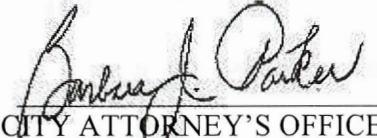


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CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. 89316 C.M.S.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<sup>3</sup> Id.

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

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

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

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

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

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

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

~~Chapter 3.13—LIMITED PUBLIC FINANCING ACT~~

~~Article I.—Findings and Purpose.~~

~~3.13.010—Title.~~

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

~~3.13.020—Findings and declarations.~~

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

~~A. The financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.~~

~~B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial~~

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

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

~~3.13.030—Purpose of this Act.~~

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

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

~~Article II.—Definitions~~

~~3.13.040—Interpretation of this Act.~~

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

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

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

~~Article III.—Election Campaign Fund~~

~~3.13.050—Election campaign fund.~~

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

~~3.13.060—Appropriation of funds.~~

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

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

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

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

~~3.13.070—Application and withdrawal procedures.~~

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

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

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

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

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

~~3.13.080—Qualification procedures.~~

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

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

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

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

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

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

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

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

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

~~3.13.090—Use of personal funds.~~

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

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

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

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

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

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

~~3.13.110—Requests for public financing.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~3.13.150 – Return of surplus funds.~~

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



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

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

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

~~3.13.170—Public debates.~~

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

~~3.13.180—Enforcement.~~

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

~~3.13.190—Criminal misdemeanor actions.~~

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

~~3.13.200—Enforcement actions.~~

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

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

~~3.13.220—Construction.~~

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

~~3.13.240—Applicability of other laws.~~

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

~~3.13.260—Severability.~~

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

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

Article I. - Findings and Purpose.

3.15.010 – Title.

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

3.15.020 – Findings and Declarations.

The Findings of this Act are as follows:

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

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

### 3.15.030 – Purpose.

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

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

Article II. - Definitions

3.15.040 – Definitions.

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

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

### Article III. – Agency Duties

#### 3.15.050 – Duties of the Commission.

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

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

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



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

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

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

Article IV. – Democracy Dollars

3.15.060 – Oakland Democracy Dollars Fund.

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

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

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

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

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

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

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

3.15.070 – Administration of the Fund.

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

3.15.080 – Requirements for Certification in the Program.

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

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

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

4. Is convicted of a criminal violation of this Act, the Oakland Campaign Reform Act, or the Political Reform Act, any felony, or a misdemeanor for a crime of moral turpitude.
  - I. The Executive Director shall provide a written determination to a candidate whose certification in the Program is revoked under Subsection F or H that includes both of the following:
    1. The specific reason under Subsection F or H for revoking the candidate's certification;
    2. The specific facts found by the Commission that form the basis for revoking the candidate's certification.
  - J. A candidate whose certification in the Program is revoked under Subsection F or H shall return to the Commission, for deposit in the Fund, any remaining Democracy Dollar proceeds in the candidate's campaign account in accordance with Section 3.15.170. If the candidate's certification is revoked pursuant to Subsection H, the candidate shall be personally liable for any Democracy Dollar proceeds expended by the candidate, other than the Democracy Dollar proceeds the candidate expended in good faith before receiving notice of the revocation.
  - K. A candidate whose certification is revoked under Subsection F or H may appeal the final decision of the Commission to the Alameda County Superior Court on the ground that the decision was arbitrary and capricious or contrary to law.
- 3.15.090 – Distribution of Democracy Dollars.
- A. Except as provided in Subsection C, the Commission shall mail to each eligible resident who is registered to vote, at the eligible resident's address listed in voter registration records, the number of Democracy Dollar Vouchers allocated to each resident on a date no later than April 1 of the year in which an election occurs. Thereafter, the Commission shall mail to any eligible resident who becomes registered to vote after the initial mailing the same number of Democracy Dollars periodically until October 1. The Commission may then mail to any eligible resident who becomes registered to vote after the initial mailing the same number of Democracy Dollars periodically until at least the election day.
  - B. The Commission shall electronically distribute Democracy Dollar Vouchers under Subsection B to an eligible resident who submits a request, via a means developed by the Commission, to receive Democracy Dollars electronically and who attests under penalty of perjury to being an eligible resident or authorized agent of an eligible resident who has not made any other request for Democracy Dollars.
  - C. Prior to the last day for assigning a Democracy Dollar under Section 3.15.110(D)(4), an eligible resident who does not receive Democracy Dollars in a mailing under Subsection A, or electronic mailing under Subsection B, may submit a request, via a means developed by the Commission, to receive Democracy Dollars from the Commission. After the Commission verifies that the person submitting the request is an eligible resident and that the provision of Democracy Dollars to the eligible resident is otherwise permitted under this Act, the Commission shall provide the eligible resident the same number of Democracy Dollars mailed to eligible residents under Subsection A.

