

CITY OF OAKLAND  
PUBLIC ETHICS COMMISSION  
One Frank Ogawa Plaza (City Hall)  
Regular Commission Meeting  
Hearing Room 1  
Wednesday, August 9, 2023  
6:30 p.m.



**Effective March 1, 2023, all City of Oakland boards and commissions will conduct in-person meetings. Please check [www.oaklandca.gov](http://www.oaklandca.gov) for the latest news and [important information about the City's return to in-person meetings.](#)**

Commissioners: Ryan Micik (Chair), Charlotte Hill (Vice-Chair), Alea Gage, Arvon J. Perteet, Vincent Steele, and Francis Upton IV.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Lead Analyst; Chris Gonzales, Commission Assistant; 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.**
  - Please state your name each time you make public comment if you wish it to be included in the meeting minutes.
  - The Commission urges members of the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since public disclosure of such complaints or requests may undermine any subsequent investigation undertaken. Contact staff at [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) for assistance filing a complaint.

### **ACTION ITEMS**

- 4. Approval of Commission Meeting Draft Minutes.**
  - a. July 12, 2023, Regular Meeting Minutes ([Meeting Minutes](#))
- 5. Amendments to the Lobbyist Registration Act.** The Commission will consider recommending to the City Council amendments to the Lobbyist Registration Act (LRA), including amendments to incorporate the annual registration fee, waive or reduce the annual registration fee for some lobbyists, place a cap on lobbyist report late filing fees, modify the quarterly lobbyist report filing schedule, require that lobbyists attend a training on the LRA, authorize the PEC to require additional information in quarterly reports, and other changes. ([Staff Memo; Draft Language](#))



6. **Limited Public Financing Act of 2024.** The Commission will consider recommending to the City Council that it establish a limited campaign public financing program in an amount not to exceed \$155,000 for the 2024 election cycle only. ([Staff Memo](#); [Redline of the 2022 LPF](#); [Draft Resolution 23-06](#); [Exhibit A to Draft Resolution 23-06](#))

## **DISCUSSION ITEMS**

7. **Measure W Implementation - Oakland Fair Elections Act.** Staff provides an update on 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 beginning with the 2026 regular election. ([Staff Memo with timeline](#))
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. **Measure W Equity and Outreach Subcommittee** (ad hoc, created on March 8, 2023) – Charlotte Hill (Chair), Alea Gage, Vincent Steele.
  - b. **Transparency and Public Records Subcommittee** (ad hoc, created March 8, 2023) - Francis Upton IV (Chair), Arvon Perteet and Alea Gage.

## **INFORMATION ITEMS**

9. **Commissioner Recruitment.** The Commission is recruiting to fill one Commission appointed vacancy that will occur in January 2024. A second vacancy to occur at the same time will be subject to appointment by the City Attorney. Attached is the announcement and application that is being distributed widely via the Commission's website, email distribution lists, social media, and other channels. ([Announcement and Application](#); [Recruitment Flyer](#))
10. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting. ([Disclosure Report](#))
11. **Enforcement Program.** Enforcement Chief Simon Russell provides a summary of the

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Commission’s ongoing enforcement work, including overall caseload status, informal complaint intake, and enforcement-related litigation. ([Enforcement Report](#))

**12. Executive Director’s Report.** Executive Director Nicolas Heidorn reports on overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports. ([Executive Director’s Report](#))

**13. 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 Chair allocates additional time.

Members of the public may submit written comments to [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov).

*The following options may be available to observe this meeting:*

- **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 (via ZOOM):** Click on the link to join the webinar: <https://uso2web.zoom.us/j/84356782713> Please note: the Zoom link and access number are to view/listen to the meetings only, not for participation.
- **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: 843 5678 2713  
International numbers available: <https://uso2web.zoom.us/j/84356782713>

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or visit our webpage at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

*Nicolas Heidorn*

7/28/23

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Approved for Distribution

Date

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

¿Necesita un intérprete en español, cantonés o mandarín, u otra ayuda para participar? Por favor envíe un correo electrónico a [ethicscommission@oaklandca.gov](mailto:ethicscommission@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 [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or 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 [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or hoặc gọi đến số (510) 238-3593 hoặc 711 (với Dịch vụ Tiếp âm) trước đó năm ngày.

## Item 4 - Meeting Minutes

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Commissioners: Ryan Micik (Chair), Charlotte Hill (Vice-Chair), Alea Gage, Arvon Perteet, Vincent Steele, and Francis Upton IV.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Lead Analyst; Chris Gonzales, Commission Assistant; Ana Lara-Franco, Commission Analyst; Simon Russell, Enforcement Chief.

City Attorney Staff: Trish Shafie, Deputy City Attorney.

### **PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES**

#### **1. Roll Call and Determination of Quorum.**

The meeting was called to order at 6:32 p.m.

Members present: Micik, Hill, Gage, Upton IV, Perteet and Steele.

Staff present: Nicolas Heidorn, Suzanne Doran, Chris Gonzales, Garrett Micheels, Simon Russell.

City Attorney Staff: Tricia Shafie.

#### **2. Staff and Commission Announcements.**

Micik announced that the Public Ethics Commission is planning to have its annual retreat on August 24, 2023, from 3:00 pm – 8:00 pm. Director Heidorn announced the City of Oakland is hosting a Commissioner Appreciation mixer on July 31, 2023, from 5:00 pm – 7:00 pm, please RSVP by July 17, 2023. The city is encouraging all members of boards and commissions to attend.

#### **3. Open Forum.**

Public Comment: Assata Olugbala.

A full recording of public comments is available in the meeting video. Video recordings are posted on the meeting webpage, which may be found at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

### **GUEST PRESENTATION**

#### **4. Detecting and Preventing “Pay-to-Play” Corruption in Local Elections.**

Bridget Cervelli and Mina Koyama from the UC Berkeley Goldman School of Public Policy graduate program shared highlights from their report on the role of the Oakland Public Ethics Commission (PEC) in preventing "pay-to-play" influence in local elections and government decision.

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### **ACTION ITEMS**

#### **5. Approval of Commission Meeting Draft Minutes.**

Hill moved, and Micik seconded to approve the June 14, 2023 minutes.

Ayes: Hill, Gage, Micik, Upton IV.

Abstain: Perteet, Steele.

Noes: None.

Vote: Passed 4-0

Public Comment: None.

#### **6. Public Ethics Commission Annual Report.**

Lead Analyst Suzanne Doran noted the following edits to the PEC Annual Report:

On page 6, updated chart title to "Requests for Information, Advice, and Technical Assistance 2022".

On page 7, under "Campaign Finance Training" - re-formatted so text stays to the left of the graphic. Also on page 7, under Community Outreach, in the first sentence replace "regulated community" with "persons regulated by the Commission."

On page 9, updated the chart to make clear it shows mediation requests received versus mediations closed by year and added the total open mediations at the end of 2022 to the accompanying text.

On page 9 in the Behested Payments section, deleted an extra "\$" in the last line of the paragraph.

On page 10, updated chart title to "Incoming Cases Remain High" for clarity.

On page 11, in the box, edited "Case #" to same format throughout paragraph.

On page 12, updated PEC Budget graph so axis numbers are rounded to nearest dollar.

Perteet moved, and Upton IV seconded to approve the PEC Annual Report with the edits identified by Lead Analyst Doran.

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DRAFT



Ayes: Micik, Hill, Gage, Perteet, Steele, Upton IV.

Noes: None.

Vote: Passed 6-0

Public Comment: None.

### 7. **Measure W Implementation Update; Postponement of Democracy Dollars for 2024 Election Cycle.**

Director Heidorn provided an update on Measure W implementation and explained that the adopted budget did not provide funding for distribution of Democracy Dollars for 2024 .

Micik moved, and Hill seconded to approve the staff recommendation to postpone the distribution and use of Democracy Dollars vouchers for the November 2024 election.

Ayes: Micik, Hill, Gage, Upton IV, Perteet and Steele.

Noes: None.

Vote: Passed 6-0

Micik moved, and Steele seconded to approve the staff recommendation to consider and provide options to the Commission at a subsequent meeting for establishing a limited public financing program for the 2024 election cycle only, similar to the 2022 Limited Public Financing Program.

Ayes: Micik, Hill, Gage, Upton IV, Perteet and Steele.

Noes: None.

Vote: Passed 6-0

Public Comment: None.

### **DISCUSSION ITEMS**

#### **8. Reports on Subcommittees and Commissioner Assignments.**

**a. Measure W Implementation Subcommittee** (ad hoc, created December 14, 2022) – Arvon Perteet (Chair), Ryan Micik, Francis Upton IV.

Perteet reported that the subcommittee did not meet. Micik disbanded the Measure W Implementation Subcommittee due to the postponed distribution of Democracy Dollars

## Item 4 - Meeting Minutes

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DRAFT



vouchers for 2024.

**b. Measure W Equity and Outreach Subcommittee** (ad hoc, created on March 8, 2023) – Charlotte Hill (Chair), Alea Gage, Vincent Steele.

Hill reported that the subcommittee did not meet. Commissioners discussed whether to disband the subcommittee and agreed to postpone the decision pending discussion at the upcoming retreat.

Public Comment: Bridget Cervelli.

**c. Transparency and Public Records Subcommittee** (ad hoc, created March 8, 2023) - Francis Upton IV (Chair) and Arvon Perteet.

Upton IV reported that the subcommittee will be meeting on July 24, 2023. Micik appointed Gage to the Transparency and Public Records Subcommittee.

### INFORMATION ITEMS

#### **9. Disclosure and Engagement.**

Lead Analyst Doran provided a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting.

#### **10. Enforcement Program.**

Enforcement Chief Simon Russell provided a summary of the Commission's ongoing enforcement work, including overall caseload status, informal complaint intake, and enforcement-related litigation. Russell explained the Court's decision in the "Notice of Motion and Motion for an Order to Show Cause re: Contempt (C.C.P. 1209) and Monetary Sanctions" referenced in the Enforcement Report.

Public Comment: None.

#### **11. Executive Director's Report.**

Director Heidorn provided an update noting the PEC's proposed lobbyist registration fee and late filing fees have been approved by the City Council and PEC staff will bring recommendations for a registration fee waiver policy to a future meeting.

Heidorn explained that the City Council is considering an ordinance to give the City Attorney concurrent jurisdiction to enforce all city laws. PEC staff expressed concerns to the City Attorney over potential problems caused by concurrent jurisdiction over laws within the PEC's jurisdiction and worked with the City Attorney's office to amend the proposed ordinance to



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maintain the status-quo for PEC-enforced laws.

Heidorn noted that the PEC's mediation caseload has been reduced to 13 open cases from 24 cases three months ago. He thanked Ethics Analyst Jelani Killings and Former Law Clerk Chris Nardi for all their hard work in bringing down the caseload.

Public Comment: None.

### **12. Future Meeting Business.**

Micik announced that the regular PEC meeting would take place in August in addition to the retreat also scheduled for August.

Perteet asked for an update on the status of the Mayoral appointee vacancy at the next meeting.

Public Comment: None.

The meeting adjourned at 8:29 p.m.



## Item 5a - Staff Memo

Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: July 28, 2023  
RE: Lobbyist Registration Act Fee Waiver/Reduction and Other Amendments

In June of this year, the City Council adopted its Master Fee Schedule for Fiscal Year 2023-2024 which, at the request of the Public Ethics Commission (PEC or Commission), includes a new \$500 annual lobbyist registration fee and a new \$10/day lobbyist late filing fee. In recommending that the City Council adopt these fees, the PEC committed to developing a fee waiver policy for lobbyists who are employees of nonprofits or community-based organizations.

In this memorandum and attached draft language, staff recommends that the PEC propose to the City Council that the Master Fee Schedule amendments be codified in the Lobbyist Registration Act (LRA) with three changes to the standard fee structure to mitigate hardship and promote fee equity:

1. A fee waiver for 501(c)(3) nonprofit organizations with less than \$750,000 in annual revenue;
2. A fee reduction for small businesses and organizations with less than \$200,000 in annual revenue; and
3. A fee reduction for third and fourth quarter registrants.

Staff is also recommending that the PEC be given the authority to modify these fee reductions or waivers based on experience administering the fee.

Staff also recommends that the PEC propose the following additional, ancillary changes to the LRA:

4. Cap the \$10/day late filing fee to a cumulative total of \$1,000, which is the PEC's maximum fining authority under the LRA, and authorize the Executive Director to waive fees of under \$500 if the violation was not willful and it furthers the purposes of the LRA;
5. Require that lobbyists complete a PEC training session on the requirements of the LRA.
6. Change the lobbyist quarterly report filing deadline from 30 days after the end of the quarter to the last day of the month following the end of the quarter (e.g., July 31 instead of July 30);
7. Authorize the PEC to require additional information relevant to lobbying related activities in the lobbyist quarterly reports; and
8. Other minor and technical changes in the draft language.

**Staff recommends that the Commission adopt a motion forwarding the attached draft LRA amendments to the City Council for its review and passage, without needing any introduced proposed ordinance to return to the Commission for further review and comment unless the City Council makes substantive changes to the Commission's proposals.**

## Item 5a - Staff Memo

### Background

The Oakland Lobbyist Registration Act (LRA) requires any person that qualifies as a lobbyist to register annually with the Commission before conducting any lobbying activity. Under Oakland law, a person qualifies as a local government lobbyist in Oakland if:

- They are paid \$1,000 or more in a calendar month to communicate with City officials to influence any proposed or pending governmental, legislative, or administrative action; or
- Their duties as an employee, officer, or director of an organization or business entity include communicating (directly or through an agent) with City officials or employees to influence any proposed or pending governmental, legislative, or administrative action.

The LRA requires that registered lobbyists submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions. The Commission ensures compliance with the City of Oakland's lobbyist registration laws and acts as filing officer for lobbyist disclosure. Examples of filing officer activities include processes such as noticing registration and filing deadlines, advice and technical assistance, surface review of filings for completeness, engaging with non-filers to gain compliance, and maintenance of the PEC’s online filing system. As of July 2023, 74 lobbyists are registered with the PEC.

