



## Item 6 - Staff Memo

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Nicolas Heidorn, Executive Director

TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
DATE: November 29, 2023  
RE: Options for Setting the Mayor's Salary

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The City Administrator has been charged with returning to the City Council with a proposal for moving the authority to set the Mayor's salary from the City Council to the Public Ethics Commission (PEC or Commission). In this memo, staff provides six specific options for how this might be done, based on prior Commission discussion:

- **A1 – Superior Court Match:** Adjust the Mayor's salary every two years to equal a superior court judge's salary.
- **A2 – Inflation Adjustment:** Adjust the Mayor's salary every two years for inflation, by default capped at a maximum of a 5% increase.
- **A3 – Rank & File Raise Match:** Adjust the Mayor's salary every two years by the same percentage increase received by employees of the City's largest public employee union.
- **B1 – Periodic Reassessment:** Adjust the Mayor's salary every four years, taking effect in a new mayoral term, to provide comparable and equitable pay.
- **B2 – Range-Limited Periodic Reassessment:** Adjust the Mayor's salary every four years, taking effect in a new mayoral term, to provide comparable and equitable pay, but within 70 to 90% of the median salary of the chief executive in the three California cities just larger than and three cities just smaller than Oakland.
- **C – Inflation Adjustment with Option for a Limited Reassessment:** Adjust the Mayor's salary every two years for inflation, capped at a maximum 5% increase. Every fourth year, taking effect in a new mayoral term, the PEC may, in its discretion, instead adjust the Mayor's salary to provide comparable and equitable pay, but the increase may not be greater than inflation over the prior years plus 10%.

Options A1, A2, and A3 propose a more automated process where the PEC has relatively little discretion in setting the Mayor's salary, unless certain financial hardship thresholds described below are met. These options are closer to how the PEC currently adjusts the City Council's salary for inflation. Options B1 and B2 provide the PEC with greater discretion to adjust the Mayor's salary to ensure it is consistent with peer jurisdictions and that it provides greater pay equity between the Mayor and their top-paid staff and other department heads. These two options are closer to how the PEC currently adjusts the City Attorney and City Auditor's salaries based on similar criteria. Option C is a blend of both approaches, providing a regular biannual inflation adjustment but permitting the PEC to do a more comprehensive review of the Mayor's salary every four years.

## Item 6. Staff Memo

To address the concerns that the charter criteria may require the PEC to provide a raise when the City is experiencing fiscal hardship, each of these options also provide the PEC the discretion to postpone, waive, or reduce a salary increase if the General Purpose Fund (GPF) revenue is projected to decrease from the prior fiscal year or if the City Council declares that the City is facing an extreme fiscal necessity or fiscal emergency or crisis.

If the PEC is unable to agree on a specific proposal, the Commission may instead decide to provide the City Administrator with general principles that it recommends be reflected in the charter amendment.

**Option D** includes some recommended principles, including that the responsibility for setting the Mayor's salary should be transferred to the PEC; the charter should provide politically-neutral, objective criteria for the PEC to follow in setting the Mayor's salary; and that the PEC should have very limited discretion to set the Mayor's salary.

### ***Staff recommends that the PEC:***

- ***Adopt one of the options above (A1 through D), or another option, to recommend to the City Administrator;***
- ***Consider whether to recommend that the salary-setting process for other offices be conformed to the proposed procedures; and***
- ***Delegate to the Executive Director and the Chair the responsibility for transmitting a letter to the City Administrator expressing the PEC's preference.***

To assist with this discussion, staff has attached the following additional resources at the end of this memo:

- A revised chart comparing the salary-setting practices of the ten largest cities in California and information about those cities, excerpts of news articles about recent mayoral raises, and a survey of local League of Women Voters chapter leaders on how controversial the process has been in their jurisdiction;
- A public comment survey the PEC conducted in mid-November soliciting commenters views and feedback on whether the PEC should take on this responsibility and how; and
- The staff memo from the PEC's October meeting providing background information on how the Mayor's salary is set, how the PEC sets salaries for other elected offices, how the ten largest California cities set their mayors' salaries, and factors the PEC may wish to consider in recommending whether and how the PEC sets the Mayor's salary.

### **Background**

Under Section 300 of the Oakland City Charter, the City Council sets the Mayor's salary in every odd-numbered year, which must be "not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland."