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

3.15.110 – Assignment of Democracy Dollars.

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



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

3.15.120 – Redemption and Disbursement of Democracy Dollar Proceeds.

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

3.15.130 – Maximum Amounts of Democracy Dollar Proceeds.

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

Article V. – Limits and Restrictions

3.15.140 – Expenditure Limits.

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

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

3.15.150 – Limits on Contributions and Use of Personal Funds.

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

3.15.160 – Use of Campaign Funds.

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

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

3.15.170 – Return of Remaining Funds.

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

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

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

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

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

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

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

Article VI. - Enforcement

3.15.190 - Enforcement.

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

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

Article VII. – Miscellaneous

3.15.200 – Adjustments for Inflation.

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

3.15.210 – Initial Applicability.

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

3.15.220 – Severability.

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

3.15.230 – City Council Amendments.

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

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

Article I. - Findings and Purpose.

3.12.010 - Title.

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

### 3.12.020 - Findings and Declarations.

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

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



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

### 3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

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

### Article II. - Definitions

#### 3.12.040 - Interpretation of this Act.

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

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

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

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

### Article III. - Contribution Limitations

#### 3.12.050 - Limitations on contributions from persons.

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

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

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

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

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

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

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

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

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

B. ~~For candidates who adopt the expenditure ceilings as defined in Article IV of this Act~~ For candidates who qualify as applicant or certified candidates as defined in Section 3.15.040 of the Oakland Fair Elections Act, no broad-based political committee shall make to any candidate and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee receive from a broad-based political committee, a contribution or contributions totaling more than one thousand two hundred dollars (\$1,0200.00), adjusted bi-annually pursuant to Subsection (~~FD~~), for each election.

C. ~~Any broad-based political committee that makes independent expenditures supporting or opposing a candidate shall not receive any contribution for the purpose of influencing elections for City office in excess of the amounts stated in Subsection A. of this Section.~~

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

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

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

3.12.065 - Contributions made under legal name.

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

### 3.12.070 - Return of Contributions.

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

### 3.12.080 - Aggregation of Contributions.

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

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

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

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

### 3.12.090 - Loans.

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

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

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

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

3.12.100 - Family contributions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3.12.130 - Contributor identification and restriction on use of cash.

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

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

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

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

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

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



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

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

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

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

Business Name \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

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

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

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

Business Name \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

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

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

### 3.12.150 - Officeholder fund.

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

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

15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;
16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;
17. Expenditures for ballot measures.

C. Officeholder expense funds shall not be used for the following:

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;
2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;
3. Membership in any athletic, social, fraternal, veteran or religious organization;
4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a City Official;
5. Any expenditure that would violate the provisions of the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.

D. No funds may be transferred from the officeholder fund of an elected City Official to any other candidate committee.

E. Annual contributions received by or made to the officeholder fund shall be subject to the contribution limitations of Article III of this Act.

F. Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

3.12.160 - Allowance for donation of office space.