Historically, unlike many other large California cities, the City of Oakland had not charged lobbyists a registration fee or late fees for missed deadlines. Earlier this year, the Commission proposed that (A) a \$500 annual lobbyist registration fee and (B) a \$10/day late fee for lobbyist filings submitted after applicable deadlines be added to the Master Fee Schedule. The staff report recommending the adoption of these fees noted that, if the fees were adopted, the “Commission shall develop a registration fee waiver policy for lobbyists that are employees or representatives of 501(c)(3) nonprofit organizations and/or community-based organizations that can demonstrate hardship, prior to fee implementation.” On June 20, 2023, the City Council adopted a revised Master Fee Schedule, which included the annual lobbyist registration fee and lobbyist late filing daily fees recommended by the Commission.

### Proposed Lobbyist Registration Fee Changes

Staff recommends that the PEC propose three changes to the \$500/year lobbyist registration fee, which would: waive the registration fee for qualifying nonprofits; reduce the fee for smaller businesses or organizations, for which the \$500 fee may pose a hardship; and reduce the fee for third and fourth quarter registrants. The draft language would also permit the PEC to modify the fee waiver/reduction requirements going forward based on experience administering the fee.

#### Fee Proposal Overview

Current Fee		
\$500/year		
Proposed Fee		
	Jan. 1 – Jun. 30 Registration	Jul. 1 – Dec. 31 Registration
Standard Fee	\$500/year	\$250/year
Small Business/Organization under \$200,000 gross revenue	\$200/year	\$100/year
501(c)(3) Nonprofit under \$750,000 gross revenue	\$0 (waived)	\$0 (waived)

## Item 5a - Staff Memo

### A. Nonprofit Fee Waiver

Based on a review of Oakland registered lobbyist filings as of July 2023, PEC staff estimates that 21 lobbyists – or about 30% of all Oakland registered lobbyists – represent some type of nonprofit organization. While nonprofit lobbyists have always been required to report their activities under the LRA, until recently there was no charge for registering as a lobbyist in Oakland. For nonprofits that are not well-resourced, the new \$500 fee may pose a hardship or divert organizational resources that might otherwise have been used for charitable or educational activities.

For this reason, several California jurisdictions either exempt from regulation, or waive the registration fee for, local lobbyists that are employed by nonprofit organizations or neighborhood or community organizations. PEC staff reviewed the lobbying registration ordinances of the eight California cities and counties with ethics commissions and found that the majority included some type of nonprofit fee waiver or regulatory exemption. Berkeley and San Francisco provide fairly broad fee waivers for 501(c)(3), (c)(4), and (in Berkeley) (c)(6) nonprofits. The jurisdictions that exempt nonprofits lobbyists from registration often adopt narrower exclusions. For example, in Sacramento (Sacramento MC 2.15.050(D)(3)), only *uncompensated* nonprofit officers are exempt from registering, whereas in Los Angeles (Los Angeles MC 12.12.020(E)-(F)) only 501(c)(3) nonprofits *providing direct services* to the indigent and not seeking city funding are eligible.

#### Lobbyist Regulatory Exemption or Fee Waiver by Type of Nonprofit or Community Organization

Jurisdiction	Regulatory Exemption or Fee Waiver	Type of Eligible Nonprofit/Organization:
Berkeley	Fee Waiver	501(c)(3), 501(c)(4), or 501(c)(6) nonprofit
Long Beach	Exemption	<ul style="list-style-type: none"> <li>▪ 501(c)(3) nonprofit</li> <li>▪ Neighborhood associations or project area committees</li> <li>▪ Organizations representing City business improvement districts</li> </ul>
Los Angeles	Exemption	501(c)(3) nonprofit which receives government funding and provides direct services to indigent persons, unless seeking City funding
Orange County	Exemption	501(c)(3) or 501(c)(6) nonprofit not seeking a County grant or contract
Sacramento	Exemption	Any nonprofit (uncompensated members or directors only)
San Diego	None	-
San Francisco	Fee Waiver	501(c)(3) or 501(c)(4) nonprofit
	Exemption	<ul style="list-style-type: none"> <li>▪ 501(c)(3) nonprofit</li> <li>▪ 501(c)(4) nonprofit whose most recent tax filing was an IRS Form 990-N or an IRS Form 990-EZ</li> <li>▪ Organization whose next tax filing will be an IRS Form 990-N or an IRS Form 990-EZ</li> </ul>
San Jose	Exemption	<ul style="list-style-type: none"> <li>▪ Any nonprofit (uncompensated members or uncompensated board members only)</li> <li>▪ 501(c)(3) nonprofit</li> <li>▪ Neighborhood association, neighborhood advisory committee, or project area committee</li> </ul>

## Item 5a - Staff Memo

As the chart above demonstrates, the most common type of nonprofit to receive an exemption/waiver is a 501(c)(3) nonprofit, followed by a (c)(4), then a (c)(6). 501(c)(3) nonprofits are classified as public charities, whose political activities are more strictly regulated under federal law. 501(c)(3) nonprofits can only spend a limited amount of their funds on lobbying and cannot endorse political candidates. Donations to 501(c)(3) nonprofits are tax-deductible. By contrast, 501(c)(4) nonprofits, called social welfare nonprofits, and 501(c)(6) nonprofits, which represent business associations, may both endorse candidates and are not limited in how much lobbying activity they engage in. Donations to these nonprofits are generally not tax deductible.<sup>1</sup> Many 501(c)(3) nonprofits also have an affiliated 501(c)(4) nonprofit.

Of Oakland’s 21 registered nonprofit lobbyists, a majority represent a nonprofit that has both a 501(c)(3) and 501(c)(4) organization, including, for example, Earthjustice, Sierra Club, and Common Cause. The next most common type of nonprofit is a 501(c)(6) nonprofit, including the Oakland Chamber of Commerce, Jobs and Housing Coalition, and Bridge Association of Realtors.

### Oakland Lobbyists Employed by a Nonprofit, by Nonprofit Type

Type of Nonprofit	501(c)(3) only	501(c)(4) only	501(c)(3)&(4)	501(c)(6)
Number (%)	3 (14%)	1 (5%)	12 (57%)	5 (24%)

Staff recommends that the Commission propose a fee waiver for 501(c)(3) nonprofits with less than \$750,000 in annual revenue. By law, 501(c)(3) nonprofits may not engage in substantial amounts of lobbying. Any fee therefore risks displacing the charitable activities of that nonprofit. By contrast, 501(c)(4) and 501(c)(6) nonprofits are frequently advocacy organization, where the lobbying fee is more akin to a cost of doing business. While the jurisdictions surveyed above generally provide a nonprofit waiver/exemption without regard to an organization’s income, staff recommends that the fee waiver be income limited, as larger nonprofits are unlikely to be significantly affected by the fee. According to a study by the National Council of Nonprofits, 88% of 501(c)(3) nonprofits reported less than \$500,000 in revenue in 2016, and 92% reported less than \$1 million.<sup>2</sup> Based on those figures, around 90% of 501(c)(3) nonprofits should be eligible for the proposed fee waiver using a \$750,000 revenue threshold.

### B. Small Business/Organization Fee Reduction

Because some community organization may not have gone through the process of registering as a nonprofit, and because a \$500 fee could represent a hardship for very small businesses or self-employed lobbyists, and may deter their participation in the City’s legislative process as a result, staff also recommends that the fee be reduced to \$100 for any organization or business with less than \$200,000 in revenue. This is about double Oakland’s median household income (~\$85,000) and follows a threshold set in federal law, where nonprofits of any type with less than \$200,000 in annual gross receipts may file a simplified, short form tax return called Form 990-EZ. San Francisco uses the same threshold for determining an organization’s eligibility for a lobbyist regulatory exemption.

<sup>1</sup> See Bolder Advocacy, “Types of Organizations,” <https://bolderadvocacy.org/resource-library/types-of-organizations/> (accessed July 2023), and Bolder Advocacy, “Comparison of 501(c)(3) and 501(c)(4) Permissible Activities,” <https://bolderadvocacy.org/resource/comparison-of-501c3-and-501c4-permissible-activities/> (accessed July 2023).

<sup>2</sup> National Council of Nonprofits, “Nonprofit Impact Matters,” 17 (2019), [https://www.nonprofitimpactmatters.org/?utm\\_source=web&utm\\_medium=site&utm\\_campaign=reports-page](https://www.nonprofitimpactmatters.org/?utm_source=web&utm_medium=site&utm_campaign=reports-page).

### C. Reduced Fee for Third/Fourth Quarter Registrants

In most local jurisdictions, a lobbyist's registration and any applicable registration fee is only valid for the calendar year in which the lobbyist registered. For example, in San Francisco returning lobbyists must pay their registration fee by February 1 of each new calendar year, or else their registration is automatically terminated. (San Francisco Campaign and Governmental Conduct Code (SF CGCC) Sec. 2.110(f).) Similarly, under the LRA, returning Oakland lobbyists are required to reregister with the PEC in January of each calendar year. (OMC 3.20.040(C).)

Calendar year-based registration is simple to administer and provides for predictable registration deadlines; however, a flat registration fee regardless of when a person first registers as a lobbyist can result in some financial inequities between lobbyists. For example, if Oakland adopted a flat fee, a person who first registers to lobby in January and a person who first registers to lobby in December would both pay \$500, but one person could lobby for 12 months with that payment whereas the other person could only lobby for one month.

To reduce these inequities, but retain a predictable and easily administrable fee payment schedule, some jurisdictions charge a different fee depending on when a person registers. Sacramento, for example, charges lobbyists a \$100 initial registration fee for those registering for the first time before June 30, and \$50 for those registering on or after June 30.<sup>3</sup> Similarly, California state lobbyists who register in the first year of a two-year legislative session must pay a \$100 fee but lobbyists registering in the second year must pay \$50.<sup>4</sup> Staff recommends that Oakland follow the model of Sacramento and California and reduce the registration fee by half for lobbyists who initially register in the second half of a calendar year.

### D. Future Changes

With experience administering the fee, the PEC may find that there are better ways to structure or target the fee waiver/reduction. Rather than requiring the PEC to repeatedly return to the City Council with small adjustments to the waiver/reduction process, staff recommends that the PEC be given the authority to make future adjustments by resolution or regulation. Under the Oakland Municipal Code, any rules, regulations, or procedures adopted by the Commission must be submitted to the City Council within seven days of their adoption and become effective 60 days later unless the City Council, by two-thirds vote, veto the rule, regulation, or procedure. (OMC 2.24.020.) This would be a faster and less resource-intensive process than having the PEC adopt only recommended changes then seek a legislative sponsor to introduce an ordinance making this change.

### **Late Filing Fee**

Under the newly-adopted amendments to the Master Fee Schedule, the PEC may now impose \$10/day fines for late lobbyist filings, which is the same dollar amount that the PEC imposes pursuant to state law for late campaign filings. (Cal. Gov. Code Sec. 91013.) As with campaign filing late fees, this fee

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<sup>3</sup> Sacramento City Clerk, "Lobbyists," <https://www.cityofsacramento.org/Clerk/Good-Governance-and-Compliance/Lobbyists> (accessed July 7, 2023).

<sup>4</sup> California Secretary of State, "Lobbying Registration," <https://www.sos.ca.gov/campaign-lobbying/lobbying-disclosure-requirements/lobbying-filing-requirements/lobbying-registration-documents-required-registration-amendment-termination-and-withdrawal#:~:text=For%20registration%20submitted%20during%20the,or%20firm's%20registration%20is%20%2450> (accessed July 7, 2023).

## Item 5a - Staff Memo

would be imposed administratively by staff, without requiring a vote of the Commission or going through the Commission's complaint hearing process. Daily fees are intended to incentivize lobbyists to file their mandated reports as soon as possible to stop incurring new fees.

The current \$10/day fee begins as soon as a lobbyist is one day late in filing their report. However, there may be situations where a lobbyist has a good reason for not filing their reports in a timely fashion, which might include a family emergency or a technology issue with the PEC's filing system. In San Francisco, the Ethics Commission's Executive Director may waive up to a \$500 fee (and higher amounts with notice to the Commission and the opportunity for review) if the late filing "was not willful and that enforcement will not further the purposes" of the lobbying registration ordinance. (SF CGCC 2.145.) For the LRA late filing fee, staff recommends that the Executive Director be given similar discretion to waive late filing fees of up to \$500 if the violation was not willful and enforcement would not further the purposes of the LRA.

The current Master Fee Schedule does not cap the cumulative amount of late fees that a lobbyist may incur under the LRA. Hypothetically, a lobbyist that refuses or forgets for years to file their lobbying report could accumulate thousands to tens of thousands of dollars in late fees, which would significantly exceed the PEC's maximum enforcement penalty of \$1,000 for a violation of the LRA. (OMC 3.20.200.) For consistency, staff therefore recommends that late fees be capped at a maximum of \$1,000. Notably, in addition to the daily late fees, a lobbyist who fails to file mandated reports could also be the subject of an enforcement proceeding.

### Lobbyist Training Requirements

To ensure lobbyists are aware of, and comply with, city laws relating to lobbying, staff recommends that lobbyists be required to take a PEC training on the LRA upon first registering as a lobbyist and periodically thereafter, as provided by the PEC by rule. The State (FPPC Reg. 18603.1) and many other cities, for example San Francisco (SF CGCC 2.116) and Berkeley (Berkeley M.C. Sec. 2.09.080), similarly require lobbyists to take a mandatory training course. Moreover, this proposed rule is similar to what Oakland requires of its own employees. Under the Government Ethics Act, city employees that file an annual Form 700 Statement of Economic Interest are also required to take a PEC training on government ethics requirements every two years. (O.M.C. 2.25.080(A).) Because new lobbyists register at different times of the year, PEC staff envision providing this training as an online recording that lobbyists could review at their convenience and without requiring substantial additional PEC staff resources.

