s work and opportunities to apply for upcoming Commissioner vacancies. In the months of October and November, Commissioners and Staff presented at five Neighborhood Council meetings.

Online Engagement

Social Media – Each month Commission staff post social media content to highlight specific PEC policy areas, activities, or client-groups. In November, our posts highlighted the PEC’s election disclosure tools and data, as well as lobbyist disclosure data.

Item 13a - Enforcement Report



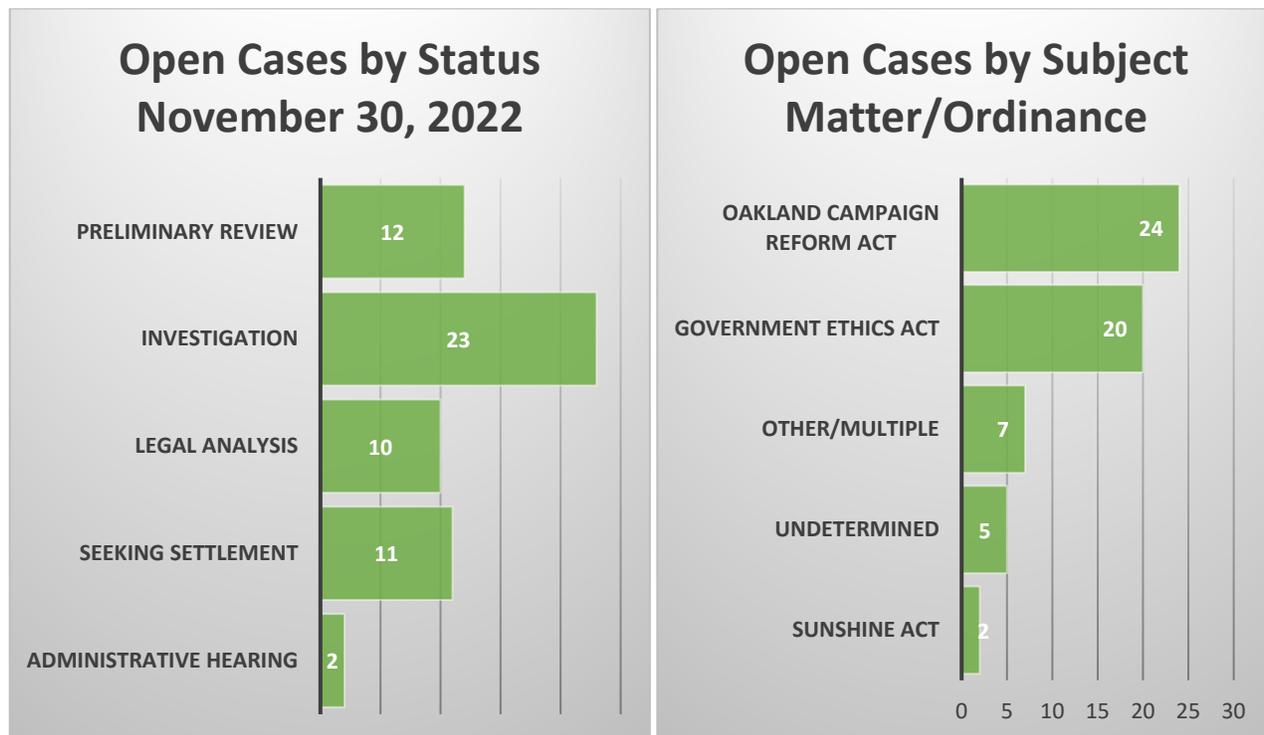
Arvon Perteet, Chair
Charlotte Hill
Ryan Micik
Joseph Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Simon Russell, Enforcement Chief
DATE: November 30, 2022
RE: Enforcement Unit Program Update for the December 14, 2022, PEC Meeting

Current Enforcement Activities:

Since the last Enforcement Unit Program Update submitted to the Commission on October 27, 2022, Commission staff received 7 formal complaints (two of which have been consolidated into a single complaint due to similarity in the allegations), dismissed 2 formal complaints, opened 1 new investigation, and is submitting one case to the Commission for settlement. This brings the total Enforcement caseload to 58 open cases: 12 matters in the intake or preliminary review stage, 23 matters under active investigation, 10 matters under post-investigation analysis, 11 matters in settlement negotiations, and 2 matters awaiting an administrative hearing.



Case Resolutions or Submissions

Since the last Enforcement Unit Program report on October 27, 2022, the following cases have been resolved or submitted to the Commission:

- 1. In the Matters of Dan Kalb (PEC Case No. 16-08a); Abel Guillen (PEC Case No. 16-08b); Lynette Gibson McElhaney (PEC Case No. 16-08c); Annie Campbell Washington (PEC Case No. 16-08d); Noel Gallo (PEC Case No. 16-08e); Desley Brooks (PEC Case No. 16-08f); Larry Reid (PEC Case No. 16-08g); Rebecca Kaplan (PEC Case No. 16-08h); Libby Schaaf (PEC Case No. 16-08i).** On June 7, 2016, Enforcement staff opened a proactive investigation to determine whether City officials' use and reporting of free tickets received by the City to events at the Oracle Arena and the Oakland Coliseum were in violation of the Oakland Government Ethics Act. In light of substantially improved compliance with the City's ticket distribution policy and changes to the law meant to address prior violations, Enforcement staff recommends that these matters be closed without any further action.
- 2. In the Matter of Rebecca Kaplan (PEC Case No. 20-40).** On February 22, 2021, Enforcement staff opened an investigation based upon a formal complaint, to determine whether Oakland City Councilmember At-Large Rebecca Kaplan failed to report her partial ownership interest in an Oakland condominium her Form 700 and/or made, participated in making, or attempted to influence a decision of the City concerning the expansion of a park next to her property, in violation of the Oakland Government Ethics Act. Enforcement staff and the Respondent have reached a stipulated agreement, and Staff recommends that the Commission approve the stipulation and impose a financial penalty in the amount of \$19,000.
- 3. In the Matter of Carroll Fife, Cat Brooks, W. Kamau Bell, Lateefah Simon, Julian Glover (Case No. 21-07).** On June 23, 2021, the City of Oakland Public Ethics Commission (PEC) received a formal complaint that alleged a violation of the Sunshine Act in connection with a private event attended by a City Councilmember. The complainant withdrew the complaint within days of filing, and PEC staff chose not to pursue the allegation any further. Due to a clerical error, PEC staff did not change the status of this complaint on its complaint database to "Closed" (it remained as "Preliminary Review"), nor was a notice of dismissal placed on the PEC agenda as required under the Complaint Procedures. PEC staff is correcting that error now. The status of this case is now "Closed." (See Attachments)
- 4. In the Matter of the Public Ethics Commission (Case No. 22-21).** On November 8, 2022, the City of Oakland Public Ethics Commission (PEC) received a formal complaint alleging that the PEC discussed an item at its public meetings of August 10 and September 14, 2022, that were not properly agendized under the Sunshine Act. After determining that it was permissible for the Enforcement Chief to review the complaint pursuant to the PEC's Complaint Procedures regarding complaints against the PEC itself, the Enforcement Chief found insufficient evidence to open an investigation and has dismissed the complaint with no further action. The status of this case is now "Closed." (See Attachments)

Legal Actions

Since the last Enforcement Unit Program report on October 27, 2022, the following public court actions have been submitted or scheduled by or on behalf of the Enforcement Unit:

1. **In the Matter of Mike Hutchinson for School Board 2016, Mike Hutchinson, Harriet Hutchinson (Case No. 17-09).** A hearing on a Petition To Enforce Investigative Subpoena in Alameda County Superior Court case no. 22CV019951, *City of Oakland Public Ethics Commission v. Harriet Hutchinson*, is scheduled for December 6, 2022, at 10:00 AM in Department 14.
2. **In the Matter of Andy Duong (Case No. 19-14).** On November 9, 2022, the PEC filed a “Status Update re Hearing on Contempt” in Alameda County Superior Court case no. RG20070117, *City of Oakland Public Ethics Commission v. Charlie Ngo*. A hearing was held on the matter on November 16, 2022. On November 30, 2022, the PEC filed a “[Proposed] Order to Show Cause Regarding Contempt of Court” in the same matter. Another hearing on the matter has been scheduled for January 25, 2023, at 1:30 PM in Department 511.
3. **In the Matter of Andy Duong (Case No. 19-14).** On November 16, 2022, the PEC filed a “Second Status Update re Noncompliance with Subpoenas” in Alameda County Superior Court case no. RG20075526, *City of Oakland Public Ethics Commission v. Margaret Yang*. There are no upcoming hearings on the matter.
4. **In the Matter of Andy Duong (Case No. 19-14).** On November 16, 2022, the PEC filed a “Second Status Update re Noncompliance with Subpoenas” in Alameda County Superior Court case no. RG20075540, *City of Oakland Public Ethics Commission v. Mark Hung Tran*. There are no upcoming hearings on the matter.

Except where otherwise noted, no allegations have yet been proved or admitted in any of the above matters, and the existence of these cases and associated litigation should not be taken as an indication that the potential respondent(s) necessarily violated any laws. This information is being provided for the PEC’s informational purposes only.