A. Donation of office space for use by elected City Officials in furtherance of their duties and responsibilities by a person or broad based political committee shall not be considered a campaign contribution subject to the provisions of this Act, provided that:

1. The donation is made to the City and accepted pursuant to Oakland City Charter Section 1203 for use by the Mayor, Councilmembers, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and
2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the Commission~~City Clerk~~.

B. Use of office space donated pursuant to this Section by an elected City Official shall not be considered a "qualified campaign expenditure" pursuant to Section 3.12.040 of this Act.

3.12.170 - Legal expense funds.

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

3.12.180 - Volunteer services exemption.

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

~~Article IV.—Expenditure Ceilings~~

~~3.12.190—Expenditure ceilings.~~

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

~~3.12.200—Amount of expenditure ceilings.~~

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

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

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

~~3.12.210—Reserved.~~

~~3.12.220—Expenditure ceilings lifted.~~

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

~~Article IV. - Independent Expenditures~~Political Communications

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

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

Notice to Voters

(Required by the City of Oakland)

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

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

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

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

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

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

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

by (name) \_\_\_\_\_

\_\_\_\_\_ (address, city, state)

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

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

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

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

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

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

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



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

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

### 3.12.210 – Disclosure of Independent Expenditure Communications.

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

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

### 3.12.220 – Social Media Accounts.

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

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

Article VI. - Electronic Filing and Recordkeeping Requirements

3.12.240 - Electronic filing of campaign statements.

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

3.12.245 - Recordkeeping requirements.

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

### Article VII. - Violations Related to Enforcement

#### 3.12.250 - Violations Related to Enforcement.

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

### Article VIII. - Agency Responsibility and Authority

#### 3.12.260 - Public Ethics Commission Role and Responsibilities.

The Public Ethics Commission shall:

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

#### 3.12.265 - Duties of the City Clerk.

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

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

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

Article VIIIX. - Enforcement

3.12.270 - Penalties.

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

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

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

**3.12.280 - Injunctive relief.**

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

**3.12.290 - Forfeiture.**

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

**3.12.300 - Costs of litigation.**

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

**3.12.310 - Limitation of actions.**

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

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

**3.12.320 - Liability.**

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

**3.12.330 - Disqualification.**

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

**Article IX. - Miscellaneous Provisions**

**3.12.340 - Applicability of other laws.**

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

3.12.350 - Reference to other laws.

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

3.12.360 - Severability.

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

3.12.370 – City Council Amendments.

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

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

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

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

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

**SECTION 5. Repeal and Reenactment of O.M.C. Chapter 3.20, Article VI, into Articles VI and VII.** Oakland Municipal Code, Article VI, *Enforcement*, of Chapter 3.20, *Lobbyist Registration Act*, is hereby repealed and reenacted as Articles VI, *Enforcement*, and VII, *Miscellaneous*, as follows with deleted text shown as ~~strike through~~ and new text shown as underscored.

Article VI. - Enforcement

3.20.200 - Administrative action.

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

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



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

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

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

**3.20.210 - Civil penalties.**

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

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

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

**3.20.220 - Criminal violation.**

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

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

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

**Article VII. – Miscellaneous**

**3.20.230 - Effective date.**

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

**3.20.240 - Severability.**

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

**3.20.250 – City Council Amendments.**

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

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

Section 603. Public Ethics Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Item 10b - Full text Measure W