### Quarterly Filing

Presently, the LRA requires that quarterly lobbyist reports be filed 30 days after the end of the quarter. For Quarter 1 (Q1) and Q3 reports, reports are due at the end of the month following the reporting period. However, because the months following the Q2 and Q4 reports are 31 days long, the report is due the day *before* the last day of that month. This inconsistency can create the opportunity for inadvertent late filings. Moreover, this filing schedule is also inconsistent with campaign finance semi-annual reports (Cal. Gov. Code Sec. 84200) as well as California lobbyist quarterly reporting (Cal. Gov. Code Sec. 86117), which are due at the end of the month following the reporting period. Staff recommends that the LRA be amended to provide a consistent end-of-the-next-month filing deadline for all lobbyist reports.

### Comparison: LRA, State Lobbying, and Campaign Finance Reporting Deadlines

## Item 5a - Staff Memo

Reporting Period	LRA Reports	CA Lobbying Reports	Campaign Semi-Annual Reports	Proposed LRA Reports
Quarter 1 (Jan. 1 – Mar. 31)	Apr. 30	Apr. 30	-	Apr. 30
Quarter 2 (Apr. 1 – Jun. 30)	Jul. 30	Jul. 31	Jul. 31	Jul. 31
Quarter 3 (Jul. 1 – Sep. 31)	Oct. 30	Oct. 30	-	Oct. 30
Quarter 4 (Oct. 1 – Dec. 31)	Jan. 30	Jan. 31	Jan. 31	Jan. 31

### Information in Quarterly Lobbyist Reports

Under the LRA, lobbyists are required to disclose in their quarterly reports (1) the items of governmental action they are seeking to influence, (2) who they communicated with, and (3) what their position was, as well as (4) whether the lobbyist has hired or (5) is hired by a City official, and (6) any campaign solicitations the lobbyist has made on behalf of an officeholder or candidate. (OMC 3.20.110.) Other cities have similar, but not identical, disclosure requirements. In Oakland, the PEC is not authorized to require disclosure of additional lobbying information beyond what is listed in the LRA. However, in many other cities with ethics commissions, including Los Angeles (LA MC 48.08(B)(13)), San Diego (San Diego MC Sec. 27.4017(a)(10)), and San Francisco (SF CGCC Sec. 2.110(c)(1)(J)), their ethics commission may require the disclosure of other lobbying information consistent with the purposes of the city’s lobbyist registration ordinance. This permits the commission, based on its expertise administering the law, to adopt other rules which may provide for more meaningful or contextualized disclosure. Staff recommends that the PEC be given similar authority to require the disclosure of additional lobbying information on lobbyist quarterly reports. As described above, any new disclosure rule or regulation adopted by the PEC would be subject to City Council review, and possibly veto, before taking effect.

### Amending the LRA

If the PEC approves a proposal to amend the LRA, PEC staff will request that the City Council agendize and pass the proposal as an ordinance amending the LRA. Under the City Charter, the City Council may only amend the LRA to further its goals and purposes. (Oakland Charter Sec. 603(h).) Amendments to the LRA must be submitted to the PEC for review and comment prior to their passage, which would already be met for proposals originating with the PEC. However, if the City Council makes substantive amendments to the PEC’s proposal that differ from what the PEC has recommended, the amended proposed ordinance would need to return to the PEC for review and comment prior to enactment.

**Additional Attachment:** Draft LRA Amendment Language



**Attachment: Redline of recommended amendments to the Lobbyist Registration Act.**

**Chapter 3.20 THE CITY OF OAKLAND LOBBYIST REGISTRATION ACT**

Sections:

***Article I. Findings and Purpose***

**3.20.010 Title.**

This Chapter shall be known as the City of Oakland Lobbyist Registration Act, hereafter "this Act."

***Article II. Definitions and Interpretation of This Act***

**3.20.020 Words and phrases.**

Words and phrases used in this Act shall have the same meanings and be interpreted in the same manner as words and phrases used in the Political Reform Act of 1974 as amended and the regulations issued pursuant thereto, unless otherwise expressly provided or unless the context otherwise requires.

**3.20.030 Definitions.**

For the purposes of this Act, the following definitions shall be applicable:

- A. "Client" means the real party in interest for whose benefit the services of a local governmental lobbyist are actually performed. An individual member of an organization shall not be deemed to be a "client" solely by reason of the fact that such member is individually represented by an employee or agent of the organization as a regular part of such employee's or agent's duties with the organization as long as such member does not pay an amount of money or other consideration in addition to the usual membership fees for such representation.
- B. "Contractor" means any party to an agreement in which the value of the consideration exceeds one thousand dollars (\$1,000.00), and, (1) The City is a party, or (2) the agreement or its effectiveness is in any way dependent or conditioned upon approval by the City Council or any board or commission, officer or employee of the City.
- C. "Designated Employees" mean City employees who are designated employees within the meaning of the Political Reform Act of 1974, as amended, and who are required by the Political Reform Act or a city conflict of interest code to file financial interest disclosure statements.
- D. "Local Governmental Lobbyist" means any individual who: (1) receives or is entitled to receive one thousand dollars (\$1,000.00) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses, to communicate directly or through agents with any public official, officer, or

designated employee, for the purpose of influencing any proposed or pending governmental action of the City; or (2) whose duties as a salaried employee, officer, or director, of any corporation, organization or association, include communication directly or through agents with any public official, officer, or designated employee, for the purpose of influencing any proposed or pending governmental action of the City. No person is a local governmental lobbyist by reason of activities described in Section 3.20.030 A. In case of any ambiguity, the definition of "local governmental lobbyist" shall be interpreted broadly.

- E. "Governmental Action" means any administrative or legislative action of the City other than an action which is ministerial in nature.
  - F. "Payment" means a payment, distribution transfer, loan advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible.
  - G. "Person Doing Business with the City" means any person whose financial interests are materially affected by governmental action as defined by Section 3.20.030 E. It includes persons currently doing business with the City, planning to do business with the City, or having done business with the City within two (2) years. For purposes of this Act a person's financial interests shall not be found to be materially affected by the issuance of any license or permit which does not require the exercise of discretion by City officers or employees.
  - H. "Public Official" means an elected or appointed officer or employee or officially designated representative, whether compensated or not, of the United States or any of its agencies, the State of California, any political subdivision of the state, including cities, counties, districts, or any public corporation, agency or commission.
- (Ord. 13469, § 1, 1-16-2018; Ord. 12803 § 4, 2007; Ord. 12782 § 3 (part), 2007; Ord. 12431 (part), 2002)

### ***Article III. Registration of Lobbyists***

#### **3.20.040 Registration with the public ethics commission.**

- A. No person shall act as local governmental lobbyist before registering as a local governmental lobbyist with the Public Ethics Commission and paying the applicable annual registration fee. A local governmental lobbyist's registration shall be valid for the duration of the calendar year in which the local governmental lobbyist registered unless the local government lobbyist terminates his or her registration pursuant to Section 3.20.050.
- B. At the time of registering, the local governmental lobbyist shall file with the Public Ethics Commission, in writing, his or her name, business ~~or~~ and residence addresses, and any additional information that the Commission determines is necessary to implement this Chapter. At the time of registering, the local governmental lobbyist shall also pay an annual registration fee of either \$500 if the local governmental lobbyist registers between January 1 and June 30 or \$250 if the local governmental lobbyist registers between July 1 and December 31.
- C. The local governmental lobbyist shall reregister annually during the month of January and at that time shall resubmit the required information and pay the \$500 annual registration fee for that calendar year. If a local governmental lobbyist does not reregister during the month of January and pay the applicable fee their registration shall be automatically terminated effective December 31 of the previous calendar year.
- D. The Public Ethics Commission shall reduce the registration fees in Subsections B and C to \$100 for a local governmental lobbyist who registers between January 1 and June 30 and to \$50 for a lobbyist who registers between July 1 and December 31 and who:

1. is a salaried employee, officer, or director of any corporation, organization or association that received less than \$200,000 in gross receipts or gross income in both the corporation, organization or association's current tax year at the time of the local governmental lobbyist's registration and in the prior tax year; and
  2. is exclusively representing that corporation, organization or association.
- E. The Public Ethics Commission shall waive the registration fees in Subsections B and C for a local governmental lobbyist who:
1. is a salaried employee, officer, or director of an organization or association that is exempt from taxation under 26 U.S.C. Sections 501(c)(3) and that received less than \$750,000 in gross receipts in both the organization's current tax year at the time of the local governmental lobbyist's registration and in the organization's prior tax year; and
  2. is exclusively representing that organization.
- F. A lobbyist that is a salaried employee, officer, or director of a chapter of a nonprofit organization or association may receive a fee waiver or fee reduction if the chapter's gross income or gross receipts meet the thresholds under Subsections D and E and if all of the following are true:
1. The chapter is clearly presented to the public as being a chapter of the nonprofit organization or association;
  2. The chapter has different leadership from the nonprofit organization or association; and
  3. The chapter has its own budget and pays for the lobbyist's salary or lobbying expenses out of the chapter's budget.
- G. The Public Ethics Commission may require that a local governmental lobbyist submit proof of an employer's gross receipts or gross income to receive the fee reduction or fee waiver in Subsections D and E as part of the local governmental lobbyist's registration or at any time thereafter.
- H. The Public Ethics Commission may modify the eligibility requirements for the fee waiver or fee reduction or the amount of the fee reduction provided in Subsections D and E by resolution or regulation, which shall be posted to the Public Ethics Commission's website.

### **3.20.045 Lobbyist training.**

- A. Each local governmental lobbyist must complete a lobbyist training session offered by the Public Ethics Commission within 60 days of the local governmental lobbyist's initial registration. Thereafter, local governmental lobbyists shall engage in additional training sessions as required by the Public Ethics Commission, at its discretion.
- B. The Public Ethics Commission shall make local governmental lobbyist training sessions available online.
- C. On or before the deadline for completing any required local governmental lobbyist training session, a local governmental lobbyist must file a signed declaration with the Public Ethics Commission stating, under penalty of perjury, that the local governmental lobbyist has completed the required training session.
- D. Failure to file the signed declaration required by this section within 60 days of the local governmental lobbyist's initial registration shall constitute a violation of this Act. The Public Ethics Commission may invalidate a registration for failure to comply with this section.

### 3.20.050 Cessation of employment.

A local governmental lobbyist who has terminated all activities requiring registration during a calendar year shall notify the Public Ethics Commission of that fact and thereupon shall be relieved of any further obligations under this Act until such time as ~~he or she~~ they commences activity requiring registration.

### 3.20.060 Exceptions.

The provisions of this Act shall not apply:

- A. To a public official acting in his or her official capacity.
- B. To the publication or broadcasting of news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge governmental action.
- C. To a person specifically invited by the City Council or any committee thereof, or by any board or commission, or any committee of a board or commission, or by any officer or employee of the City charged by law with the duty of conducting a hearing or making a decision, for the purpose of giving testimony or information in aid of the body or person extending the invitation.
- D. To a person who, without extra compensation and not as part of, or in the ordinary course of, his or her regular employment, presents the position of his or her organization when that organization has one or more of its officers, directors, employees or representatives already registered under the provisions of this Act.
- E. Any attorney, architect or civil engineer whose attempts to influence governmental action are limited to: (1) Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public; (2) Preparing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other official proceeding open to the public; and (3) Contacting City employees or agents working under the direction of the City administrator directly relating to (1) and (2) above.
- F. To designated representatives of a recognized employee organization whose activities are limited to communicating with City Officials or their representatives regarding (1) wages, hours and other terms and conditions of employment pursuant to the procedures set forth in Government Code Sections 3500—3510, or (2) the administration, implementation or interpretation of an existing employment agreement.
- G. To persons whose only activity is to (1) submit a bid on a competitively bid contract, (2) respond to a request for proposal or qualifications, or (3) negotiate the terms of a written contract if selected pursuant to such bid or request for proposal or qualifications. This exception shall not apply to persons who attempt to influence the award or terms of a contract with any elected official or member of any City board or commission.

### 3.20.070 Noncompliance.

If the Public Ethics Commission determines that a person is a local governmental lobbyist and ~~he or she~~ they fails to register pursuant to this Act within seven (7) days of that determination, ~~he or she~~ they shall be barred from acting as a local governmental lobbyist except when appearing before the City Council, or other board or commission, at a noticed public meeting or upon oral petition on his or her own behalf. Such debarment shall be in effect for three (3) months from the date of such determination or until registration pursuant to this Act, whichever is later.

**3.20.080 Availability of information.**

All registration information shall be retained by the Public Ethics Commission for a period of five (5) years from the date of filing, shall constitute part of the public records of the City, and shall be open to public inspection.

**3.20.090 Filing under penalty of perjury.**

All information required by this Act shall be filed with the Public Ethics Commission in a manner prescribed by the Public Ethics Commission, and accompanied by a declaration by the local governmental lobbyist that the contents thereof are true and correct under penalty of perjury.

**3.20.100 Records.**

A local governmental lobbyist shall retain, for a period of five (5) years, all books, papers and documents necessary to substantiate the registration and disclosure required to be made under this Act.

***Article IV. Disclosure of Lobbying Activities***

**3.20.110 Quarterly disclosure.**

For each calendar quarter in which a local governmental lobbyist was required to be registered, ~~he or she~~ they shall file a quarterly report with the Public Ethics Commission. The reports shall be due no later than ~~thirty~~ (30) days after the last day of the month following the end of the calendar quarter. The report shall contain the following information:

- A. The item(s) of governmental action and the name and address of the client(s) on whose behalf the local governmental lobbyist sought to influence.
- B. For each item of governmental action sought to be influenced, (1) the name of each City officer with whom the local governmental lobbyist communicated, (2) the name and title of any City board member or commissioner with whom the local governmental lobbyist communicated, and (3) the identity of any City employee with whom the local governmental lobbyist communicated identified only by the office or department in which the employee works and his or her job title.
- C. A brief narrative description (no longer than three (3) sentences) of the position advocated by the local governmental lobbyist on behalf of the identified client.
- D. If any local governmental lobbyist, or a registered client at the behest of a local governmental lobbyist, employs or hires an elected City officeholder, candidate for elected City office, a designated employee, or a member of the immediate family of one (1) of these individuals, the local governmental lobbyist shall disclose (1) the name of the person employed or hired, (2) a description of the services actually performed, and (3) the total payments made during the reporting period identified only by the following categories: less than two hundred fifty dollars (\$250.00); between two hundred fifty dollars (\$250.00) and one thousand dollars (\$1,000.00); greater than one thousand dollars (\$1,000.00) but less than ten thousand dollars (\$10,000.00); greater than ten thousand dollars (\$10,000.00).
- E. If any elected City officeholder or candidate for elected City office employs or hires a local governmental lobbyist to provide compensated services to the officeholder or candidate, the local governmental lobbyist shall disclose (1) the name of the person who employed or hired the local governmental lobbyist, (2) a description of the services actually performed, and (3) the total payments made during the reporting period identified only by the following categories: less than two hundred fifty dollars (\$250.00); between two hundred fifty dollars (\$250.00) and one thousand dollars

(\$1,000.00); greater than one thousand dollars (\$1,000.00) but less than ten thousand dollars (\$10,000.00); greater than ten thousand dollars (\$10,000.00).