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

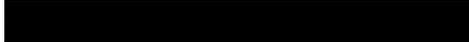
(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

November 10, 2022

Michael Zelinski



Via e-mail:



Re: PEC Complaint No. 21-07; Notice of Dismissal

To Michael Zelinski:

The City of Oakland Public Ethics Commission would like to notify you that it has dismissed your complaint (#21-07) for alleged Oakland Sunshine Act violations against Councilmember Carroll Fife, *et. al.* This is in response to a telephone conversation you had with our previous Enforcement Chief, Kellie Johnson, in which you made a request to withdraw your complaint after discussing the jurisdiction of the Public Ethics Commission.

Thank you for bringing this matter to our attention. If you have any questions, you can reach me at (510) 424-3200 or srussell@oaklandca.gov.

Sincerely,

Simon Russell

Simon Russell
Acting Enforcement Chief
City of Oakland Public Ethics Commission



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-5239
FAX (510) 238-3315
TDD (510) 238-3254

November 10, 2022

Carroll Fife
Councilmember, District 3



Via email: [Redacted]

Re: PEC Complaint No. 21-07; Notification and Dismissal Letter

To Carroll Fife:

On June 23, 2021, the City of Oakland Public Ethics Commission (PEC) received a complaint (#21-07) against you for alleged violations of the Oakland Sunshine Ordinance. Our standard practice is to notify people when a complaint has been filed against them, and in our file on this matter I found a draft notification letter to you from PEC Enforcement Chief Kellie Johnson, dated June 23, 2021. However, I am unable to determine if that letter was ever sent to you. I am therefore sending you the notification letter now, as well as a copy of the complaint, for your reference.

In reviewing our file on this matter, I also saw that Chief Johnson had also drafted a letter to you dated June 28, 2021, informing you that the complainant had withdrawn their complaint, and that we were therefore closing the matter with no further action. The letter also informed you that we would be informing the PEC of the closure of the matter at its meeting of August 2, 2021. (See attached for a copy of that letter). I am unable to tell from our file whether the letter of June 28, 2021, was ever actually sent to you. If it was not, then it should have been, and I am sending it to you now.

The PEC meeting of August 2, 2021, was ultimately canceled. I do not believe we ever informed the PEC of the closure of this matter at any of its subsequent meetings, which we are required to do under our complaint procedures. I am therefore informing the PEC of the resolution of this matter at its next public meeting on December 14, 2022, as part of our regular monthly

Item 13b - Dismissal Letter 21-07

PEC Complaint No. 21-07; Dismissal Letter

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update on Enforcement actions. This is purely informational, and no action will be taken by the Commission regarding this matter. You are welcome to attend that meeting and/or give public comment if you wish, but are not required to do so.

This matter was still classified as open (“Preliminary Review”) on the PEC’s complaint database. I have changed its status to “Closed” as of today.

I apologize for any confusion or anxiety this inadvertent delay in notifying you, and formally dismissing the complaint, may have caused.

This letter serves as formal notice that the matter is now closed. If you have any questions regarding this matter, please feel free to contact me at (510) 424-3200 or srussell@oaklandca.gov

Sincerely,

Simon Russell

Simon Russell
Acting Chief of Enforcement
City of Oakland Public Ethics Commission

/Enclosure

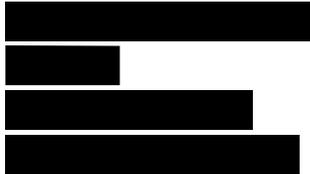


Item 13b - Dismissal Letter 21-07

ENFORCEMENT UNIT
1 FRANK H. OGAWA PLAZA, #104
OAKLAND, CA 94612
(510) 238-3593
TDD (510) 238-3254

June 23, 2021

Carroll Fife
Councilmember



Re: City of Oakland Public Ethics Commission Complaint 21-07

Dear Councilmember Fife:

On June 23, 2021 the City of Oakland Public Ethics Commission (PEC) received a complaint against you, alleging a violation of the Oakland Sunshine Ordinance. We are conducting a preliminary review of the allegations in the complaint and will contact you as soon as we have concluded our preliminary review.

Respectfully,

KELLIE JOHNSON | Enforcement Chief
CITY OF OAKLAND | Public Ethics Commission
City Hall, 1 Frank Ogawa Plaza, Room 104 |
Oakland, CA 94612
Phone: 510.238.238-4976 | Cell 510.508-6105 | Fax: 510.238.3315
Email: KJohnson3@oaklandca.gov
www.oaklandca.gov/pec

Enclosure: Copy of complaint



City of Oakland
Public Ethics Commission

Staff Initials:
Complaint #: 21-07

Complaint Form

The Public Ethics Commission can investigate complaints of violations of laws related to campaign finance, lobbyist registration, public records, open meetings, and governmental ethics laws. The Commission has limited authority to enforce public records, open meetings, and governmental ethics laws but may be able to issue findings and recommendations, or to take limited action, such as mediation, on these issues.

If you would like to submit a complaint that is within the Commission's jurisdiction, please complete this form, which becomes a public record available for inspection and copying by the public, along with any documents submitted with this form. A copy of this complaint will be made available to the persons identified in the allegations below. For more information about the Commission's complaint process, see the Commission's Complaint Procedures.

A Formal Complaint requires that you complete all of the information on this form, including your name, address, phone number, and signature verifying under penalty of perjury the information you provide in this complaint. The Commission must review and take action on the complaint and notify the complainant about the Commission's final action.

An Informal Complaint is a complaint that does not meet all the requirements of a Formal Complaint. Informal Complaints, such as anonymous complaints and complaints without all of the information required above do not require action or notification to the complainant upon final action. Commission staff reviews informal complaints and can determine whether the complaint should move forward to investigation. Informal tips can be submitted to Commission staff by phone, email, or fax.

Contact Information of Person Making Complaint (This information will be available to the public.)

Name: Michael Zelinski Street Address: [REDACTED]
City: Oakland State: CA Zip Code: 94608
Email: [REDACTED] Phone: [REDACTED]

Type of Alleged Violation. Please select from below which law you allege has been violated:

- The Oakland Sunshine Ordinance, California Public Records Act, or Ralph M. Brown (open meetings) Act.
- Oakland Campaign Reform Act
- Oakland Limited Public Financing Act
- Oakland Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act
- Oakland Government Ethics Act
- Not sure which specific law, ordinance or regulations apply

Item 13b - Dismissal Letter 21-07

Description of Violation. Please complete the lines below or attach a handwritten or typed attachment that provides the following details: If you run out of space, please attach handwritten or typed pages that provide the following details:

- **Name of the person or persons you are alleging committed a violation.** Please include any known address, phone number, email address, title, employment address, etc.:
Oakland City Council Member Carroll Fife, Cat Brooks, W. Kamau Bell, Lateefah Simon,

Julian Glover

- **The facts of the alleged violation.** Please include the date and location of the alleged violation, if known:

I was blocked from the "We Take Care of Us" Virtual Summit, (organized by the Anti Police-Terror Project) for sharing a spread sheet detailing OPD officer involved shootings over
the last 30 months. This challenged their narrative.

- **The names, addresses, and phone numbers of any witnesses** who were involved and/or can provide additional information, if known:

Annie Banks, [REDACTED]

- Additional information or documentation that might aid in the investigation of the alleged violation. Please include copies of such documentation and list them here.

When I was blocked a splash screen appeared that notified me the moderator (or
perhaps a panelist) blocked me. I contacted Annie Banks, she blamed the block on a
technical glitch and would not help me get back into the meeting.

Verification. I certify under penalty of perjury under the laws of the State of California that my attached statements are true and correct.

Executed on June 22, 2021 at Oakland, CA
(Date) (City, State)

[REDACTED]

(Signature)

Complaint Submission. Please complete and submit this form and any attachments by email, mail or fax:

Email: EthicsCommission@oaklandca.gov

Mail: Public Ethics Commission

1 Frank H. Ogawa Plaza, Rm. 104 Oakland, CA 94612

Phone: (510) 238-3593

Fax: (510) 238-3315

Website: www.oaklandca.gov/pec



CITY OF OAKLAND

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Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

June 28, 2021

Carroll Fife
Councilmember



via email

Re: PEC Complaint No. 21-07; Notice of Withdrawn Complaint

Dear Councilmember Fife:

The City of Oakland Public Ethics Commission received the attached complaint(s) against you (21-07), alleging violations of the Oakland Sunshine Ordinance. However, the complainant has since informed us that they wish to withdraw the complaint. As such, the PEC is considering this complaint withdrawn and closed. No action is necessary on your part; this is just a courtesy notice.

We are required to inform the Public Ethics Commission of the resolution of this matter at its next public meeting on August 2, 2021, as part of our regular monthly update on Enforcement actions. This is purely informational, and no action will be taken by the Commission regarding this matter. You are welcome to attend that meeting and/or give public comment if you wish, but not required to do so. This letter serves as formal notice that the matter is now closed. If you have any questions, you can reach me at (510) 238-4976 or Kjohnson3@oaklandca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kellie Johnson".

Kellie F. Johnson
Enforcement Chief

Item 13b - Dismissal Letter 21-07

PEC Comliant No. 18-12; Notice of Withdrawal

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City of Oakland Public Ethics Commission



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Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

November 30, 2022

Ralph Kanz

[REDACTED]
[REDACTED]

Via email: [REDACTED]

Re: Public Ethics Commission Complaint No. 22-21

To Ralph Kanz:

On November 8, 2022, the City of Oakland Public Ethics Commission (PEC) received your complaint (#22-21) alleging that on August 10 and September 14, 2022, the PEC violated the Sunshine Act by discussing the issue of agenda subscribers being removed from the PEC's email list, without properly agendizing the item on either of the agendas for those respective meetings.