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

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

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

- (i) Assessments. Any instance of late filing that triggers the assessment of a fee of \$1,000 or more by the Commission shall be placed on a Commission meeting agenda before issuance of the fee;
  - (ii) Waiver guidelines. The Commission shall establish waiver guidelines in accordance with state law, which the Commission, as the filing officer, shall follow in determining whether or not to grant a waiver. These guidelines shall be published on the Commission's website. The Commission shall prescribe criteria for appeal to the Commission of waiver decisions made by the Executive Director. At each regular Commission meeting, the Executive Director shall provide a written report, which shall be published online, regarding any waivers decisions made since the previous regular meeting;
  - (iii) Referral of final, uncollected fees to collections. Unpaid non-investigatory, per diem late filing fees for disclosure programs that are past due for more than 90 days shall be referred to a City delinquent revenue collection office.
- (6) Private right of action. Oakland residents shall have a private right of action to file suits to enforce the Oakland Campaign Reform Act, Oakland Lobbyist Registration Act, Oakland Sunshine Ordinance, and any City governmental ethics ordinance when the City does not impose or stipulate to a penalty or file suit for a particular violation. Such private right of action shall be enabled for a given ordinance once criteria for such suits, including but not limited to a required notice period, actionable violations and remedies that may be sought, are prescribed by the ordinance.

### (g) Staff Assistance & Budget.

- (1) The City shall appropriate a sufficient budget for the Public Ethics Commission to fulfill the functions and duties as set forth above.
- (2) Sufficient staffing shall not be less than the following minimum staffing requirement. ~~Effective July 1, 2015, the City shall meet a minimum staffing requirement for the Commission. The minimum staffing shall consist of the following full-time positions or their equivalent should classifications change: Executive Director; Enforcement Chief; One Deputy Director; One Ethics Investigator; One Ethics Program Analyst I or Operations Support Specialist; One Ethics Program Analyst II; One Administrative Assistant I.~~ Effective July 1, 2023, the City shall also provide additional adequate staff necessary to properly administer the Democracy Dollars Program established by the Oakland Fair Elections Act, including but not limited to one full-time Democracy Dollars Program Manager and three Full Time Equivalent positions, to be determined as necessary by the Commission, all of whom shall report to the Executive Director of the Public Ethics Commission.

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

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



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

; and be it

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

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

MEASURE \_\_

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

; and be it

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

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

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

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

## Item 10b - Full text Measure W

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

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

IN COUNCIL, OAKLAND, CALIFORNIA,

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

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

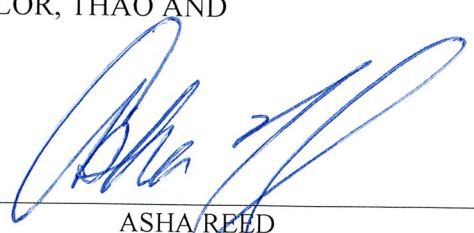
NOES - 0

ABSENT - 0

ABSTENTION - 0

Excused - 2 Gallo  
Kaplan

ATTEST: \_\_\_\_\_

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

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE \_\_\_\_\_

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

22 JUL 28 PM 4:27

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**SUMMARY:**

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

The measure would:

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

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

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

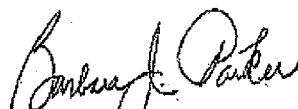
The measure would remove limits on contributions to independent (i.e., third-party) groups spending to influence voters in City elections. This measure also would expand disclosure requirements on campaign advertisements from such groups,

## Item 10b - Full text Measure W

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

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

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

A handwritten signature in black ink, appearing to read "Barbara J. Parker". The signature is fluid and cursive, with the first name "Barbara" and last name "Parker" being clearly legible.

Barbara J. Parker  
City Attorney

22 JUL 28 PM 4:27

## CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE \_\_\_\_\_

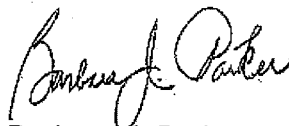
The Oakland Public Ethics Commission is responsible for oversight of various laws including the Campaign Reform Act, the Limited Public Financing Act, and the Lobbyist Registration Act. In 2014, Oakland voters approved a City Charter amendment that created a new section 603 to strengthen the Public Ethics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

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

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

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

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



Barbara J. Parker  
City Attorney

# Item 10b - Full text Measure W

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

22 JUL 29 PM 7:32

## Summary

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

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

## Financial Analysis

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

### One-time start-up costs

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

### Annual operating costs

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

### Biennial budget for the Fund

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