- F. If a local governmental lobbyist solicits any person to make a contribution to an elected City officeholder, candidate for City office or to any committee or fund controlled by such officeholder or candidate, the local governmental lobbyist shall disclose the names of the persons whom the local governmental lobbyist solicited, and the officeholder or candidate for whose benefit each solicitation was made. A solicitation does not include a request for a contribution made (1) in a mass mailing sent to members of the public, (2) in response to a specific request for a recommendation, (3) to a gathering which members of the public may attend, or (4) in a newspaper, on radio or television, or in any other mass media. A local governmental lobbyist does not "solicit" solely because his or her name is printed with other names on stationary or a letterhead used to request contributions. If a local governmental lobbyist makes a solicitation to more than fifty (50) individual members or employees of a corporation, union or other association that is a registered client of the local governmental lobbyist, or if the local governmental lobbyist makes a solicitation to all members or employees of a corporation, union or association that is a registered client of the local governmental lobbyist, the local governmental lobbyist may choose to disclose the name of the registered client instead of the names of the persons whom the local governmental lobbyist actually solicited.
- G. Other information relevant to lobbying activities as shall be prescribed by the Public Ethics Commission by resolution or regulation, which shall be posted to the Public Ethics Commission's website.

### **Article V. Prohibitions**

#### **3.20.120 No unregistered employment or activity.**

- A. A local governmental lobbyist shall not engage in any activity on behalf of a client as a local governmental lobbyist unless such local governmental lobbyist is registered and has listed such client with the Public Ethics Commission.
- B. No person shall accept compensation for acting as a local governmental lobbyist except upon condition that ~~he or she~~ they forthwith register as required by this Act.

#### **3.20.130 Personal obligation of city officials prohibited.**

Local governmental lobbyists, clients, contractors, and persons doing business with the City shall abstain from doing any act with the express purpose and intent of placing any City officer or designated employee under personal obligation to such local governmental lobbyist, client, contractor or person.

#### **3.20.140 Deception prohibited.**

No local governmental lobbyist, client, contractor or person doing business with the City shall deceive or attempt to deceive a City officer or designated employee as to any material fact pertinent to any pending or proposed governmental action.

#### **3.20.150 Improper influence prohibited.**

No local governmental lobbyist shall cause or influence the introduction of any ordinance, resolution, appeal, application, petition, nomination or amendment thereto for the purpose of thereafter being employed as a local governmental lobbyist to secure its granting, denial, confirmation, rejection, passage or defeat.

### **3.20.160 False appearances prohibited.**

No local governmental lobbyist, client, contractor, or person doing business with the City shall attempt in any way to create a fictitious appearance of public favor or disfavor of any governmental action or to cause any communication to be sent to a City officer or designated employee in the name of any fictitious person or in the name of any real person, except with the consent of such real person.

### **3.20.170 Prohibited representations.**

No local governmental lobbyist, client, contractor, or person doing business with the City shall represent, either directly or indirectly, orally or in writing that such person can control or obtain the vote or action of any City officer or designated employee.

### **3.20.180 Restrictions on payments and expenses benefiting local public officials, candidates for local office, designated employees and immediate families.**

- A. No local governmental lobbyist or a local governmental lobbyist's registered client shall make any payment or incur any expense that directly benefits an elected City officeholder, candidate for elected City office, a designated employee, or a member of the immediate family of one (1) of these individuals, in which the cumulative value of such payments or expenses exceeds two hundred forty dollars (\$240.00) during any calendar year.
- B. The payments and expenses specified in subsection (A) include gifts, honoraria and any other form of compensation but- do not include (1) campaign contributions; (2) payments or expenses that, within thirty (30) days after receipt, are returned unused or are reimbursed; (3) food, beverages or occasional lodging provided in the home of an individual local governmental lobbyist or individual local governmental lobbyist's registered client when the individual or member of the individual's family is present; (4) a pass or ticket to a fundraising event for a campaign committee or candidate, or for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; (5) a pass or ticket given to a public agency and which meets the provisions of 2 Cal. Code of Regs. No. 18944. 1 (a) through (e), inclusive; (6) informational material; and (7) salaries, consulting fees or other payments for services rendered or bargained for. No other exception to, or exclusion from, the definition of gift or honoraria contained in the Political Reform Act of 1974 as amended, and the regulations issued pursuant thereto, shall apply to this Section.

### **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 after leaving office.

## ***Article VI. Enforcement and Penalties***

### **3.20.200 Administrative action.**

- A. Except as provided in Section 3.02.225, any ~~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.

### **3.20.225 Late fees.**

- A. If any lobbyist fails to submit any information required by this Chapter after any applicable deadline, the Public Ethics Commission shall, in addition to any other penalties or remedies established in this Chapter, impose a late filing fee of \$10 per day after the deadline until the information is received by the Public Ethics Commission or the fines reach \$1,000. The late filing fee shall be imposed administratively by staff without requiring a vote of the Public Ethics Commission and is not subject to the Public Ethics Commission's Complaint Procedures.
- B. The Executive Director of the Public Ethics Commission may reduce or waive a late filing fee under \$500 if the Executive Director determines that the late filing was not willful and that enforcement will not further the purposes of this Chapter. The Executive Director shall report any reductions or waivers of the late filing fee at the next regular meeting of the Public Ethics Commission.
- C. 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.



### **3.20.230 Effective date.**

The effective date of this Act shall be September 1, 2002. All amendments to this Act shall go into effect immediately, except amendments affecting the lobbyist registration fee or a late filing fee, which shall go into effect on January 1 of the year following the amendments' adoption.

### **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.



## Item 6a - Staff Memo LPF Report

Ryan Welch, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: July 28, 2023  
RE: Establishing the Limited Public Financing Act of 2024

At its July 2023 meeting, the Public Ethics Commission (PEC or Commission) voted to postpone the distribution and use of Democracy Dollars for the 2024 election cycle due to a lack of sufficient funding and staff in the Fiscal Years 2023-2025 Adopted Budget. At the same meeting, the PEC directed staff to return with options for establishing a limited public financing program for the 2024 election cycle only, similar to the Limited Public Financing Act (LPF) Program used in 2022.

Because the LPF is significantly less complex and costly to administer than the Democracy Dollars Program, PEC staff believes an LPF-like program could be implemented for the 2024 election cycle using existing staff resources and the \$155,000 in discretionary funding budgeted to the PEC for Fiscal Years 2023-2025. This memorandum provides an overview of the LPF Program rules, as they existed in the 2022 election cycle but with any dollar amounts or thresholds adjusted for inflation to 2023, and identifies several policy choices relating to candidate eligibility for public financing or conditions of candidate participation where the LPF Program diverges from the Democracy Dollars Program enacted by Measure W. For each policy choice, staff provides a recommendation as to whether the prior LPF policy should be continued, or whether the new Measure W policy should instead be required. Generally, to ensure there is sufficient staff capacity and funding to administer the 2024 Program, staff recommends continuing the LPF requirements and conditions except where Measure W provides a simpler or easy to manage alternative.

Staff also recommends that the PEC be authorized to create a digital or paper candidate voter guide in future elections using Democracy Dollars, and to pilot creating this voter guide for the 2024 election cycle. A voter guide would further one of the goals of Measure W, ensuring that voters understand the views and priorities of candidates, and assist voters in assigning their vouchers, likely increasing program participation. Seattle, which is the first and to date only jurisdiction to implement a vouchers public financing program, also produces a candidate guide on its Democracy Vouchers website.

The attached resolution makes findings that enacting a limited public financing program for 2024 only would further the purposes of Measure W and proposes draft ordinance language, the Limited Public Financing Act of 2024, that implements the recommendations in this memorandum. The PEC would need to recommend this proposed ordinance by a 2/3 vote and the City Council would need to pass the PEC's proposed ordinance by a 2/3 vote for it to become law.

**Staff recommends that the Commission pass the attached resolution and forward the proposed Limited Public Financing Act of 2024 legislation to Council for its review and passage, without any introduced legislation needing to return to the PEC for review and approval unless substantive changes are made to the PEC's proposal.**

## **Background**

In November 2022, the voters passed Measure W, which repealed and replaced Oakland's Limited Public Financing Act (LPF) Program with the Democracy Dollars Program, a voucher-based public financing program administered by the Public Ethics Commission (PEC or Commission). Under Measure W, Democracy Dollars were supposed to be first used in the November 2024 City Elections. However, due to the fiscal shortfall the City was facing, the City Council did not appropriate any money for Democracy Dollars in the Fiscal Years 2023-2025 Budget; however, the Council did appropriate \$155,000 in discretionary funding to the PEC, the same amount as had previously been appropriated for the LPF. Because the LPF was repealed by Measure W and the Adopted Budget provides no funding for Democracy Dollars, the 2024 election cycle is set to be the first election in more than two decades where there will be no public financing to support candidates running for City office.

Without sufficient funding or staffing to administer the Democracy Dollars Program, which would require the distribution and processing of over 1 million vouchers, the PEC voted at its July 2023 meeting to postpone the distribution and use of Democracy Dollars vouchers for the 2024 cycle. At the same meeting, the Commission directed PEC Staff to return with options for re-establishing a limited public financing program for the 2024 election cycle only, similar to the program in effect for the 2022 elections.

## **Overview of the 2022 LPF**

The LPF was a reimbursement-based public financing program that applied to City Council District elections only and was administered by the PEC. The goals of the LPF, as articulated in the ordinance, included reducing the influence of large contributors, encouraging competition for elective office, decreasing the amount of time officeholders spend fundraising, and preserving public trust in government. To be eligible for the LPF program, a candidate had to accept voluntary expenditure limits which, as adjusted for inflation for 2023, would be between \$183,000 to \$192,000 – the expenditure limits differed between districts because they were set based on each district's population – and raise funds from Oakland residents and businesses equal to at least 5% of the expenditure limits, i.e., between \$9,150 to \$9,600, and expend an amount equal to the 5% threshold. Once a candidate qualified for the Program, they could request reimbursement of certain enumerated types of campaign expenses, like campaign mailers, from the PEC in \$1,000 increments. The PEC had 10 days to review and approve or deny the reimbursement request and disburse the funds to the candidate.

Candidates could not receive reimbursements totaling more than 30% of the expenditure limit, or \$54,900 to \$57,600 in 2023, or a lesser amount if there were insufficient public funds for every candidate to receive the maximum. In most elections, the upper cap was not used. In the 2022 election, public financing reimbursements were capped at \$35,400. Five candidates received public financing in that election, including four who received or nearly received that maximum amount. All three candidates who won district office that election cycle received public financing. In the 2020 election, the maximum amount was \$21,857. Six candidates received public financing, including five who received the maximum. Three of the four winning candidates received public financing.

The LPF had relatively low administrative costs. Among the more significant tasks, staff had to receive and process candidates' pledges to accept the expenditure limits and agree to other qualification requirements; verify that candidates received contributions from Oakland residents or businesses equal to the qualifying thresholds; and review and process reimbursement requests. By ordinance, the administrative costs were capped at 7.5% of the total amount allocated to the LPF Program.

**Options for Adjusting the 2022 LPF & Staff Recommendation**

Following the Commission’s direction from its July meeting, the attached draft ordinance language uses the rules from the 2022 LPF as the baseline for re-establishing a one-time public financing program in 2024. There are several policy choices concerning candidate qualification for public financing and candidate participation requirements where the LPF and Measure W’s Democracy Dollar programs diverge, and where the Commission might choose to update the LPF rule with Measure W’s, while keeping the overall program structure. The different policy choices are explained below, along with staff’s recommendation as to which option to follow if a limited public financing program is re-established for 2024.

In addition, to facilitate comparison, the prior LPF ordinance language is attached to this memo with redlines indicating the amendments staff is proposing for the 2024 Program.

Covered Offices. Under the LPF, only candidates running for City Council District office were eligible to receive public financing. Under Measure W, public financing will be available to any candidate for a City office (Mayor, Auditor, City Attorney, At-Large Councilmember, District Councilmember) or the Oakland School Board.

**Staff recommends using the LPF covered offices for the 2024 Program.** The PEC only has \$155,000 in public funds to distribute, the same as was previously appropriated for the LPF for Council District elections. Adding additional offices beyond City Council Districts will significantly decrease the amount of public funds available to each office, reducing the value and effectiveness of public financing, and would increase the administrative cost and complexity for the PEC to administer the 2024 Program over prior years.

Expenditure Limits. Under the LPF, participating City Council District candidates had to agree to limit their expenditures to  $\$1.50 + \text{CPI} \times \text{the population of their district}$ , which today would be between \$183,000 and \$192,000, depending on the district. Under Measure W, the expenditure limit for participating City Council District candidates, for all districts, is set at \$150,000 for the 2024 election cycle.

**Staff recommends using the Measure W expenditure limits for the 2024 Program.** The variable expenditure limit for each district under the LPF can be confusing and makes the program more complicated to administer and explain. Measure W’s lower expenditure limit was proposed by the City Council, adopted by the voters, and can be easily administered by the PEC. The \$150,000 expenditure limit was set based on prior competitive candidate spending for City Council District offices. While there have been candidates who exceeded \$150,000 in expenditures in the last two election cycles (see chart below), in all but one of those contests the expenditure limits had been lifted due to the independent expenditure threshold being met.