As a preliminary matter, pursuant to the PEC's Complaint Procedures concerning complaints against the PEC itself¹, I am conducting this preliminary review because I was not personally involved in any of the alleged conduct in the complaint. I have not discussed this complaint with any other member of the PEC staff, except for notifying the PEC Executive Director that a complaint had been filed against the PEC and that I had referred it to the City Attorney for a conflict review. As described below, my review of the complaint and documentary evidence indicates that this matter can be dismissed on grounds of mistake of fact, without the need of interviewing any PEC staff as potential witnesses (in which case I would have recused myself from any further involvement, due to my working relationship with the rest of PEC staff and the need to avoid the possibility or perception of bias). Interviews in this matter were not necessary as the allegations involved actions at two public meetings, for which online agendas and KTOP videos were available for my review.

¹ PEC Complaint Procedures section IV(a)(4), available at <https://cao-94612.s3.amazonaws.com/documents/PEC-Complaint-Procedures-effective-January-3-2020.pdf>.

I have reviewed the agendas and KTOP video of the August 10 and September 14, 2022, PEC meetings. Regarding the August 10 meeting, the meeting agenda does not mention the matter of meeting agenda subscribers not receiving meeting agendas via email. The matter did come up at the following points during the meeting itself (per meeting video on KTOP):

00:05:55 – 00:07:25: Under Item 2 (Staff and Commission Announcements), PEC Acting Executive Director Suzanne Doran stated that a member of the public had notified PEC staff that they had not been receiving PEC meetings agendas via email since June. Doran said she would be meeting with Digital Services and asked any member of the public watching the meeting who had not received an agenda to notify her. Doran then asked City Attorney Tricia Shafie if any corrective action needed to be taken; Shafie said that under OMC 2.20.090, no corrective action was necessary. No Commissioners spoke.

00:08:30 – 00:11:45: Under Item 2 (Staff and Commission Announcements), Ralph Kanz gave public comment stating that the City Attorney was incorrect and that cure and correct was necessary.

1:43:30 – meeting end: Under Item 16 (Future Meeting Business), Commissioners Upton, Perteet and Micik discussed the need to have the matter of unsent agendas be addressed at a future meeting, including an explanation as to why agendas may not have been emailed previously, as well as a potential explanation by the City Attorney as to why a cure and correct is not necessary. Commissioner Upton said he was requesting the future discussion in response to a public comment made earlier in the meeting by Ralph Kanz. Ralph Kanz gave public comment asking that any opinion from the City Attorney be given in writing.

At the September 14, 2022, PEC meeting, item 9 on the agenda (“Executive Director’s Report”) stated the following:

Agenda Subscribers Update

In July, Staff was notified that an agenda subscriber had not received their email copy of the Commission’s public meeting agenda, notice or attachments for the regular and special meetings in June and August 2022. Staff verified that the subscriber's email was not in the record of email recipients and that the change occurred when the Citywide Communications department transferred the PEC's email subscriber lists to a new customer relations management system in late May. Staff immediately contacted Communications Department

staff about the issue and made sure the subscriber was added back to the list. In addition, all PEC subscribers from the original list were added to the subscriber list on the new system as a precaution. Communications Department staff is researching why the PEC agenda subscriber list was inadvertently altered in the transfer, and a representative from the Communications department will be available to answer questions at the upcoming meeting. Commission staff is comparing the original agenda subscriber list to the records for the affected mailings to determine how many subscribers were affected and will provide an update.

I have attached a copy to this letter for your reference.

At the meeting itself, the matter of PEC agenda subscribers not receiving the agenda via email was discussed during Item 9 (Executive Director's Report), in accordance with the meeting agenda.

Under the Sunshine Act, a meeting agenda must contain a brief, general description of each item of business to be transacted or discussed during the meeting. The agenda may refer to explanatory documents, including but not limited to, correspondence or reports, in the agenda-related material.²

No action or discussion shall be undertaken on any item not appearing on the agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights, ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities.³

Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.⁴

Here, the discussions of the agenda distribution matter at both the August 10 and September 14 meetings met the requirements of the Sunshine Act. At the August 10 meeting, the agenda distribution matter was mentioned by the Acting Executive Director as part of item 2, "Staff and Commission Announcements," and contained no discussion or action by the Commissioners themselves. This falls within the "brief announcement" exception to the

² Oakland Municipal Code (OMC) section 2.20.030(A).

³ Cal. Govt. Code section 54954.2(a)(3). The Sunshine Act expressly incorporates this section of the Government Code at OMC section 2.20.030(A).

⁴ Id.

agenda requirement. At the end of the meeting, the agenda distribution matter came up again during Item 16, “Future Meeting Business,” for purposes of agendizing a discussion of the matter at a future PEC meeting. This fell within the exception the agenda requirement in which a commissioner may direct staff to place a matter of business on a future agenda. During this discussion, one Commissioner also referred to an earlier public comment (made by yourself) concerning the agenda distribution matter, which also falls within the exception to the agenda requirement for brief responses to public comment.

At the September 14 meeting, the matter was agendized under Item 9, “Executive Director’s Report.” The allegation that this matter was not agendized is therefore factually incorrect.

No cure and correct, or investigation, is necessary. Brief mention or discussion of the agenda distribution matter at the August 10 meeting fell within the permissible exceptions to the agenda requirement. The matter was agendized at the September 14 meeting. I am therefore dismissing this complaint with no further action.

We are required to inform the Public Ethics Commission of the resolution of this matter at an upcoming public meeting, as part of our regular monthly update on Enforcement actions. That meeting and update will take place on December 14, 2022, at 6:30 p.m. by teleconference and will be posted on the Commission’s website in advance of the meeting. The report will be purely informational, and no action will be taken by the Commission regarding this matter, which is now closed. However, you are welcome to call-in to that meeting to listen and/or give public comment if you wish. You may also submit written comments to us before that meeting, and we will add them to the meeting materials.

Thank you for bringing this matter to our attention. If you have other questions regarding this matter, please feel free to contact me.

Sincerely,

Simon Russell

Simon Russell, Enforcement Chief
City of Oakland, Public Ethics Commission
(510) 424-3200
srussell@oaklandca.gov

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Wednesday Sept 14, 2022
6:30 p.m.



PUBLIC ETHICS COMMISSION (PEC or COMMISSION) MEETING

NOTE: Pursuant to California Government Code section 54953(e), Public Ethics Commission members and staff will participate via phone/video conference, and no physical teleconference locations are required. The following options for public viewing and participation are available:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland’s KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on “View”
- **Online video teleconference:** Click on the link below to join the webinar: <https://us02web.zoom.us/j/88171471481>
 - To comment by online video conference, click the “Raise Your Hand” button to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to participate in public comment. After the allotted time, you will then be re-muted. Instructions on how to “Raise Your Hand” is available at: <https://support.zoom.us/hc/en-us/articles/205566129> - Raise-Hand-In-Webinar.
- **Telephone:** Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592

Webinar ID: 881 7147 1481

International numbers available: <https://us02web.zoom.us/j/88171471481>

- To comment by phone, please call on one of the above listed phone numbers. You will be prompted to “Raise Your Hand” by pressing *9 to request to speak when Public Comment is being taken on an eligible agenda item. You will then be unmuted, during your turn, and allowed to make public comments. After the allotted time, you will then be re-muted. Instructions on how to raise your hand by phone are available at: <https://support.zoom.us/hc/en-us/articles/201362663> - Joining-a-meeting-by-phone.

Members of the public may submit written comments to ethicscommission@oaklandca.gov. If you have any questions about how to participate in the meeting, please email ethicscommission@oaklandca.gov before or during the meeting.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Wednesday Sept 14, 2022
6:30 p.m.



Commissioners: Arvon Perteet (Chair), Ryan Micik (Vice-Chair), Charlotte Hill, Joseph Tuman and Francis Upton IV.

Commission Staff to attend: Kellie Johnson, Executive Director; Suzanne Doran, Lead Analyst; Ana Lara-Franco, Commission Assistant; Simon Russell, Investigator

City Attorney Staff: Trish Shafie, Deputy City Attorney

PUBLIC ETHICS COMMISSION REGULAR MEETING AGENDA

- 1. Roll Call and Determination of Quorum.**
- 2. Staff and Commission Announcements.**
- 3. Open Forum.**

PRELIMINARY ACTION ITEMS

- 4. Virtual meetings by the Public Ethics Commission.** The Commission will review and take possible action to renew Resolution 22-01, approved at the January 12, 2022 Regular meeting, establishing certain determinations to justify the ongoing need for virtual meetings following the California State Legislature's adoption and Governor's approval of AB 361 on September 16, 2021 (Chapter 165; Statutes of 2021). ([Resolution 22-01](#))

ACTION ITEMS

- 5. Approval of Commission Meeting Draft Minutes.**
 - August 10, 2022, Regular Meeting Minutes ([Meeting Minutes](#))

DISCUSSION ITEMS

- 6. Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission's last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission's work.
 - Enforcement Subcommittee** (*ad hoc*, created on November 1, 2021) – Arvon Perteet (Chair), Ryan Micik and Joseph Tuman.

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Wednesday Sept 14, 2022
6:30 p.m.



- b. **Outreach Subcommittee** (*ad hoc*, created on June 8, 2022) – Francis Upton IV (Chair), and Charlotte Hill

INFORMATION ITEMS

- 7. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides an overview of education, outreach, disclosure, and data illumination activities for this past month. ([Disclosure Report](#))
- 8. **Enforcement Program.** Executive Director Kellie Johnson provides a monthly update on the Commission’s enforcement work since the last regular Commission meeting. ([Enforcement Report](#))
- 9. **Executive Director’s Report.** Executive Director Kellie Johnson reports on overall projects, priorities, and significant activities since the Commission’s last meeting. ([Executive Director’s Report](#))
- 10. **Future Meeting Business.** Commissioners and staff may propose topics for action or discussion at future Commission meetings.

The meeting will adjourn upon the completion of the Commission’s business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chairperson allocates additional time.

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at (510) 238-3593 or visit our webpage at www.oaklandca.gov/pec.

A handwritten signature in blue ink that reads "Kellie Johnson".

9/2/2022

Approved for Distribution

Date



This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email alarafranco@oaklandca.gov or call (510) 238-3593 Or 711 (for Relay Service) five business days

Item 13c - Dismissal Letter 22-21

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Teleconference
Wednesday Sept 14, 2022
6:30 p.m.



in advance.

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico a alarafranco@oaklandca.gov o llame al (510) 238-3593 al 711 para servicio de retransmisión (Relay service) por lo menos cinco días antes de la reunión. Gracias.

你需要手語, 西班牙語, 粵語或國語翻譯服務嗎? 請在會議五天前電

郵 alarafranco@oaklandca.gov 或致電 (510) 238-3593 或711 (電話傳達服務)。

Quý vị cần một thông dịch viên Ngôn ngữ Ký hiệu Mỹ (American Sign Language, ASL), tiếng Quảng Đông, tiếng Quan Thoại hay tiếng Tây Ban Nha hoặc bất kỳ sự hỗ trợ nào khác để tham gia hay không? Xin vui lòng gửi email đến địa chỉ alarafranco@oaklandca.gov hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.



Item 10 - Executive Director's Report

Arvon Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Kellie Johnson, Executive Director

TO: Public Ethics Commission
FROM: Kellie Johnson, Executive Director
DATE: August 31, 2022
RE: Executive Director's Report for the September 14, 2022, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities this past month that are not otherwise covered by other program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects in 2022 for each program area. (Commission Programs and Priorities Attached)

PEC Staffing

Administrative Analyst I

The Commission received one new position in the 2022-23 FY budget for Administrative Analyst I. This new position will primarily support the Enforcement program. Recruiting for the Administrative Analyst position began on July 1, 2022. Staff has begun the process of arranging interviews of candidates.

Enforcement Chief

With this new vacancy, Commission staff engaged the Department of Human Resources Management to open recruitment to fill the position expeditiously. Staff is working closely with the HR analyst to ensure the job posting will go up very soon so we can begin to accept applications and review potential candidates. My current estimate for making the new appointment is approximately 2 months.

Temporary Enforcement Investigator

Staff has also engaged the Department of Human Resources Management to open recruitment for a temporary/part-time investigator to assist with ethics investigations, utilizing funds from salary savings gained with the selection of a new Executive Director. Staff and our HR analyst are preparing the required class specifications for the new position.

Commissioner Trainings: "Formal Hearings"

Commission staff is preparing a training on conducting "Formal Hearings" for Commissioners. The session will cover hearing procedures, due process for quasi-judicial boards, scheduling procedures, preliminary hearing requirements, credibility determinations, and an overview of findings of facts, penalties, and final orders. Staff will arrange with the Commission the date and way the training will be conducted.

Agenda Subscribers Update

In July, Staff was notified that an agenda subscriber had not received their email copy of the Commission's public meeting agenda, notice or attachments for the regular and special meetings in June and August 2022. Staff verified that the subscriber's email was not in the record of email recipients and that the change occurred when the Citywide Communications department transferred the PEC's email subscriber lists to a new customer relations management system in late May. Staff immediately contacted Communications Department staff about the issue and made sure the subscriber was added back to the list. In addition, all PEC subscribers from the original list were added to the subscriber list on the new system as a precaution. Communications Department staff is researching why the PEC agenda subscriber list was inadvertently altered in the transfer, and a representative from the Communications department will be available to answer questions at the upcoming meeting. Commission staff is comparing the original agenda subscriber list to the records for the affected mailings to determine how many subscribers were affected and will provide an update.

**PUBLIC ETHICS COMMISSION
Programs and Priorities 2022**

Program	Goal	Desired Outcome	Key Projects for 2022
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ol style="list-style-type: none"> 1. City Ticket Policy Ordinance 2. Limited Public Financing Act Amendment 3. Campaign Public Finance Redesign 4. Public Records Performance Tool
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ol style="list-style-type: none"> 1. Ethics onboarding/exit process improvement 2. Ethics training and advice: a) elected officials, b) City employees (1000), b) board/commission members, and c) consultants 3. Campaign Finance Training 4. Limited Public Financing Act Training and Program Implementation 5. Sunshine training – Open meetings; public records 6. New trainings as needed for diversion
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ol style="list-style-type: none"> 1. Public Records mediations 2. PEC Outreach – Commissioner-led public outreach 3. Communications/outreach to client groups – targeted and training and compliance 4. PEC social media outreach – focused on sharing ethics-related data and PEC services and outcomes 5. Website – PEC dashboards for enforcement cases and mediations
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ol style="list-style-type: none"> 1. Filing Officer/Compliance – assess, follow-up, and refer 2. Government Integrity E-Data Project – Lobbyist Registration, Form 700, Form 803, Show Me the Money App, Behested Payments 3. Open Disclosure – continue coordination and development 4. Campaign Finance Data – focus on pushing out data using Socrata, City Open Data Portal, and PEC dashboards where possible for the 2022 Election

<p>Detect/ Deter</p>	<p>PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.</p>	<p>Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.</p>	<ol style="list-style-type: none"> 1. Investigations 2. Collaborate with other government law enforcement agencies
<p>Prosecute</p>	<p>Enforcement is swift, fair, consistent, and effective.</p>	<p>Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.</p>	<ol style="list-style-type: none"> 1. Conduct legal analyses, assess penalty options, negotiate settlements, make recommendations to PEC 2. Case priority: 1) the extent of Commission authority to issue penalties, 2) the impact of a Commission decision, 3) public interest, timing, and relevancy, and 4) Commission resources. 3. Resolve all 2016 and 2017 cases 4. Enforcement Subcommittee – discussion of process improvements
<p>Administration/ Management</p>	<p>PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.</p>	<p>PEC staff model a culture of accountability, transparency, innovation, and performance management.</p>	<ol style="list-style-type: none"> 1. Annual Report 2. PEC Retreat 3. Budget – new Administrative Analyst position 4. Enforcement database upgrade 5. Review data to adjust activities throughout the year 6. Ongoing: professional development and staff reviews



CITY OF OAKLAND

ONE FRANK H. OGAWA PLAZA • CITY HALL • 1ST FLOOR, #104 • OAKLAND • CA 94612

Public Ethics Commission
Enforcement Unit

(510) 238-3593
FAX (510) 238-3315
TDD (510) 238-3254

December 2, 2022

Ralph Kanz

[REDACTED]
[REDACTED]

Via email: [REDACTED]

Re: Optional Referral and/or Civil Action, Complaint No. 22-21

To Ralph Kanz:

Pursuant to PEC Complaint Procedures section IV(A)(4) (“Complaints Against the Public Ethics Commission”), I am informing you of the following options in regard to your Public Ethics Commission (PEC) complaint #22-21 alleging violations of the Sunshine Act against the Public Ethics Commission.

You have the option of submitting your complaint (either in its original form, or in a different form) to the following agencies, which have concurrent jurisdiction over Oakland Sunshine Act and/or Brown Act violations:

Office of the City Attorney
1 Frank H. Ogawa Plaza, 6th Floor
Oakland, CA 94612
Attn: Ryan Richardson, rrichardson@oaklandcityattorney.org, (510) 238-6523
Attn: Maria Bee, mbee@oaklandcityattorney.org, (510) 238-3814
Attn: Barbara Parker, bparker@oaklandcityattorney.org, (510) 238-3815

Office of the District Attorney
1225 Fallon Street, Ninth Floor
Oakland CA 94612
Attn: Eileen McAndrew, Eileen.McAndrew@acgov.org, (510) 272-6222

If you wish the Public Ethics Commission to forward your original complaint to the City Attorney and/or District Attorney on your behalf, please let me know and I will do so.

Item 13c - Dismissal Letter 22-21

You may also file a civil action in regard to your complaint. The PEC cannot advise on your options for doing so, but a private attorney may be able to help. The PEC cannot make referrals for a private attorney.

Thank you for bringing this matter to our attention. If you have other questions regarding this matter, please feel free to contact me.

Sincerely,

Simon Russell

Simon Russell, Enforcement Chief
City of Oakland, Public Ethics Commission
(510) 424-3200
srussell@oaklandca.gov



Item 14a - Executive Director's Report

Arvon Perteet, Chair
Ryan Micik, Vice Chair
Charlotte Hill
Joe Tuman
Francis Upton IV

Suzanne Doran, Acting Executive Director

TO: Public Ethics Commission
FROM: Suzanne Doran, Acting Executive Director
DATE: December 1, 2022
RE: Acting Executive Director's Report for the December 14, 2022, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities this past month that are not otherwise covered by other program reports. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects in 2022 for each program area.