<b>2020 Election</b>	Avg. Winner Expenditures	\$180,589
	Avg. Runner-Up Expenditures	\$166,747
	Candidates Spending More than the Expenditure Limits (limits lifted)	6 of 14
	Candidates Spending More than \$150,000	6 of 14
<b>2022</b>	Avg. Winner Expenditures	\$148,747
	Avg. Runner-Up Expenditures	\$116,381

<b>Election</b>	Candidates Spending More than the Expenditure Limits (limits lifted)	1 of 5
	Candidates Spending More than \$150,000	2 of 5

**Fundraising Requirement.** Under the LPF, candidates had to raise the equivalent of 5% of the expenditure limit to qualify for public financing. With the LPF expenditure limits, that would be between \$9,150 and \$9,600. Under Measure W, City Council District candidates will have to collect 125 qualifying contributions (i.e., a \$10 to \$600 contribution by an eligible resident), including 25 qualifying contributions from within the candidate’s district.

**Staff recommends using the LPF fundraising requirement for the 2024 Program, which would require that candidates raise \$7,500 if Measure W’s expenditure limits are adopted.** Verifying 125 qualifying contributions per candidate would require significantly more administrative effort than the prior LPF and would divert PEC staff from providing other core services. In addition, using the Measure W fundraising requirements will make qualifying for the 2024 Program far more difficult for candidates, for far less public funds than will be available under Measure W, which could deter candidate participation in the 2024 Program.

**Self-Funding Limits.** Under the LPF, participating candidates may not contribute or loan more than 10% of the expenditure limits to their campaigns, which would be between \$18,300 to \$19,000. Under Measure W, participating City Council District candidates’ personal contributions and loans will be capped at 8% of the expenditure limit, or \$12,000.

**Staff recommends using a \$19,000 personal contribution limit for the 2024 Program, which is approximately the amount that would have been available under the LPF.** Because Measure W decreased individual contribution limits to candidates from \$900 in 2022 to \$600 in 2023-24 with the expectation that more public financing would be available, maintaining the higher personal contribution limits are appropriate for the 2024 cycle since the amount of available public financing is similar to prior elections. A uniform amount for all districts, rather than an amount that varies by district, would be simpler for staff to administer.

**Trigger to Lift Expenditure Limits:** Under the LPF, participating candidates were no longer required to abide by the expenditure limits if a non-participating candidate spent more than 50% of the expenditure limits (\$91,500-\$96,000 in 2023) or if independent expenditures in the contest exceeded \$15,000 + CPI (\$30,000 in 2023). Under Measure W, a participating candidate must petition for the expenditure limits to be lifted for that candidate. The petitioning candidate must show that the sum of contributions and public funding received by an opposing candidate, plus independent expenditures supporting an opposing candidate, plus independent expenditures opposing the petitioning candidate, together exceed the expenditure limits.

**Staff recommends using the LPF trigger for lifting the expenditure limits.** The Measure W trigger is more complex to calculate and administer, and may require the PEC to adopt additional disclosure rules to properly implement. The Measure W trigger is also significantly higher than the LPF trigger, so this requirement may best be implemented with the full Democracy Dollars Program. The expenditure limits were lifted for the District 1 and District 3 council races in 2020 and the District 4 council race in 2022, in each case because of independent expenditures exceeding the threshold.

**Debate Requirement.** Under the LPF, participating candidates were encouraged but not required to participate in candidate debates. Under Measure W, participating candidates must personally attend three debates or forums.

**Staff recommends that participating candidates be required to personally attend one debate or forum, rather than none under the LPF and three under Measure W.** A one debate/forum requirement is not onerous on candidates, furthers the voters’ intent with Measure W, and will provide the PEC with a valuable opportunity to pilot how to administer this requirement.

**Overview of Policy Options and Staff Recommendations**

	2022 Limited Public Financing Act Rules	Measure W - Democracy Dollars	Staff Recommendation
<b>Covered Offices</b>	<ul style="list-style-type: none"> <li>▪ District Councilmembers</li> </ul>	<ul style="list-style-type: none"> <li>▪ All City offices (Mayor, City Attorney, City Auditor, At-Large Councilmember, District Councilmembers)</li> <li>▪ OUSD School Board Members</li> </ul>	LPF
<b>Fundraising Requirement</b>	<ul style="list-style-type: none"> <li>▪ Candidate receives contributions from Oakland residents or businesses equal to 5% of the expenditure ceiling (\$9,150 - \$9,600)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Candidate receives 125 qualifying contributions (\$10 to \$600 contributions by an eligible resident), including 25 from within the district</li> </ul>	LPF  Note: Would require only <b>\$7,500</b> in contributions if Measure W expenditure limits are used
<b>Voluntary Expenditure Limit</b>	<ul style="list-style-type: none"> <li>▪ D1: \$185,000</li> <li>▪ D3: \$192,000</li> <li>▪ D5: \$183,000</li> <li>▪ D7: \$185,000</li> </ul>	<ul style="list-style-type: none"> <li>▪ District Councilmembers: \$150,000</li> </ul>	Measure W
<b>Self-Funding Contribution Limit</b>	<ul style="list-style-type: none"> <li>▪ 10% of the expenditure limit (\$18,300 - \$19,200)</li> </ul>	<ul style="list-style-type: none"> <li>▪ 8% of the expenditure limit (\$12,000)</li> </ul>	\$19,000 (Approximately the prior LPF limit)
<b>Trigger to Lift Expenditure Limits</b>	<ul style="list-style-type: none"> <li>▪ Non-participating candidates spends 50% of Expenditure Limit (\$91,500-\$96,000); OR</li> <li>▪ Independent expenditure spending exceeds \$30,000 from one entity</li> </ul>	<ul style="list-style-type: none"> <li>▪ A candidate may petition to have the limits raised if the SUM of the following expenditures exceed the expenditure limits:                             <ul style="list-style-type: none"> <li>▪ Another candidates’ contributions + vouchers</li> <li>▪ Independent spending for other candidates</li> <li>▪ Independent spending against petitioning candidate</li> </ul> </li> </ul>	LPF  Note: Would require only <b>\$75,000</b> in non-participating candidate spending to lift the expenditure limits if the Measure W limits are used
<b>Debate Requirement</b>	<ul style="list-style-type: none"> <li>▪ None, but candidates encouraged to debate</li> </ul>	<ul style="list-style-type: none"> <li>▪ District Councilmembers: personally attend 3 debates or forums</li> </ul>	Require attending 1 debate

**Candidate Voter Guide**

**Staff also recommends that the PEC be authorized to create a paper or digital candidate voter guide to educate Oakland residents on the candidates running for office,** which may encourage more residents to assign their Democracy Dollar vouchers in future elections. While Democracy Dollars will not be distributed or used in the 2024 elections, staff recommends that the PEC begin developing the guide for the 2024 election as a pilot project, which would help the PEC develop best practices for administering and presenting the guide when Democracy Dollars will be used in 2026.

The PEC will be mailing vouchers out to Oakland registered voters more than seven months before election day. Many voters will not know who the candidates are or what are their priorities this early. By the time campaigns begin sending out mailers and the official county voter information guide comes out six months later, many voters will have lost or forgotten about their vouchers.

A basic voter guide, with candidate-provided information on each candidate's priorities, qualifications, and supporters would help candidates get their message out to voters, which would likely increase participation in the Democracy Dollars Program. There is a substantial body of research showing that well-designed voter guides can increase voter participation in local elections, and particularly help less politically-engaged voters. For example, a 2021 survey research study of San Francisco voters found that providing low-information voters with an issue-based voter guide increased the likelihood that the voter would rank at least one local candidate in a ranked choice voting election by 7%, and that the voter would rank multiple candidates by almost 8.5%.<sup>1</sup>

Seattle, which pioneered the voucher public financing system, includes a "[Candidate Introductions](#)" guide on the Democracy Vouchers webpage where voters can assign their vouchers. According to a post-election survey, 33% of Seattle voucher-users reported consulting this resource.<sup>2</sup> In a separate survey of candidates running for office, the candidate guide was ranked as the most helpful resource produced by the Seattle Ethics Commission, with every candidate saying it was either "very" or "somewhat" helpful.<sup>3</sup>

### Amending Measure W

If the PEC approves a proposal to re-instate a limited public financing program for the 2024 election, and to authorize the creation of a voter guide, PEC staff will request that the City Council agendaize and pass the proposal as an ordinance amending the Municipal Code. Measure W, which repealed the LPF and established the Democracy Dollars Program, provides that 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."

(OMC 3.15.230.) The purposes of the Democracy Dollars Program are to "build fair elections," "expand public participation," "empower all Oakland residents ... to engage meaningfully in the campaign process," and "prevent corruption and its appearance." Measure W also enumerates 11 specific Program goals furthering these purposes. (OMC 3.15.030.)

The attached PEC resolution makes findings that the proposed policies further these purposes. Re-establishing a limited public financing program for the 2024 election cycle, in lieu of having no public financing program at all, furthers many of the same broader purposes as the Democracy Dollars

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<sup>1</sup> Cheryl Boudreau, Jonathan Colner, and Scott MacKenzie, "Ranked-Choice Voting and Political Expression," *New America* (Mar. 1, 2021), <https://www.newamerica.org/political-reform/reports/ranked-choice-voting-and-political-expression/>.

<sup>2</sup> Kevin Ramsey et al., "2019 Election Cycle Evaluation," BERK (Jul. 23, 2020), 16, [https://www.seattle.gov/documents/Departments/EthicsElections/DemocracyVoucher/Biennial%20Reports/Final%20DVP%20Evaluation%20Report%20July23\\_2020.pdf](https://www.seattle.gov/documents/Departments/EthicsElections/DemocracyVoucher/Biennial%20Reports/Final%20DVP%20Evaluation%20Report%20July23_2020.pdf).

<sup>3</sup> *Id.* at 16.

Program, such as building fairer elections and preventing corruption or its appearance, and several of the Program’s specific goals, including: ensuring candidates can focus on communicating with Oakland residents instead of “devoting excessive time to fundraising;” ensuring that “access to networks of wealthy contributors” is not a prerequisite for running a competitive campaign; ensuring that candidates “participate in public debates;” and ensuring candidates “raise enough money to communicate” their views to the public.

Establishing a voter guide similarly furthers many of the broader purposes of the Democracy Dollars Program, including expanding public participation and empowering Oakland residents with the opportunity to engage meaningfully in the campaign process, as well as several of the Program’s specific goals, including enabling candidates to “communicate their views and positions adequately to the public” and to “assist residents with making an informed decision about each candidate.”

Because this proposal originates with the PEC, the City Council could adopt the draft language without further review by the PEC. However, if the City Council makes substantive amendments to the PEC’s proposal that differ from what the PEC has recommended, the amended proposed ordinance would need to return to the PEC for review and approval prior to enactment.

**Additional Attachments:** Redline of the 2022 LPF; Draft Resolution 23-06; Exhibit A to Draft Resolution 23-06



**Attachment:**

**Redline of Limited Public Financing Act of 2024, as compared with the Limited Public Financing Act in effect for the 2022 election cycle.**

**SECTION 1**

**Chapter 3.13 is added to the Oakland Municipal Code, as follows:**

**Chapter 3.13 LIMITED PUBLIC FINANCING ACT OF 2024**

***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~~2024."

**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.
- H. To prevent corruption or the appearance of corruption.

### ***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~~ Establishment of public financing program.**

- A. ~~The Public Ethics Commission shall establish a public financing program, consistent with this chapter, 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 running for the office of district city councilmember in the 2024 general election.
- B. ~~The Public Ethics Commission shall finance the public financing program from its discretionary funds in an amount not to exceed \$155,000 over the 2023-2025 fiscal years. 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. Any~~ unspent funds that the Public Ethics Commission allocated for the public financing program pursuant to subsection (B) at the end of the Fiscal Year 2023-2025 budget cycle in the election campaign fund at the end of a two-year budget cycle shall remain in the Public Ethics Commission 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)~~ to the public financing program pursuant to subsection (B) may be utilized by the Public Ethics Commission ~~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~~Public Ethics Commission on a form approved for such purpose indicating acceptance or rejection of the voluntary ~~spending ceilings~~expenditure limits pursuant to Section ~~3.15.140(A)~~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 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 ceiling~~expenditure limits prescribed in Section ~~3.15.140(A)~~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 ceiling~~expenditure limits prescribed in Section ~~3.15.140(A)~~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. If a candidate declines to accept voluntary expenditure limits and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the voluntary expenditure limit, or if any person makes one or more independent expenditures totaling more than \$30,000 on a district city council election, the applicable voluntary expenditure limit shall no longer be binding on any candidate running for the same office.
- F. In the event voluntary expenditure ceilings-limits are lifted pursuant to Subsection (E) Section 3.12.200, a candidate who accepted the voluntary expenditure ceilings-limits shall be permitted to receive public financing but shall no longer be subject to the voluntary expenditure ceilings-limits.

### 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~~expenditure limits 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~~expenditure limit 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~~expenditure limit 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.
- H. The candidate attests that he or she will personally participate in at least one public debate or forum. Only public debates or forums to which all other candidates accepting public financing for the office sought by the candidate are invited to participate shall be counted for the purposes of this section. Within five days of the candidate's participation in a qualifying public debate or forum, the candidate shall notify the Public Ethics Commission, in writing, of his or her participation in the debate or forum.

### **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 ~~\$19,000 ten percent of the voluntary expenditure ceiling~~\$19,000 for the office being sought. If the voluntary ~~expenditure ceiling~~expenditure limits 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~~expenditure limit 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 (30) 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.~~Voter guide pilot.**

~~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.~~

For the 2024 election, the Commission may create a pilot version of the voter guide provided in Section 3.15.050 (F).

### **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.

**3.13.260 Sunset.**

This Chapter shall be operative for the 2024 general election only.