Return to In-person Meetings

Assembly Bill 361 amended the Ralph M. Brown Act, Government Code section 54953, to allow more liberal use of teleconferencing at local agency public meetings during a proclaimed state of emergency. Governor Newsom plans to end California's COVID-19 State of Emergency on February 28, 2023. City boards and commissions will no longer be able to invoke AB 361 provisions after that date, and fully-remote meetings will no longer be permissible for the PEC. Barring any change from the Governor's Office, this change will go into effect on March 1, 2023.

City administration is investigating space and technology requirements to conduct hybrid meetings in compliance with the Brown Act. Until new guidelines or procedures are received, staff will prepare to conduct Commission meetings in Hearing Room 1 of City Hall effective the March regular meeting.

PEC Staffing

Executive Director - Kellie Johnson submitted her resignation as the Public Ethics Commission's Executive Director on October 14, 2022. The Commission Chair and Assistant City Attorney are coordinating with the HR Department on recruitment and hiring. The job posting is scheduled for December.

Administrative Analyst I - The Commission received one new position in the 2022-23 FY budget for Administrative Analyst I. Ana Lara-Franco (Administrative Assistant II) has been promoted to the position of Administrative Analyst I (Commission Analyst), effective November 26, 2022. Congratulations to Ms. Lara-Franco for this well-deserved promotion!

Enforcement Chief - In August, the Enforcement Chief job became vacant when Kellie Johnson was hired as Executive Director. Simon Russell (Ethics Investigator) has been Acting Enforcement Chief in the interim and was promoted to the permanent position effective

November 26, 2022. Thank you to Mr. Russell for taking on the role of Acting Enforcement Chief and congratulations on this well-earned promotion!

Additional Staff Vacancies – The promotion of two PEC staff members created vacancies for two full-time positions: Ethics Investigator and Administrative Assistant II. Staff has begun work with the City's Human Resources department to post the job announcements, design the civil service examination process, conduct recruitment, and plan and engage in the examination/interview selection process.

New Commissioner Recruitment

In November, the ad-hoc Recruitment Subcommittee met to review the eight applicants for two commissioner vacancies and selected seven candidates for individual interviews with the subcommittee. Four finalists were selected for nomination to the full Commission. The finalists have been invited to the January regular meeting where they will each present a four-minute introduction of themselves. Commissioners will then ask follow-up questions and vote to make their selection.

Ballot Measure W - Oakland Fair Elections Act (Democracy Dollars)

On November 8, Oakland voters approved ballot measure W, the Oakland Fair Elections Act (OFEA), by 73.9 percent, replacing the Limited Public Financing Act with the Oakland Fair Elections Act and a newly designed public financing program to be administered by the Public Ethics Commission that disperses \$100 in Democracy Dollar vouchers to eligible Oakland residents who can then assign the Dollars to their preferred candidate. In November, Commission staff initiated meetings with the various City departments and stakeholders connected to the new program to determine immediate next steps and timeframes for the implementation process.

While the new OFEA takes effect January 1, 2023, the additions to staff and program funds are not effective July 1, 2023. The Commission continues to be supported at current staffing levels until July 2023. This means that some program development cannot occur until the second half of 2023, when and after the Commission has the new funding and additional staff in place.

Priority implementation activities for December and January focus on ensuring adequate staffing and technology necessary to properly administer the new Democracy Dollars Program. Once election results were finalized, staff began working with the City's Human Resources department to develop the job specifications for the new staff positions so that civil service examination processes and recruitment can begin within the first quarter of 2023 and place staff into these positions by July 2023.

In addition, staff initiated collaboration with the City's IT department to develop the technology system needed to administer the program. Staff is drafting a business requirements document in collaboration with the IT department, which will be the basis of a request for proposals (RFP). The projected timeframe is to complete the business requirements and basic workflows by early February, release the RFP by March, and select a

vendor in April, so development work can start in July when program start-up funds are available.

Lastly, staff initiated collaboration with the City's Finance Department to begin the fiscal year 2023-2025 budgeting process to ensure timely allocation of new program funds. A preliminary overview of implementation tasks and key dates is covered under separate memo.

Ballot Measure X - Good Governance

On November 8, Oakland voters also approved ballot measure X, Good Governance Charter Reform, by 80.2 percent. In addition to setting a three-term limit for councilmembers, the measure adjusts the formula for the Public Ethics Commission to set councilmember salaries and adds setting the salaries of the City Auditor and City Attorney to the Commission's duties.

The measure provides that the Commission adjust Council members' salaries every two years based on CPI increases, up to a total of five percent. If the total CPI increase over the prior two years exceeds five percent, the Commission may adjust salaries up to five percent per year but may not adjust the salaries more than the CPI increase per year.

The City Attorney and City Auditor salary ranges use a formula based on salaries of the highest paid professional employee in their respective offices, other City department heads, and comparable positions in other California jurisdictions. Commission Staff will update its salary calculation methods to conform with the revised formulas and offices covered.

Attachment: Commission Programs and Priorities, Full text Measure X.

Item 14a - Executive Director's Report

PUBLIC ETHICS COMMISSION

Programs and Priorities 2022

Program	Goal	Desired Outcome	Program Activities	2022 Major Projects
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity, and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies		<ul style="list-style-type: none"> ✓ Public Finance Redesign//Ballot measure ✓ Ticket administration policy & process improvements adopted ○ Public Records Performance Tool
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ul style="list-style-type: none"> • Regular ethics training • Information, advice, and technical assistance • Targeted communications to regulated communities • Campaign Finance Training • New trainings as needed for diversion 	<ul style="list-style-type: none"> ✓ Sunshine training – Open meetings ✓ Ethics onboarding process improvement/SPOC training ✓ New ticket policy training ○ Sunshine training – Public records
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ul style="list-style-type: none"> • Public Records mediations • Outreach to client groups – targeted training • PEC social media outreach • Improvements and updates to website content 	<ul style="list-style-type: none"> ✓ PEC performance dashboards and data story for enforcement program and mediations ✓ Commissioner-led public outreach/PEC roadshow reboot
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Residents can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ul style="list-style-type: none"> • Technical support for filers • Facial review of disclosure filings, amendments, impose late fees • Monitor compliance, engage with filers, refer for enforcement as needed • Maintain data assets 	<ul style="list-style-type: none"> ✓ Open Disclosure updated and launched in time for 2022 election ✓ Show Me the Money campaign finance app with expanded features launched in time for 2022 election ✓ Public Records Request data published ○ Updates to Ticket Distribution (Form 802) database

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				<ul style="list-style-type: none"> ○ Government Integrity Data Project – data portal integrating all ethics data
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.	Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.	<ul style="list-style-type: none"> ● Process and investigate complaints ● Initiate proactive cases ● Collaborate/coordinate with other government law enforcement agencies 	<ul style="list-style-type: none"> ✓ Collaborated with front office staff to streamline monitoring of campaign forms during election
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ul style="list-style-type: none"> ● Prioritize cases ● Conduct legal analyses, assess penalty options ● Negotiate settlements ● Make recommendations to PEC 	<ul style="list-style-type: none"> ✓ Conducted administrative hearing officer training ✓ Enforcement subcommittee researched best practices across state ○ Resolve 2016 and 2017 case backlog
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ul style="list-style-type: none"> ● Limited Public Financing program implementation ● Annual Report ● Review data to inform activities ● Ongoing professional development and staff reviews 	<ul style="list-style-type: none"> ✓ PEC Retreat ✓ Budget – new Administrative Analyst position ✓ Administrative Analyst position filled ✓ Enforcement Chief position filled ○ ED recruitment/hiring ○ Commissioner recruitment ○ Enforcement database upgrade

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OAKLAND

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APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 89317 C.M.S.

**INTRODUCED BY COUNCILMEMBERS DAN KALB, LOREN TAYLOR,
SHENG THAO, AND NIKKI FORTUNATO BAS**

**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING
TO THE VOTERS FOR THE NOVEMBER 8, 2022, GENERAL
MUNICIPAL ELECTION A GOVERNMENT REFORM MEASURE THAT
WOULD AMEND THE CITY CHARTER TO, AMONG OTHER THINGS:**

- (1) ESTABLISH TERM LIMITS FOR COUNCILMEMBERS;**
- (2) REQUIRE A MINIMUM OF TWO COUNCIL HEARINGS BEFORE
CERTAIN COUNCIL PROPOSED BALLOT MEASURES ARE
APPROVED FOR PLACEMENT ON THE BALLOT;**
- (3) COUNT COUNCILMEMBER ABSTENTIONS AND ABSENCES AS
A NO VOTE ON COUNCIL MOTIONS, RESOLUTIONS AND
ORDINANCES FOR PURPOSES OF DETERMINING WHETHER
MAYOR HAS AUTHORITY TO CAST A TIE-BREAKING VOTE;**
- (4) CHANGE THE FORMULA FOR THE PUBLIC ETHICS
COMMISSION TO SET COUNCILMEMBER SALARIES AND
AUTHORIZING THE PUBLIC ETHICS COMMISSION TO SET THE
SALARIES OF THE CITY AUDITOR AND CITY ATTORNEY;**
- (5) ADD AND CLARIFY DUTIES OF AND PROVIDE MINIMUM
STAFFING FOR THE CITY AUDITOR; AND**

**DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION
OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION,
AND TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO
PREPARE FOR AND CONDUCT THE NOVEMBER 8, 2022, GENERAL
MUNICIPAL ELECTION**