**SECTION 2.**

Subsection (F) is added to Section 3.15.050 of the Oakland Municipal Code, as follows:

F. To provide voters with information which may assist them in assigning their vouchers and voting, the Commission may create and disseminate a digital or paper voter guide, or both. The Commission may periodically update and disseminate the guide up through election day. The guide shall include, at minimum:

1. The date of the election.
2. Information about how to vote using Ranked Choice Voting, or any other election system used to elect candidates running for a covered office.
3. Information about how to assign and return vouchers.
4. Information, provided by each candidate in response to standardized questions set by the Commission and provided to all candidates in a contest, about the candidate's experience or qualifications, policy priorities or positions, and/or supporters. The Commission may adopt format, length, and other viewpoint-neutral limitations on candidate-submitted information. Candidate information shall also conform to the following:
  - a. Consistent with Elections Code Section 13307, the information shall not include the party affiliation of a candidate, nor indicate a candidate's membership in, activity in, or endorsement by any partisan political organizations.
  - b. Consistent with Elections Code Section 13308, information submitted by a candidate shall not in any way make reference to another candidate for that office or to another candidate's qualifications, character, or activities.
5. Other neutral and nonpartisan information relevant to the election in the Commission's discretion.

The Commission may adopt rules to implement this Subsection.

**CITY OF OAKLAND**  
**Public Ethics Commission**



**RESOLUTION NO. 23-06**  
**[Proposed 8-9-23]**

RESOLUTION RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE ADDING OAKLAND MUNICIPAL CODE CHAPTER 3.13 (THE LIMITED PUBLIC FINANCING ACT OF 2024) TO TEMPORARILY RESTORE PUBLIC FINANCING, OR A SUBSTANTIVELY SIMILAR ORDINANCE, AND ADDING OAKLAND MUNICIPAL CODE SECTION 3.15.050(F) (THE OAKLAND FAIR ELECTIONS ACT) TO AUTHORIZE THE COMMISSION TO CREATE A VOTER GUIDE

By action of the Oakland Public Ethics Commission:

**WHEREAS**, on November 8, 2022, Oakland voters passed Measure W, which repealed Oakland Municipal Code Chapter 3.13, the “Limited Public Financing Act of the City of Oakland,” and replaced it with Oakland Municipal Code Chapter 3.15, the “Oakland Fair Elections Act,” which establishes the Democracy Dollars Program; and

**WHEREAS**, Section 3.15.060(E) of the Oakland Fair Elections Act mandates a minimum budget set aside for the Oakland Democracy Dollars Fund (“Fund”) and for non-staff costs for the Public Ethics Commission (“Commission”) to administer the Fund, and allows the City Council to suspend the aforesaid minimum budget set-asides for a fiscal year or 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, provided that the suspension is part of a general reduction in expenditures across multiple departments; and

**WHEREAS**, the City of Oakland was experiencing the largest general purpose fund shortfall in its history prior to the balancing actions contained in the Fiscal Years 2023-2025 budget; and

**WHEREAS**, in light of the extreme fiscal necessity the City was facing, the Council determined it was necessary to suspend the Charter-mandated minimum budget set-asides for the FY 2023-2025 budget cycle for the Democracy Dollars Fund and non-staff costs for the Commission to administer the Democracy Dollars Program; and

**WHEREAS**, Measure W anticipated that the Commission may not be able to implement the Democracy Dollars Program in the first election cycle following the measure’s passage, and provided in Section 3.15.050 of the Oakland Fair Elections Act that: “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.”; and

**WHEREAS**, the Commission considered all possible alternatives to avoid delaying Democracy Dollars 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, but determined it could not do even a partial

**CITY OF OAKLAND**  
**Public Ethics Commission**



**RESOLUTION NO. 23-06**  
**[Proposed 8-9-23]**

implementation for the 2024 elections. Furthermore, on July 12, 2023, the Commission voted, by a vote of 6-0, to postpone the distribution and use of Democracy Dollars vouchers for the November 2024 election; and

**WHEREAS**, the Commission is working towards the full implementation of the Democracy Dollars Program for the 2026 elections; and

**WHEREAS**, Measure W anticipated that amendments to the measure may be appropriate to further the purposes of Democracy Dollars Program if they are recommended by the Commission. Section 3.15.230 of the Oakland Fair Elections Act provides that: “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”; and

**WHEREAS**, the City of Oakland has provided public financing to eligible candidates for City Council District office for over two decades; and

**WHEREAS**, the Commission finds that the elimination of all public financing for the 2024 election is contrary to the purposes of the Oakland Fair Elections Act; and

**WHEREAS**, the Commission finds that the temporary restoration of a limited public financing program for the 2024 election furthers the purposes of the Oakland Fair Elections Act by ensuring some type of public financing remains available while the Democracy Dollars Program is being established; and

**WHEREAS**, the Commission finds that the temporary restoration of a limited public financing program for the 2024 election furthers the purposes of building fairer elections, preventing corruption or its appearance, ensuring candidates can focus on communicating with all Oakland residents and considering policy issues rather than devoting excessive time to fundraising, ensuring that access to networks of wealthy contributors is not a prerequisite for candidates to run a competitive campaign, ensuring candidates participate in public debates, and ensuring candidates raise enough money to communicate their views and positions adequately to the public; and

**WHEREAS**, the Commission further finds that authorizing the Commission to create a voter guide furthers the purposes of the Oakland Fair Elections Act by providing registered voters with information which may assist them in assigning their vouchers and voting; and

**WHEREAS**, the Commission finds that authorizing the Commission to create a voter guide furthers the purposes of expanding public participation in the local democratic process, empowering all Oakland residents with an opportunity to engage meaningfully in the campaign process, enabling candidates to communicate their views and positions adequately to the public, and assisting residents with making an informed decision about each candidate; and

**WHEREAS**, the Commission recommends that the City Council adopt an ordinance temporarily restoring a limited public financing program for the 2024 election and authorizing the Public Ethics Commission to create a voter guide;

**CITY OF OAKLAND**  
**Public Ethics Commission**



**RESOLUTION NO. 23-06**

**[Proposed 8-9-23]**

**Now, therefore be it:**

**RESOLVED**, that the Commission hereby recommends that the City Council adopt an ordinance temporarily restoring a limited public financing for the 2024 election and authorizing the Public Ethics Commission to create a voter guide; and be it

**FURTHER RESOLVED**, that, to implement this recommendation, the Commission hereby recommends that the City Council adopt an ordinance adding Chapter 3.13 of the Oakland Municipal Code, the Limited Public Financing Act of 2024, or a substantively similar ordinance, and adding Subsection (F) to Section 3.15.050 of the Oakland Municipal Code, attached as Exhibit A.

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**CERTIFICATION RE: APPROVAL OF RESOLUTION**

The foregoing Resolution was presented for approval at a duly noticed meeting of the City of Oakland Public Ethics Commission held on August 9, 2023, where a quorum of the membership of the Commission was present. The Commission approved the resolution by a vote of \_\_\_\_ to \_\_\_\_.

AYES: GAGE, HILL, PERTEET, STEELE, UPTON AND CHAIR MICIK

NOES:

ABSTAIN:

ABSENT:

I hereby certify that the foregoing is true and correct.

\_\_\_\_\_  
Nicolas Heidorn, Executive Director  
Oakland Public Ethics Commission

\_\_\_\_\_  
Date

**EXHIBIT A**

**SECTION 1**

Chapter 3.13 is added to the Oakland Municipal Code, as follows:

**Chapter 3.13 LIMITED PUBLIC FINANCING ACT OF 2024**

***Article I. Findings and Purpose***

**3.13.010 Title.**

This chapter shall be known as the "Limited Public Financing Act of 2024."

**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.
  - H. To prevent corruption or the appearance of corruption.

### ***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***

#### **3.13.060 Establishment of public financing program.**

- A. The Public Ethics Commission shall establish a public financing program, consistent with this chapter, to fund all candidates eligible to receive public financing running for the office of district city councilmember in the 2024 general election.

- B. The Public Ethics Commission shall finance the public financing program from its discretionary funds in an amount not to exceed \$155,000 over the 2023-2025 fiscal years.
- C. Any unspent funds that the Public Ethics Commission allocated for the public financing program pursuant to subsection (B) at the end of the Fiscal Year 2023-2025 budget cycle shall remain in the Public Ethics Commission 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 public financing program pursuant to subsection (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 Public Ethics Commission on a form approved for such purpose indicating acceptance or rejection of the voluntary expenditure limits pursuant to Section 3.15.140(A).
- 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 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 limits prescribed in Section 3.15.140(A), the candidate shall not be eligible for public financing.



- D. If a candidate agrees to accept the voluntary expenditure limits prescribed in Section 3.15.140(A), the candidate shall be eligible for public financing upon meeting the qualification requirements as provided in this Act.
- E. If a candidate declines to accept voluntary expenditure limits and receives contributions or makes qualified campaign expenditures equal to fifty (50) percent or more of the voluntary expenditure limit, or if any person makes one or more independent expenditures totaling more than \$30,000 on a district city council election, the applicable voluntary expenditure limit shall no longer be binding on any candidate running for the same office.
- F. In the event voluntary expenditure limits are lifted pursuant to Subsection (E), a candidate who accepted the voluntary expenditure limits shall be permitted to receive public financing but shall no longer be subject to the voluntary expenditure limits.

### **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 expenditure limits 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 limit 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 limit 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.

- H. The candidate attests that he or she will personally participate in at least one public debate or forum. Only public debates or forums to which all other candidates accepting public financing for the office sought by the candidate are invited to participate shall be counted for the purposes of this section. Within five days of the candidate's participation in a qualifying public debate or forum, the candidate shall notify the Public Ethics Commission, in writing, of his or her participation in the debate or forum.

### **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 \$19,000 for the office being sought. If the voluntary expenditure limits 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 limit 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 (30) 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 Voter guide pilot.**

For the 2024 election, the Commission may create a pilot version of the voter guide provided in Section 3.15.050 (F).

### **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.

### **3.13.260 Sunset.**

This Chapter shall be operative for the 2024 general election only.

## **SECTION 2.**

Subsection (F) is added to Section 3.15.050 of the Oakland Municipal Code, as follows:

F. To provide voters with information which may assist them in assigning their vouchers and voting, the Commission may create and disseminate a digital or paper voter guide, or both. The Commission may periodically update and disseminate the guide up through election day. The guide shall include, at minimum:

1. The date of the election.
2. Information about how to vote using Ranked Choice Voting, or any other election system used to elect candidates running for a covered office.
3. Information about how to assign and return vouchers.
4. Information, provided by each candidate in response to standardized questions set by the Commission and provided to all candidates in a contest, about the candidate's

experience or qualifications, policy priorities or positions, and/or supporters. The Commission may adopt format, length, and other viewpoint-neutral limitations on candidate-submitted information. Candidate information shall also conform to the following:

- a. Consistent with Elections Code Section 13307, the information shall not include the party affiliation of a candidate, nor indicate a candidate's membership in, activity in, or endorsement by any partisan political organizations.
- b. Consistent with Elections Code Section 13308, information submitted by a candidate shall not in any way make reference to another candidate for that office or to another candidate's qualifications, character, or activities.
5. Other neutral and nonpartisan information relevant to the election in the Commission's discretion.

The Commission may adopt rules to implement this Subsection.



## Item 7 - Staff Memo with timeline

Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Suzanne Doran, Project Lead/Analyst  
Nicolas Heidorn, Executive Director  
DATE: July 28, 2023  
RE: Measure W Oakland Fair Elections Act Implementation Update for the August 9, 2023, Regular PEC Meeting

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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 an update on implementation activities since the last Commission meeting.

### Operational Changes and Tasks

**Budget and Staffing** – Staff is working with HR to hire for the Program Manager position.

**Administrative Processes and Technology** – In July, staff met with Oakland ITD management to review next steps and discuss the timeframe for program tech development considering postponement of program launch to 2026. IT and Commission staff are reviewing the draft request for proposals (RFP) with a target to publish the RFP by October, so a vendor can be selected and work on the Democracy Dollars database can begin in early 2024. Staff also met with Seattle Democracy Vouchers staff for a detailed tour of their voucher processing procedure.

Additionally, staff is researching opportunities for partnerships with and/or grants from organizations or foundations promoting civic engagement and/or civic technology, such as the Center for Civic Design, U.S. Digital Response, and university programs, to help inform the Commission’s Democracy Dollars outreach plan and public-facing program resources.

**Data Projects** – In July, staff initiated a collaboration with Oakland ITD’s Geographic Information Systems (GIS) team to explore how the Commission can surface insights from Oakland voter and demographic data to inform the Democracy Dollars outreach plan, performance measures, and proto-types for future transparency resources. GIS connects data to a map, combining where people or things are with descriptive information, such as the PEC’s Show Me the Money app that shows the source of campaign contributions on a map. In the coming month, the team is partnering to aggregate voter history data by categories, such as census tracts and the City of Oakland’s equity priority areas, that can then be associated



with demographic characteristics such as age, income, race and ethnicity, educational attainment, languages spoken, and more. Results from the analysis will be reported in future updates and utilized to enhance discussion of implementation plans and engagement activities.

### **Outreach**

**General Outreach** – Staff issued a press release announcing the Commission’s action to postpone Democracy Dollars voucher distribution until the 2026 election due to lack of sufficient funds in the FY 23 – 25 budget. The press release was sent to the PEC subscriber and press lists, added to the PEC and City of Oakland’s news items, posted to social media accounts, and shared on NextDoor.

**Candidates and Campaigns** – The July advisory to campaign subscribers featured an FAQ explaining the Commission’s action to postpone Democracy Dollars voucher distribution until the 2026 election.



**Online engagement** – In July, Commission staff revised the Democracy Dollars webpages to reflect the postponed launch to the 2026 election and updated the program FAQs.