WHEREAS, in 1968, the People adopted the Charter of the City of Oakland ("City Charter"), establishing the fundamental law of the City, including but not limited to, the City's form of government and the role of City Council, the Mayor, the City Manager, and other City officers, and

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WHEREAS, since then, the City has grown in size, complexity, and diversity; and

WHEREAS, a city's charter must promote democracy, accountability, transparency, and equity; and

WHEREAS, according to the National League of Cities, 80% of American cities have term limits for mayors and/or councilmembers; and

WHEREAS, a 2021 report by San Francisco Bay Area Planning and Urban Research Association, a nonprofit public policy organization ("SPUR") titled "Making Government Work: 10 ways City Governance Can Adapt to Meet the Needs of Oaklanders" called for term limits City Councilmembers and additional staffing for the City Auditor; and

WHEREAS, Oakland elected officials such as City Councilmembers, the City Auditor, and the City Attorney have lower salaries than several nearby California cities; and

WHEREAS, engaged residents may be more likely to be able to gain election to local office when there is an open seat as opposed to when an incumbent is running for re-election; and

WHEREAS, having two Council hearings on certain Council proposed ballot measures before the Council places such measures on the ballot will expand opportunities for public and Council engagement, discussion and vetting; and

WHEREAS, the Charter currently entitles the Mayor to cast a tie-breaking vote when the Council is evenly divided on a Council vote, yet that has been thwarted by Councilmembers abstaining; now therefore be it

RESOLVED: That the City Council finds and determines the foregoing recitals are true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: That the City Charter hereby is amended, to add, delete, or modify sections as set forth below (sections number and titles are indicated in **bold type**; additions are indicated by underscoring, deletions are indicated by strike-through type; portion of the provisions not cited or not shown in underscoring or strike-through type are not changed); and be it

FURTHER RESOLVED: That the proposed amended Charter amendment text shall be as follows:

Section 200. Composition of the Council. The Council shall consist of eight Councilmembers, nominated and elected as hereinafter provided. The Mayor shall not be a member of the Council, but ~~he~~ shall have a vote on the Council if the Councilmembers are evenly divided in accordance with Section 305. The Council shall elect a President of the Council from among its members for a term of two years. The President of the Council shall serve as the presiding officer of the City Council and shall perform duties authorized by the Council's Rules of Procedure, which shall be passed by resolution in accordance with Charter section 210.

Section 202. Council Salaries. The Public Ethics Commission shall bi-annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding two years, up to a total of five percent. If the increase in the consumer price index over the preceding two years exceeds five percent, the Commission shall have the discretion to adjust the salary for the office of Councilmember by an amount not exceeding five percent for each year, but not more than the total CPI per year. ~~The Commission may adjust salaries beyond the increase in the consumer price index up to a total of five percent. Any portion of an increase in compensation for the office of Councilmember that would result in an overall increase for that year in excess of five percent must be approved by the voters.~~

Section 204. Term of Office, Term Limits, Council.

Term of Office. The Councilmembers shall be elected to a term of four years beginning at 11:00 a.m. on the Monday following January 1~~2~~ following their election. ~~The Councilmembers elected or appointed to office to serve terms beginning in 1985 shall serve in office until 11:00 a.m. on the Monday following January 1 in 1991. The Councilmembers elected or appointed to office to serve terms beginning in 1987 shall serve in office until 11:00 a.m. on the Monday following January 1, 1993.~~ In 1990-2018 Municipal Elections will be held to select City officers for four-year terms for the following offices: Councilmember, District #2; Councilmember, District #4, and, Councilmember, District #6. In 1992-2020 Municipal Elections will be held to select City Councilmembers for four-year terms for the following offices: Councilmember, District #1; Councilmember, District #3; Councilmember, District #5; Councilmember, District #7; and Councilmember At-Large.

Term Limits. No person shall be elected to the office of Councilmember, whether district or at-large, or any combination thereof, for more than three consecutive terms; except that a person may serve up to three consecutive terms as a district Councilmember immediately followed by up to three consecutive terms as Councilmember at-large. For purposes of determining term limits, a Councilmember who fills a partial term of more than two years shall be deemed to have filled the entire term. Terms for the office of Councilmember that commenced prior to January 2023 shall not be considered in calculating limits on consecutive terms for Councilmembers.

Section 205. Vacancy, Filling of. All vacancies occurring in the office of Councilmember shall be filled by special election within 120 days of a vacancy. An extension of up to 60-90 days may be allowed only for the express purpose of consolidating the special election with the next Municipal Election or Statewide Election. If the special election is to take place before the first use of ranked choice voting in a Municipal Election, the Council shall have the authority to provide for a ranked choice voting election by ordinance. Otherwise, the candidate who receives the highest number of votes at the special election shall be declared the winner and thereafter sworn into office as soon as legally possible. Special elections for the office of Councilmember that take place during or after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect Councilmembers in General Municipal Elections. Whenever the period of vacancy in a Councilmember's term of office equals or exceeds 120-100 days the vacancy may be temporarily filled by appointment through the majority vote of the remaining Councilmembers, provided the appointee is may not simultaneously fill the vacancy and run as a candidate for that the office which created the vacancy and provided the appointment does not exceed 128-180 days or go beyond the date the

new incumbent is sworn in, whichever is shortest. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, secure electronic voting and extended voting period. Notwithstanding any other provision of this section 205 or this Charter, an election shall not be required to fill a vacancy in the office of Councilmember that occurs when the ~~Vice Mayor Council President~~ fills a mayoral vacancy pursuant to Sections 303 and 304 of this Charter, and the ~~Vice Mayor-Council President~~ shall be entitled to return to ~~his/her~~ their seat.

Section 208. Meetings of the Council. At 11:00 a.m. on the first Monday following January 24 following each General Municipal Election, the Council shall meet at the established Council meeting place, at which time and place the newly elected members of the Council shall assume the duties of their office; and at such meeting, and at its first meeting in January of each odd-numbered year, the Council shall, by resolution, elect a ~~Vice Mayor-Council President~~ from among its members to serve for a ~~one~~ two-year term. The Council also shall elect, by resolution, a President Pro Tempore of the Council from among its members to serve a one or two-year term. Thereafter, the Council shall meet regularly at the time and place fixed by resolution. Special meetings may be held at the regular place of meeting and shall be called, and notice thereof given, by the City Clerk upon the written request of the Mayor, the City Administrator or three members of the Council and such notice shall state the special subject to be considered at the special meeting; and no other subject shall be there considered. Regular or special meetings may be held at places other than the regular meeting place only in an emergency in which the regular meeting place is untenable, or for some purpose of public convenience, upon the posting of a public notice at the regular meeting place that the Council is meeting elsewhere to be designated on the notice.

Section 221. Hearings Required for Certain Ballot Measures Proposed by the Council. Before taking a vote, the Council shall notice and consider at no fewer than two Council open session meetings that are at least 10 calendar days apart, any (1) general obligation bond, (2) new parcel tax or increase in a parcel tax, or (3) Charter amendment that the Council proposes to place on the ballot.

Section 303. Vacancy, Filling of. Upon the declaration of vacancy in the office of the Mayor, the office of the Mayor shall be filled by the ~~Vice Mayor-President~~ of the Council. Except as otherwise provided in this Section, when the ~~Vice Mayor-President~~ of the Council assumes the office of Mayor upon declaration of a vacancy, they shall serve for the remainder of the unexpired term if such term is less than one year; otherwise they shall serve until the vacancy is filled as provided herein. The President Pro Tempore shall perform the duties and shall have the powers of the President of the Council during any time that the President of the Council has assumed the office of the Mayor. Whenever the period of vacancy in a Mayor's term of office is less than one year and the ~~Vice Mayor President~~ of the Council notifies the Council in writing that they do not wish to serve as Mayor for the unexpired term, the vacancy shall be filled by appointment through a majority vote of the Council; provided the appointee shall be ineligible to be a candidate for the next full term of the Office of Mayor. If at the time of a vacancy declaration the unexpired term is one year or more, the vacancy occurring in the office of Mayor shall be filled by special election within 120 days of such vacancy. An extension of up to ~~60~~ 90 days may be allowed only for the express purpose of consolidating the special election with the

next Municipal Election or Statewide Election. Special elections for the office of Mayor that take place after the first use of ranked choice voting in a Municipal Election shall be conducted using the same ranked choice voting procedures used to elect the Mayor in General Municipal Election. The candidate elected to fill the vacancy shall hold office for the balance of the unexpired term. Alternative legal voting procedures shall be used to the greatest extent feasible to increase voter participation in special elections including but not limited to mail ballot voting, secure electronic voting, and extended voting period.

Section 305. Functions, Powers and Duties. The Mayor shall be the chief elective officer of the City, responsible for providing leadership and taking issues to the people and marshalling public interest in and support for municipal activity. The Mayor shall have the following powers, duties, and responsibilities:

(a) The Mayor shall be responsible for the submission of an annual budget to the Council which shall be prepared by the City Administrator under the direction of the Mayor and Council. The Mayor shall, at the time of the submission of the budget, submit a general statement of the conditions of the affairs of the City, the goals of the administration, and recommendations of such measures as he may deem expedient and proper to accomplish such goals.

(b) Recommend to the Council such measures and legislation as ~~he~~ the Mayor deems necessary and to make such other recommendations to the Council concerning the affairs of the City as ~~he~~ the Mayor finds desirable are in the best interest of the residents of the City.

(c) Encourage programs for the physical, economic, social and cultural development of the City.

(d) Actively promote economic development to broaden and strengthen the commercial and employment base of the City.

(e) Appoint the City Administrator, subject to confirmation by the City Council, remove the City Administrator and give direction to the City Administrator. The Mayor shall advise the Council before removing the City Administrator.

(f) Serve as ceremonial head of the City.

(g) Represent the City in inter-governmental relations as directed by the Council.

(h) Provide community leadership.

(i) May cast a tie-breaking vote on any Ordinance, Resolution or Motion voted on by the Council, if the Council's vote is evenly divided. Solely for the purposes of determining whether the Mayor is eligible to cast a tie-breaking vote, abstentions and absences shall count as a "No" vote. A legally-required recusal shall not count as a "No" vote.

The Mayor shall, at the first meeting of the City Council in October, appear before the Council to deliver a general address on the State of the City, and recommend the adoption of such measures as he/she may deem expedient and proper. The Mayor and such staff as the Mayor ~~he/she~~ may designate shall also conduct four additional public meetings during the year to solicit and respond to comments, concerns, or questions from the public. These meetings shall be

noticed to the public not less than two weeks in advance, and shall be scheduled approximately three months apart.

The Mayor shall devote ~~his~~ their full time and attention to the duties of the Office of the Mayor and shall not engage in outside employment while in office. However, nothing shall prevent the Mayor from the receipt of income earned from business(s) or investment(s) in which ~~he~~ the Mayor is not actively engaged and which are not in conflict with the performance of ~~his~~ the Mayor's duties and responsibilities.

Section 306. Duties of ~~Vice Mayor~~ Council President. In addition to any duties specified by ordinance or by the Council's Rules of Procedure Resolution passed in accordance with Charter section 210, in the absence during the unavailability or temporary disability of the Mayor, the ~~Vice Mayor~~ President of the Council shall perform the duties of the office of Mayor.

Section 401(1). City Attorney. The City Attorney shall be nominated and elected in the same manner and at the same election as the Councilmember-at-large. The salary of the elected City Attorney shall be set annually by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Attorneys of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, and may not be reduced during the City Attorney's term of office, except as part of a general reduction of salaries of all officers and employees in the same amount or proportion the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.

Section 401(7). Endorsements, Campaigns, Campaign Contributions. During the City Attorney's tenure, the City Attorney shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Attorney, or of a City ballot measure, or be an officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.

Section 403(1). City Auditor. The City Auditor shall be nominated and elected in the same manner, for the same term, and at the same election, as the Mayor. To be eligible to for the office a person must be a qualified elector of the State of California, a resident of the City at the time of filing nomination papers and for thirty (30) days immediately preceding the date of filing and shall be certified by the California State Board of Accountancy as a Certified Public Accountant or by the Institute of Internal Auditors as a Certified Internal Auditor, and shall have a minimum of three years of public sector experience in auditing, policy analysis, performance evaluation, investigative oversight, and/or accountancy, or equivalent private sector experience. The salary of the office shall be set by the Public Ethics Commission, which shall be not less than 70% nor

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more than 90% of the average salaries of City Auditors of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, and may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion. City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.

Section 403(2). Vacancy, What Constitutes. The Office of City Auditor shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after their term is to begin, dies, resigns, ceases to be a resident of the City or is absent from the City for a period of more than sixty days without permission from the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of the office, forfeits the office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least six members of the Council after considering competent medical evidence bearing on the physical or mental capability of the City Auditor. Filing to run for the office of Mayor, Councilmember or City Attorney shall constitute a resignation from the office of City Auditor, effective on the date of filing.

Section 403(3) Vacancy, Filling of. For all vacancies occurring in the Office of City Auditor the City Council shall cause an election to be held to fill such vacancy pursuant to the manner and method as provided for in Article II, Section 205 of the Charter.

Section 403(4) Powers of the City Auditor. The City Auditor, notwithstanding any other provision of this Charter, shall have the power and it shall be his or her the City Auditor's duty to audit the books, accounts, money and securities of all bureaus, departments, offices, agencies, including the Port Department, boards, commissions, and programs of the City, and such other matters as the Council may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City. The City Auditor shall report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the City Administrator after reasonable time and opportunity. The City Auditor shall conduct audits in accordance with Government Auditing Standards as issued by the U.S. Comptroller General.

The City Auditor shall conduct surveys, reviews, and performance audits and financial audits as the Auditor deems to be in the best public interest or as required-requested by the Council or Mayor. For these purposes the public interest shall include, but not be limited to:

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- (1) Reviewing and appraising the soundness, adequacy and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the organization.
- (2) Evaluating the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.
- (3) Ascertaining compliance with Council's resolutions and policies and the Mayor's Administrative Instructions and Directives, as well as applicable State and Federal laws and regulations.
- (4) Providing assistance to City Departments to enhance the effectiveness, efficiency and economy of their operations.
- (5) Preparing an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.
- (6) Preparing impartial financial analyses of proposed major expenditures prior to the approval of such expenditures. These analyses will be for informational purposes only and will include, but not be limited to, proposals, contracts, ventures, programs and construction projects. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.
- (7) Responding to Council and Mayor requests for audits and reviews.
- (8) Submitting, at a public meeting of the full City Council, a ~~quarterly~~ semi-annual report to the Council and public on the extent of implementation of recommendations for corrective actions made in the City Auditor's reports.
- (9) ~~The City Auditor shall conduct~~ Conducting periodic performance audits of each department as specified in the City budget in order to help improve government performance.
- (10) Reviewing City departments, offices, agencies, boards, commissions, and bureaus to analyze if they are managing, safeguarding and using public resources, including public funds, personnel, property, equipment and space, economically, efficiently, equitably, and effectively.
- (11) Analyzing City programs, activities, services, functions, or policies as to effectiveness and cost-effectiveness, including the identification of any causes of inefficiencies.
- (12) Reviewing and recommending to the City Administrator management adjustments in operating and administrative procedures and practices, systems and accounting internal control systems and internal management controls.
- (13) Analyzing allegations of fraud, waste, abuse or illegal acts that require further investigation to substantiate.
- (14) Publishing an annual report summarizing recent audits and recommendations.
- (15) Responding to requests from the City Administrator to provide recommendations on how to make City departments and services more effective and customer-service oriented.
- (16) Preparing an annual workplan including planned audits for the year. The City Auditor shall publish such workplan in August of each year.

The City Auditor shall have access to inspect all records, property, equipment, and facilities within the City's jurisdiction.

Effective July 2023, the budget for the Office of the City Auditor shall be sufficient to hire at least fourteen full-time equivalent ("FTE") employees of relevant classifications. The minimum staffing budget set-aside may be suspended, for a fiscal year or a two-year budget cycle, upon a finding in the budget resolution that the City is facing an extreme fiscal necessity, as defined by City Council resolution or ordinance.

Restrictions on Running for Public Office. Filing for an elective office over which the City Auditor has audit jurisdiction will be the same as resignation, effective on the date of filing.

Endorsements, Campaigns, Campaign Contributions. During the City Auditor's tenure, the City Auditor shall not make or solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than for the City Auditor, or of a City ballot measure, or be an, officer, director or employee of or hold a policy decision-making position in an organization that makes political endorsements regarding candidates for City elective office.

The City Auditor shall be represented in all legal matters by the City Attorney except as provided otherwise in Section 401.

Section 601. Boards and Commissions. The Council may create by ordinance such operational, advisory, appellate or rule-making boards and commissions as may be required for the proper operation of any function or agency of the City and prescribe their function, duties, powers, jurisdiction, meeting frequency, standards for conducting long-term planning, and the number of board and commission members, their terms, compensation and reimbursement for expenses, if any, subject to the provisions of this Article.

Section 601(a). Except as otherwise provided for in this Charter, Mmembers of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council and may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council and may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council. Vacancies shall be filled for any unexpired term in the same manner as the original appointments were made; provided, however, that if the Mayor does not submit for confirmation a candidate to fill the vacancy within 90 days of the date the vacancy first occurred, the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill a vacancy within the 90-day time frame and the Council does not confirm the candidate, the 90-day period shall commence anew. For purposes of this Section, a seat filled by a holdover appointment will be considered vacant as of 30 days after the expiration of the holdover's prior term of office.

Section 601(b). Notwithstanding any other language in this section 601, or elsewhere in the Charter, for vacancies on boards and commissions for which an ordinance specifies that Councilmembers may nominate a candidate for the Mayor's consideration, the designated Councilmember shall have 45 days from the date the vacancy occurs to recommend one or more

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nominees to the Mayor in writing. Upon such nomination or the expiration of the 45-day nomination period, whichever occurs first, the Mayor shall have 90 days thereafter to submit any eligible candidate for the Council's confirmation.

If the Mayor does not submit for confirmation a candidate to fill a vacancy within the time frames prescribed by this section 601(b), the Council may fill the vacancy. If the Mayor does submit for confirmation a candidate to fill the vacancy within the time frame specified in this section 601(b) and the Council does not confirm the candidate, the time frame specified in this section 601(b) shall commence anew.

For purposes of this Section 601, a seat filled by a holdover appointment will be considered vacant as of 30 days after the expiration of the holdover's term of office.

Section 1100. Nominating Election. Except as otherwise provided for in section 1105 of this Charter, Municipal Nominating Elections for the nomination of officers and for such other purposes as the Council may prescribe shall be held in the City on the first Tuesday after the first Monday in June in each even-numbered year. In order to consolidate Municipal Nominating Elections with Statewide Primary Elections, the Council may by ordinance provide for a date for a Municipal Nominating Election which conforms to the date of a Statewide Primary Election.