# DEMOCRACY DOLLARS

## IMPLEMENTATION OVERVIEW WITH KEY DATES





### 2023: Preliminary Tasks

<b>Jan – Jun 2023</b>	<ul style="list-style-type: none"> <li>✓ FY 2023 – 2025 budget proposal and advocacy</li> <li>✓ Update job specifications for new staff positions</li> <li>✓ Business requirements for technology drafted in partnership with ITD</li> <li>✓ Develop initial program webpages to chart implementation progress</li> <li>✓ Research and cost DD design, printing, and distribution needs</li> <li>✓ Draft requirements and get quotes for printing and mailing of DD packets</li> </ul>
<b>June 2023 Milestone 1:</b>	 <b>FY 2023 – 2025 Budget adopted</b>
<b>Jul – Dec 2023</b>	<ul style="list-style-type: none"> <li>• Commission postpones distribution of Democracy Dollars due to lack of funding</li> <li>• Issue RFP for tech in consultation with ITD</li> <li>• Recruit Program Manager</li> <li>• Identify services needed for signature verification by Alameda County ROV</li> <li>• Explore partnership opportunities for outreach and design</li> <li>• Groundwork with City Administrator, City Clerk, Race and Equity</li> </ul>
<b>Sep 2023 Milestone 2:</b>	 <b>Program manager position filled</b>



### 2024 – 2025: Program Foundations

<b>Jan 2024 Milestone 3:</b>	 <b>Tech vendor selected; database development begins</b>
<b>Jan – Jun 2024</b>	<ul style="list-style-type: none"> <li>• Preliminary development of forms, systems for program administration</li> <li>• Develop process for signature verification by Alameda County ROV</li> <li>• Stakeholder engagement – internal stakeholders, candidates, campaign consultants</li> <li>• Identify policy questions requiring Commission action prior to 2026 launch</li> </ul>
<b>Jul – Dec 2024</b>	<ul style="list-style-type: none"> <li>• Outreach plan development</li> <li>• Stakeholder engagement – outreach, design elements, coalition-building</li> </ul>
<b>Jan – Jun 2025</b>	<ul style="list-style-type: none"> <li>• Democracy Dollars design options finalized</li> <li>• Develop marketing materials and educational resources</li> <li>• Recruit for new staff positions</li> <li>• Budget development for FY 2025 - 2027</li> <li>• Develop performance metrics and determine baselines</li> </ul>
<b>Jun 2025 Milestone 4:</b>	 <b>Outreach plan adopted</b>
<b>Jul 2025 Milestone 5:</b>	 <b>FY 2025 – 2027 program funds budgeted</b>

## Item 7 - Staff Memo with timeline

Aug – Sep 2025  
Milestone 6:



New positions filled, staff onboard

Sep – Dec 2025

- Finalize service contract and process for signature verification by Alameda County ROV
- Adopt program rules and regulations prior to 2026 launch, as needed
- Evaluate progress towards milestones required for 2026 launch date
- Finalize and publish outreach and training materials for Oakland residents, candidates
- DD funds available announced

Dec 2025  
Milestone 6:



Tech system MVP tested and ready to deploy



### 2026: Program Launch

Jan 2026  
Milestone 7:



Candidate application process begins

Jan - Mar 2026

- Outreach to raise awareness of Democracy Dollars program
- DD voucher, packet, and mailing information ready for printing and distribution
- Voucher assignment system and public program dashboard live

Apr 2026  
Milestone 8:



DD mailed to Oakland registered voters by April 1, 2024

Apr – Nov 2026

- PEC staff processes DD vouchers, disburses funds to candidates
- Ongoing community outreach to promote program

Nov 2026  
Milestone 9:



First Election with Democracy Dollars

Dec 2026 - ongoing

- 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



### 2027: Post-election Evaluation

2027  
Milestone 10:



Report to City Council

## CITY OF OAKLAND PUBLIC ETHICS COMMISSION

Ryan Micik (Chair)  
Charlotte Hill (Vice-Chair)  
Alea Gage  
Arvon Perteet  
Vincent Steele  
Francis Upton IV  
Nicolas Heidorn, Executive Director



## Public Ethics Commission Commissioner Vacancy Announcement August 2023

The City of Oakland Public Ethics Commission (PEC) is now accepting applications to fill one PEC-appointed Commissioner position, as part of its seven-member volunteer citizen board. The vacancy starts January 22, 2024, and expires on January 21, 2027. **Application deadline: October 27, 2023.**

*Please note: All applicants must attest in their application that they have attended (observed in-person or via Zoom) at least one PEC meeting. To attend a PEC meeting for this application process please check the upcoming meetings on our [webpage](#) and contact [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov).*

### Background

The Public Ethics Commission is a seven-member board of volunteers dedicated to the City Charter goal of ensuring **fairness, openness, honesty, and integrity** in City government. Guided by duties and authority set out by City ordinance, the Commission works to achieve its goals through a three-pronged approach that focuses on prevention, enforcement, and collaboration. Specifically, the following local laws are the foundation of the Commission's responsibilities in three general areas – campaign finance, ethics, and transparency:

- Oakland Government Ethics Act
- Oakland Campaign Reform Act
- Conflict of Interest Code
- Sunshine Ordinance
- Oakland's Fair Elections Act (Democracy Dollars)
- Lobbyist Registration Act
- Oakland's False Endorsement in Campaign Literature Act

### Commissioner Requirements

A Commission member must be an Oakland resident and registered to vote in Oakland. Four Commissioners are appointed by the full Commission on a rotating schedule. Three Commissioners are appointed respectively by the Mayor, City Attorney, and City Auditor. All applicants must attend a PEC meeting (observed in-person or via Zoom) prior to their appointment. For upcoming meetings, visit [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec).

Commissioners serve a three-year term and are expected to participate in monthly meetings and occasional subcommittee meetings to provide guidance to staff in the conduct of the Commission's business, make final decisions on enforcement matters, and serve as a neutral judge in cases that require an administrative hearing. Commissioners typically volunteer five to ten hours per month. Commissioners receive no compensation and may serve no more than two consecutive three-year terms.

## Item 9a - Announcement and Application

### During their tenure a Commissioner may not:

- Have an employment or contractual relationship with the City during the member's tenure and for one year after the date of separation;
- Be a registered Oakland lobbyist, 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 one year after the date of separation;
- 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;
- Endorse, support, oppose, or work on behalf of any candidate or measure in an Oakland election.

### Desired Skills and Abilities

Commissioners should represent a variety of backgrounds and professions so that the Commission, as a whole, provides a well-rounded perspective on Oakland City government, law, community-building and engagement, leadership, program administration, enforcement, and policies related to campaign finance, ethics and transparency. Specifically, a Commissioner should be able to do the following:

- Read, analyze, and understand written information and make decisions based on the information;
- Listen to public input, assess community needs, and make decisions about how to best accomplish the Commission's goals;
- Understand the context in which the Commission operates within City government and the broader community;
- Communicate orally during a public, televised meeting;
- Collaborate effectively with other Commissioners, the public, City officials, and staff;
- Interpret rules, laws and policies and objectively apply a rule to a particular set of facts;
- Identify personal conflicts of interest or other factors that could lead to actual or perceived improper influence;
- Serve with fairness, openness, honesty, and integrity;
- Complete a Form 700 – Statement of Economic Interests annually, disclosing information such as one's financial interests in investments, property, income, and gifts;
- Adhere to all Commission-related laws and policies, including but not limited to the Oakland City Charter, Oakland Government Ethics Act, Oakland Sunshine Ordinance, Commission Complaint Procedures, and Commission Operations Policies (by-laws).

### Selection Process

New Commissioner appointments occur every year and are generally announced in the Fall. To apply for a vacancy, attend an upcoming Commission [meeting](#) in person or via Zoom and submit an application using the link below.

Apply online: <https://tinyurl.com/y6ejj4gm>

Following the application deadline, a subcommittee of Commissioners will review applications and conduct oral interviews of applicants. The top candidates will be forwarded for an interview and selection by the full Commission at the Commission's public meeting.

### For more information

For more about the Public Ethics Commission, visit us online at [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec). We also suggest you attend a City Council meeting in person or watch one on local television (Channel 10). For more information about the Commission or this position, contact us at [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov) or (510) 238-3593.

DEADLINE: OCTOBER 27, 2023

Item 9b - Recruitment Flyer

# APPLY FOR A SEAT ON THE PUBLIC ETHICS COMMISSION

BE A PART OF ACCOUNTABLE  
GOVERNMENT!

Want to learn more?  
Visit: [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec)



Apply online at:  
<https://tinyurl.com/ysfx9fuv>

For inquiries, please contact:  
(510) 238-3593 or  
[ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov).

August 9, 2023 PEC Regular Meeting Agenda Packet 62



# PASSIONATE ABOUT GOVERNMENT INTEGRITY?

## JOIN OUR TEAM!



The Public Ethics Commission (PEC) is an independent commission made up of Oakland residents dedicated to ensuring Oakland government is open, honest, fair, and trustworthy. The Commission acts as a guiding light and a watchdog to safeguard compliance with government ethics, campaign finance, lobbying, and transparency laws. The Commission:

- Educates residents and City staff on ethics-related issues
- Conducts investigations, audits and public hearings
- Imposes fines and penalties as part of enforcement activities
- Provides policy direction to Commission staff

## HELP LEAD THE PUBLIC ETHICS COMMISSION TO EVEN GREATER IMPACT

Want to learn more?  
Visit: [www.oaklandca.gov/pec](http://www.oaklandca.gov/pec)

Deadline: October 27, 2023

To apply online scan or visit:  
<https://tinyurl.com/ysfx9fuv>



For inquiries, contact: (510) 238-3593

or [ethicscommission@oaklandca.gov](mailto:ethicscommission@oaklandca.gov)



Public Ethics | CITY OF  
**OAKLAND**

## Item 10 - Disclosure Report



Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Suzanne Doran, Lead Analyst  
Jelani Killings, Ethics Analyst  
Ana Lara Franco, Commission Analyst  
DATE: July 28, 2023  
RE: Disclosure and Engagement Monthly Report for the August 9, 2023, Meeting

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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.

### Filing Officer – Compliance

**Campaign finance disclosure** – July 31 marks the semi-annual campaign finance deadline for activity between January 1 and June 30. All Oakland registered committees must file. Campaign statements are available to view and download at the PEC's [Public Portal for Campaign Finance Disclosure](#).

**Lobbyist Registration and Reporting Program** – The Oakland Lobbyist Registration Act (LRA) requires lobbyists to submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions. July 30 is the upcoming deadline for quarterly lobbyist activity reports covering the period from April 1 through June 30, 2023. Lobbyist registration and activity reports may be viewed online at the [PEC's Lobbyist Dashboard and Data webpage](#).

### Advice and Engagement

**Advice and Technical Assistance** – In the month of July, Commission staff responded to 22 requests for information, advice, or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues, for a total of 106 in 2023 to date.

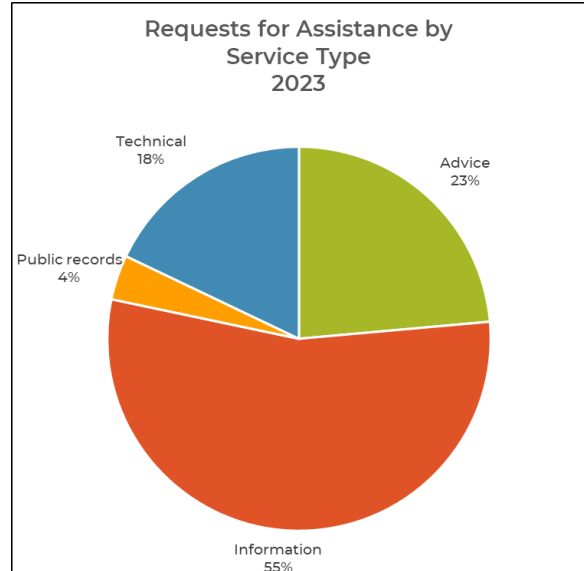
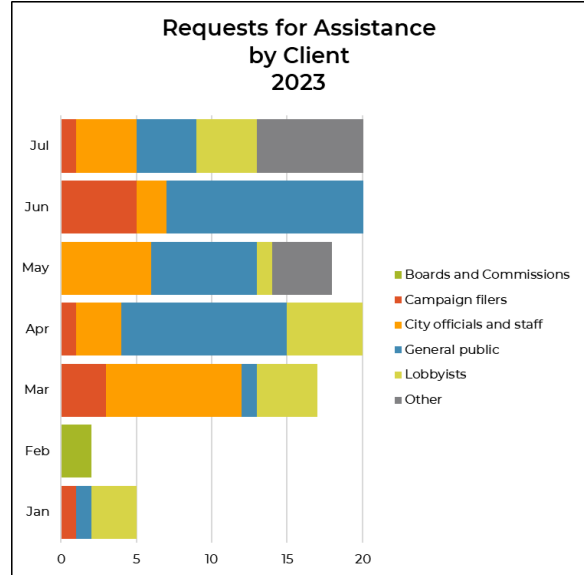
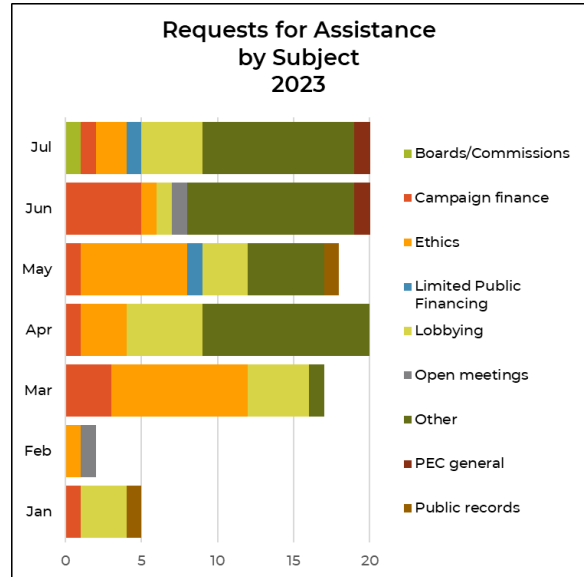


Disclosure and Engagement Report  
July 28, 2023

**Form 700 Compliance** – On July 11, Staff met with representatives from the City Clerk’s Office and the Department of Human Resources Management to get an update on efforts to improve the management of the City’s Form 700 filer database. The joint effort seeks to improve compliance among required filers by sharing data among departments, issuing joint communications, and updating the City’s Conflict of Interest Code. As a result of this project, Commission staff is reviewing its first report with data that that compiles employees assigned training and completion status along with employee position, department, and contact information. Next steps include reviewing data to assess department compliance with requirements to categorize employees by Form 700 filer status. In addition, PEC staff are partnering with Human Resources Management’s continued efforts to synchronize City data systems across departments to ensure a single, accurate Form 700 filer list.