FURTHER RESOLVED: That each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED CHARTER AMENDMENT

MEASURE ____

<p>Measure __. Shall a measure to amend the Charter to, among other things, establish Councilmember term limits, require two hearings before Council places certain measures on the ballot; count Councilmember abstentions and absences as "no" votes in determining whether Mayor may break a tie; provide Public Ethics Commission discretion in setting Councilmember salaries; authorize the Commission to set City Attorney and Auditor salaries; and add and detail duties and provide minimum staffing for the Auditor, be adopted?</p>	Yes	
	No	

; and be it

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FURTHER RESOLVED: That the City Council hereby authorizes and directs the Clerk of the City of Oakland ("City Clerk"), at least 88 days prior to the November 8, 2022 general municipal election, to file certified copies of this resolution with the Alameda County Board of Supervisors and the Registrar of Voters; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter amendment, and said date shall be posted by Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3.08 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the next municipal election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the next municipal election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

JUL 11 2022

AYES - ~~ASHA REED, ANITA BROWN, KALB, MARIANO, REID, TAYLOR, THAO AND~~ PRESIDENT FORTUNATO BAS -5

NOES - File - 1

ABSENT -

ABSTENTION -

Excused - Grillo, Kaplan - 2

ATTEST:

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

22 JUL 28 PM 4:27

QUESTION

Shall a measure to amend the Charter to, among other things, establish Councilmember term limits, require two hearings before Council places certain measures on the ballot; count Councilmember abstentions and absences as “no” votes in determining whether Mayor may break a tie; provide Public Ethics Commission discretion in setting Councilmember salaries; authorize the Commission to set City Attorney and Auditor salaries; and add and detail duties and provide minimum staffing for the Auditor, be adopted?

TITLE AND SUMMARY

Title: A proposed amendment to the Charter to establish term limits for members of the City Council (“Council”), require two Council hearings for certain proposed ballot measures, count Councilmember abstentions and absences as “no” votes in determining whether the Mayor may cast a tie-breaking vote at the Council, provide the Public Ethics Commission (“Commission”) discretion in setting Councilmember salaries, authorize the Commission to set the salaries of the City Auditor and the City Attorney, clarify and add to the duties of the City Auditor, and set minimum staffing for the Office of the City Auditor.

Summary:

This measure makes a number of changes to the Charter including:

Councilmember Term Limits

Members of the Council are elected to four-year terms. There are no term limits. This measure would prohibit a Councilmember from serving more than three consecutive terms.

Hearings on Proposed Ballot Measures

State law requires the Council to hold one public hearing before voting to place a measure on the ballot. This measure would require the Council to hold two public hearings before voting to place a general obligation bond, parcel tax, or Charter amendment on the ballot.

Councilmember Salaries

The Public Ethics Commission (“Commission”) adjusts Councilmember salaries every two years based on any increases in the consumer price index (“CPI”). The Commission may also adjust their salaries above CPI increases, up to a total of five percent per year. This measure provides that the Commission would adjust the salaries every two years based on CPI increases, up to a total of five percent. But if the total CPI increase over the prior two years exceeds five percent, the Commission may adjust salaries up to five percent per year but may not adjust the salaries more than the CPI increase per year.

Mayoral Tie-Breaking Vote

The Mayor does not have a vote on the Council, but the Charter authorizes the Mayor to cast a tie-breaking vote when the Council is evenly divided. This measure provides that for purposes of determining whether there is a tie, a Councilmember’s abstention or absence shall count as a “no” vote.

City Attorney and City Auditor Salaries

The Council sets the salary of the City Attorney and the City Auditor using a specified formula. This measure provides that the Commission would set these salaries based on salaries of the highest paid professional employee in their respective offices, other City department heads, and comparable positions in California jurisdictions.

City Attorney and City Auditor Political Activities

This measure would prohibit the City Attorney and the City Auditor from making or soliciting contributions to, publicly endorsing, or participating in the campaign of a candidate for City elective office or of a City ballot measure.

City Auditor

This measure establishes further qualifications and additional duties for the City Auditor.

The Charter does not set minimum staffing for the Office of the City Auditor. This measure provides that the budget for the Office of the City Auditor must be sufficient for at least fourteen full-time employees.

/s/ DAVID CHIU
San Francisco City Attorney

IMPARTIAL ANALYSIS

22 JUL 28 PM 4: 27

Councilmember Term Limits

Members of the City Council (“Council”) are elected to four-year terms. There are no term limits. This measure would prohibit a Councilmember from serving more than three consecutive terms, except that a district Councilmember may serve up to three consecutive terms followed by up to three consecutive terms as an at-large Councilmember. Councilmember terms that began before January 2023 shall not count towards the term limits.

Hearings on Proposed Ballot Measures

State law requires the Council to hold at least one public hearing before placing a measure on the ballot. This measure would require the Council to hold at least two public hearings at least 10 calendar days apart before placing general obligation bonds, parcel taxes, or Charter amendments on the ballot.

Councilmember Salaries

The Public Ethics Commission (“Commission”) adjusts the salary for Councilmembers every two years based on the increase in the consumer price index (“CPI”). The Commission may adjust salaries beyond the increase in CPI up to five percent per year. The voters may approve increases above five percent in a year. This measure provides that the Commission adjusts the salaries every two years based on CPI increases, up to a total of five percent for the two years. But if the total CPI increase over the prior two years exceeds five percent, the Commission may adjust salaries up to five percent per year but may not adjust the salaries more than the CPI increase per year. The measure removes the ability of the voters to approve increases above five percent by ordinance.

Mayoral Tie-Breaking Vote

The Mayor does not have a vote on the Council, but the Charter authorizes the Mayor to cast a tie-breaking vote when the Council is evenly divided. This measure provides that for purposes of determining whether there is a tie, a Councilmember’s abstention or absence shall count as a “no” vote.

City Attorney and City Auditor Salaries

The Council sets the salary of the City Attorney and the City Auditor. This measure provides that the Commission would set these salaries based on the salaries of the highest paid professional employee in their respective offices, other City department heads, and comparable positions in California jurisdictions.

City Attorney and City Auditor Political Activities

This measure would prohibit the City Attorney and the City Auditor from making or soliciting contributions to, publicly endorsing, or participating in the campaign of a candidate for City elective officer, or of a City ballot measure.

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City Auditor

This measure specifies when the Office of City Auditor becomes vacant and a process for filling the vacancy.

This measure establishes further qualifications and additional duties for the City Auditor.

The Charter does not set minimum staffing in the Office of the City Auditor. This measure provides that the budget for the Office of the City Auditor must be sufficient for at least fourteen full-time employees, unless the Council determines for a given fiscal year or two-year budget cycle that the City is facing an extreme fiscal necessity.

/s/ DAVID CHIU
San Francisco City Attorney

22 JUL 29 AM 11:38

BERKELEY CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF THE GOOD GOVERNANCE CHARTER REFORM BALLOT MEASURE

If passed by more than fifty percent of the voters, the Measure would amend the City Charter to establish term limits for councilmembers, require a minimum of two council hearings before certain council-proposed ballot measures for placement on the ballot, and count councilmember abstentions and absences as a no vote on council motions, resolutions, and ordinances to determine whether the Mayor is eligible to cast a tie-breaking vote. Further, the Measure would change the formula for the Public Ethics Commission (PEC) to set councilmember salaries, authorize the PEC to set the salaries of the City Auditor and City Attorney, and clarify the duties of and provide minimum staffing for the City Auditor.

Financial Impact

This Measure will cost the City an estimated additional \$858,199 annually in staffing costs, as detailed in the tables below.

The staffing level in the Auditor's office will increase from 11 Full Time Employees (FTEs) to a minimum staffing level of 14 FTEs, effective July 2023. City Council may suspend the minimum staffing level for a fiscal year or two-year budget cycle, in the event of extreme fiscal necessity.

Cost Component	Current FY 2023 Budget (11 FTEs)	Estimated Additional Annual Cost (+3 FTEs)^A
Staffing	\$2,568,489	\$638,229

^A Estimate is based on FY 2023 staff salaries and benefit rates.

The measure will authorize the PEC to set the salary of the City Attorney and the City Auditor annually. These salaries may not be reduced during their terms of office, except as part of a general reduction of salaries for all officers and employees. The estimated additional annual costs in the table below are based on an assessment of salaries within both departments, salaries of department heads within the City of Oakland, and salaries of comparable positions in California cities.

Cost Component	Current FY 2023 Salary and Benefits	Estimated Additional Annual Costs (Salary and Benefits)
City Attorney	\$420,637	\$120,145
City Auditor	\$332,471	\$99,826

Limits to this financial analysis are noted below:

- Staff salaries and benefit rates may increase over time which would increase the cost to the City.
- The PEC is authorized to set the salaries for the City Auditor and the City Attorney. As such, the PEC's methodology may vary from our estimates.
- Should a vacancy occur in the Office of the City Auditor at a time that cannot be consolidated with a municipal or statewide election, a special election may be held. As of July 2022, the County of Alameda Registrar of Voters' costs for special elections range from \$9 to \$11 per registered voter for vote-by-mail to \$19 to \$21 per registered voter for in-person voting.

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Our independent analysis represents the best information available at the time. Actual costs may vary from these estimates.

s/JENNY WONG
Berkeley City Auditor