**Candidates and Campaigns** – The nomination period for candidates seeking to qualify for the November 2023 Special Election ballot opened on July 17 and ends on August 11. As part of campaign education efforts, staff issues regular advisories to ensure that candidates and committees are aware of local rules during this election season. In July, staff issued an advisory to update candidates about the postponement of the Democracy Dollars program for the 2024 election.

**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). On July 19, new employees watched the PEC’s 10-minute Government Ethics Introductory



Disclosure and Engagement Report  
July 28, 2023

Video. Employees required to file Form 700 were also assigned the PEC's mandatory online Government Ethics Training for Form 700 Filers.

### **Illuminating Disclosure Data**

**Filing Tools** – Changes to disclosure requirements enacted by recent legislation require support by IT to modify several internal systems, including the Ticket Distribution (Form 802) database, lobbyist app, and Oakland's open data portal. PEC-staff formed a project team with IT staff this month to coordinate and prioritize work on the various PEC-related projects and begin work on updates. With the addition of lobbyist registration and late fees to Oakland's master fee schedule, the initial focus is integrating assessment and collection of lobbyist fees into the PEC's online lobbyist registration app.

### **Online Engagement**

**Website** – In July, staff prioritized revisions to content related to the Democracy Dollars program and postponement of voucher distribution to the 2026 election cycle. In addition to online news items, Staff updated the "[Democracy Dollars](#)" and "[What Are Democracy Dollars](#)" webpages to reflect the new launch date.

**Social Media** – Each month Commission staff posts social media content to highlight specific PEC policy areas, activities, or client-groups. July posts focused on July meeting topics, postponement of the Democracy Dollars program for the 2024 election, Commission accomplishments highlighted in the 2022 annual report, and upcoming disclosure deadlines.

# Item 11 - Enforcement Report



Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon Perteet  
Vincent Steele  
Francis Upton IV

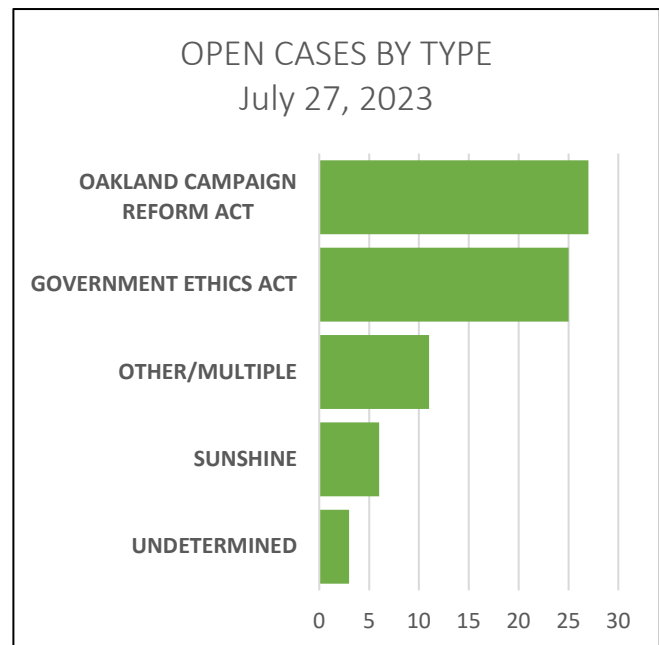
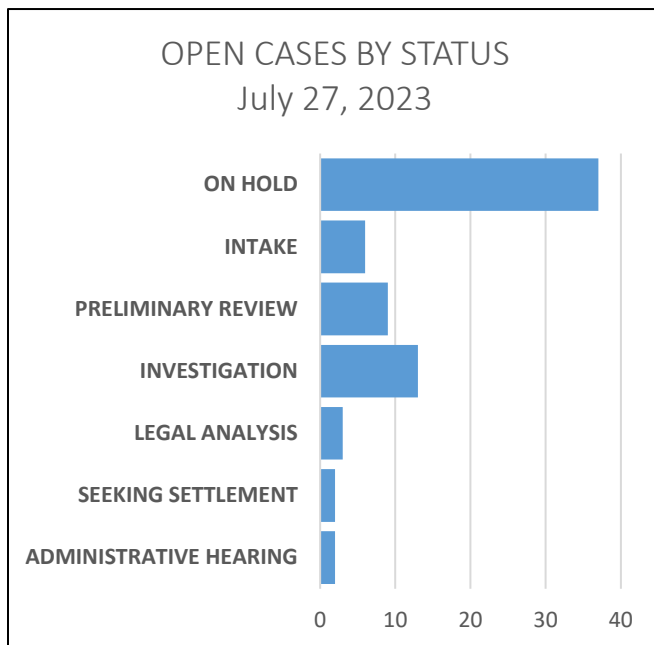
Nicolas Heidorn, Executive Director

TO: Public Ethics Commission  
FROM: Simon Russell, Enforcement Chief  
DATE: July 27, 2023  
RE: Enforcement Unit Program Update for the August 9, 2023, PEC Meeting

## Current Enforcement Activities:

Since the Enforcement Unit Program Update submitted to the Commission on June 26, 2023, Commission staff received 2 formal complaints, which are under preliminary review. Enforcement also received 6 informal complaints, two of which were rejected; and four of which are awaiting a decision as to whether to reject them or escalate them to preliminary review.

This brings Enforcement’s caseload to 72 matters at all stages, from preliminary review through to investigation, settlement negotiations or administrative hearing. That includes 37 cases or complaints that are now “On Hold.” It does not include informal complaints awaiting a decision as to whether to reject them or escalate them to preliminary review.



### Legal Actions/Litigation Update

The following public court actions have recently been submitted or scheduled by or on behalf of the Enforcement Unit:

1. *City of Oakland Public Ethics Commission v. Charlie Ngo* (Alameda County Superior Court case no. RG20070117). On June 23, 2023, the PEC filed a “Request for Dismissal.”

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.



## Item 12 - Executive Director's Report

Ryan Micik, Chair  
Charlotte Hill, Vice Chair  
Alea Gage  
Arvon J. Perteet  
Vincent Steele  
Francis Upton IV

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: July 28, 2023  
RE: Executive Director's Monthly Report for the August 9, 2023, PEC Regular Meeting

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This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities not included in other program reports since the last regular meeting. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2023 for each program area.

### **City Attorney, City Auditor, and Mayor Salaries**

In 2022, the voters adopted Measure X, which among other provisions assigns to the Commission the responsibility of setting the salaries of the City Attorney and City Auditor to "provide for competitive compensation and equitable alignment" for these offices. At its April meeting, the Commission adopted adjusted salaries for the City Attorney and City Auditor for the first time. The Commission raised the City Attorney's salary from \$243,618.72 to \$306,990.63 and the City Auditor's salary from \$181,203.12 to \$213,137.51. On July 18, the City Council passed an amendment to the Salary Ordinance adopting the salaries set by the Commission.

At that same meeting, the City Council introduced for first reading an amendment to the Salary Ordinance setting the Mayor's salary. Under the City Charter, the City Council sets the Mayor's salary every odd-numbered year, which must be "not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland." The City Council moved to provide the Mayor with a raise at the lower end of that range. Councilmember Fife also moved, and the City Council approved on a 6-2 vote, to have the "City Administrator to return to Council in a timely manner with proposed legislation to amend the City Charter in November of 2024 to move the responsibility for setting the Mayor's salary from the City Council to the independent Public Ethics Commission, as is now the case for other elected officials, including the City Attorney, City Auditor and Councilmembers."

The PEC will discuss this proposal at its August 25 retreat.

### **Staffing**

In July staff met with Human Resources regarding hiring for the Democracy Dollars Program Manager position and for the permanent Investigator position. For the Program Manager position, staff is still going through HR's internal approval processes to hire for the position. For the Investigator position, we currently anticipate that the application will be posted in August, with hiring likely occurring in October.

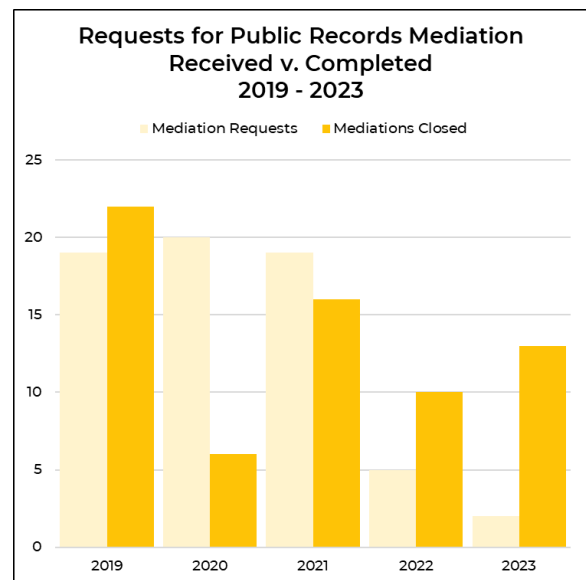
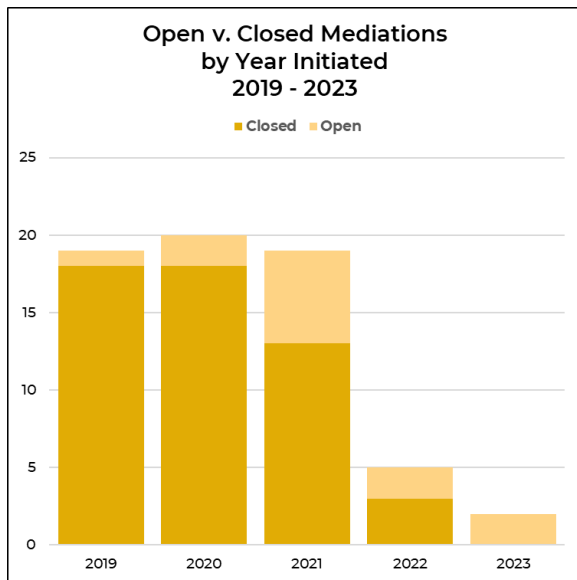
# Item 12 - Executive Director's Report

## PEC Vacancy

In July, Executive Director Heidorn met with the Mayor's Office to discuss the Mayoral appointee vacancy to the PEC. Director Heidorn went over the qualifications for this appointment. The Mayor's Office indicated that they are working on this vacancy and hope to appoint someone in the next few months.

## Mediation Program

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department's control. The PEC currently has 13 open mediations. No new mediation requests were received and none completed since the last regular meeting.



**Additional Attachment:** Commission Programs and Priorities.

## Item 12 - Executive Director's Report

### PUBLIC ETHICS COMMISSION Programs and Priorities 2023

Program	Goal	Desired Outcome	Program Activities	2023 Major Projects
<b>Lead/ Collaborate (Policy, Systems, Culture)</b>	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"> <li>○ Lead Measure W implementation</li> </ul>	<ul style="list-style-type: none"> <li>○ Public Records Performance Tool</li> <li>○ Lobby Registration Act amendment to incorporate new fees and waiver policy</li> <li>○ Ordinance for one-time LPF for 2024 elections</li> <li>✓ GSPP project re contractor pay-to-play restrictions and improving disclosure</li> </ul>
<b>Educate/ Advise</b>	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"> <li>● Regular ethics training</li> <li>● Information, advice, and technical assistance</li> <li>● Targeted communications to regulated communities</li> <li>● New trainings as needed for diversion</li> </ul>	<ul style="list-style-type: none"> <li>○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance</li> <li>✓ Public Records training</li> </ul>
<b>Outreach/ Engage</b>	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"> <li>● Public Records mediations</li> <li>● Commissioner-led public outreach</li> <li>● Outreach to client groups – targeted training and compliance</li> <li>● PEC social media outreach</li> </ul>	<ul style="list-style-type: none"> <li>✓ Develop content to reflect Measure W changes and Democracy Dollar Program</li> <li>○ Review and update mediation procedures/staff manual</li> <li>✓ Update public and stakeholders on Democracy Dollar postponement</li> </ul>
<b>Disclose/ Illuminate</b>	PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.	Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.	<ul style="list-style-type: none"> <li>● Monitor compliance (campaign finance/lobbyist/ticket use)</li> <li>● Proactive engagement with filers</li> <li>● Technical assistance</li> </ul>	<ul style="list-style-type: none"> <li>○ Democracy Dollars admin system development/issue RFP</li> <li>○ Updates to Ticket Distribution (Form 802) database</li> </ul>

## Item 12 - Executive Director's Report

Program	Goal	Desired Outcome	Program Activities	2023 Major Projects
	Filing tools collect and transmit data in an effective and user-friendly manner.	Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.	<ul style="list-style-type: none"> <li>• Assess late fees/refer non-filers for enforcement</li> <li>• Maintain data assets</li> </ul>	
<b>Detect/ Deter</b>	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"> <li>• Process and investigate complaints</li> <li>• Initiate proactive cases</li> <li>• Collaborate/coordinate with other government law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>○ Digital complaint form/mediation request</li> <li>○ Improve Enforcement database</li> </ul>
<b>Prosecute</b>	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"> <li>• Prioritize cases</li> <li>• Conduct legal analyses, assess penalty options</li> <li>• Negotiate settlements</li> <li>• Make recommendations to PEC</li> </ul>	<ul style="list-style-type: none"> <li>○ Resolve 2016 and 2017 case backlog</li> <li>○ Review/revise policies for release of public information and election-related complaints</li> <li>○ Develop internal Enforcement staff manual</li> </ul>
<b>Administration/ Management</b>	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"> <li>• Annual Report</li> <li>• Budget proposal</li> <li>• Ongoing professional development and staff reviews</li> <li>• Fill staff vacancies</li> <li>• Commissioner onboarding</li> </ul>	<ul style="list-style-type: none"> <li>○ 2023 – 2025 strategic plan preparation/retreat</li> <li>✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council</li> </ul>