In July of 2023, the City Council approved a motion asking the City Administrator to provide "proposed legislation to amend the City Charter in November of 2024 to move the responsibility for setting the Mayor's salary from the City Council to the independent Public Ethics Commission, as is now the case for other elected officials, including the City Attorney, City Auditor and Councilmembers." At its August retreat, the PEC decided it would like to consider and make a recommendation to the City Administrator

## Item 6. Staff Memo

as to whether or not the PEC should set the Mayor's salary and, if so, what factors the PEC might consider in setting this salary.

At its October 25, 2023, meeting, the PEC discussed this subject. While commissioners generally agreed that the PEC was an appropriate body to set the Mayor's salary, there was no consensus on how exactly that salary should be set. Commissioners generally expressed the view that the Commission should have limited discretion to set the Mayor's salary, but that this discretion should not be based on an evaluation of the Mayor's performance in office, which some Commissioners felt is a political determination best left to the voters. Several Commissioners favored a mostly automated process to minimize the risk of the process being politicized or appearing to be so, for example by primarily adjusting the salary for inflation, while other Commissioners agreed but felt the Commission should have the discretion to account for fiscal crises in the salary adjustment, or that the baseline salary should be periodically reviewed (e.g., every four to eight years) in light of other factors, like the pay for top mayoral employees. Staff said at that meeting that it would provide a menu of options for how the PEC might set the Mayor's salary at this December meeting, leaning towards creating a more automated process but with some discretion for the PEC to modify or review that process in light of current conditions.

### Salary-Setting Options

This memo presents six different salary-setting options (and a seventh "statement of principles only" option) that the Commission may wish to recommend or modify and recommend.

#### **Option A1: Match Superior Court Judge Salary**

##### *Proposal Summary:*

- Every two years, the PEC adjusts the Mayor's salary to be the same as the current salary for an Alameda County Superior Court judge (\$231,174 in FY2022-23).
- The PEC, in its discretion, may waive or reduce a salary increase for that two-year period if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if the General Purpose Fund (GPF) revenue for the current fiscal year is projected to decline.

This option pegs the Mayor's salary to the salary of a superior court judge. Judicial salaries are set by state law and required to be adjusted annually by the average percentage increase in salaries of all state workers. (Cal. Gov. Code Sec. 68203.) According to the National Center for State Courts, California superior court judges made \$231,174 as of July 1, 2023.<sup>1</sup> (Staff is attempting to verify this number with respect to Alameda County.) This amount is about 6.9% higher than the recently-adopted salary of \$216,202 for the Mayor.

Several other California local jurisdictions have pegged mayoral salary to the salary of superior court judges, including three of the state's five "strong" (or "strong-ish") mayor cities. In San Diego, the Mayor's pay is set to equal a superior court judge's. In Los Angeles, the Mayor makes 30% more than a superior court judge. In Fresno, Mayoral pay is set by the Council, but a recent resolution set the Mayor's pay at 160% of a Fresno County Supervisor's pay, which is itself based on superior court judge's pay, and ends up equaling 96% of a superior court judge's pay. (If the PEC wanted to use the Mayor's current salary as a baseline salary but adopt a percentage of a judge's salary that approximates the

## Item 6. Staff Memo

Mayor's current pay, this proposal could be modified to peg the Mayor's salary to 90% or 95% of a superior court judge's salary.)

Unlike these other cities, where the mayor's salary is automatically changed based on judicial salaries, this option would allow (but not require) the PEC to waive a salary increase in a two-year period if either of the following occurs:

- (a) the GPF revenue for the current fiscal year is projected to be less than the GPF revenue for the prior fiscal year, or
- (b) the City Council declares in the most recent budget resolution that the City is experiencing a severe and unanticipated financial event or an extreme fiscal necessity or is in a state of fiscal crisis or fiscal emergency.

This provision, which is included in all six options (A1 to C), is intended to allow the PEC to waive or reduce a salary increase in cases where the City is facing significant financial hardship and where it may be inappropriate or controversial to award the Mayor a large pay increase when the City is struggling. While the decision to waive or reduce the salary increase would be in the PEC's discretion, the precondition, that a financial urgency exists, would be objectively determined. GPF projections for a fiscal year are adopted in the budget and can be compared to the actual revenues from the prior year. From the 2010-11 fiscal year through the most recently completed 2022-2023 fiscal year, the GPF has declined three times.

Fiscal Year to Fiscal Year GPF Change

| <b>Fiscal Year</b> | <b>GPF Change</b> |
|--------------------|-------------------|
| <b>FY 10-11</b>    | <b>-2.8%</b>      |
| <b>FY 11-12</b>    | 6.9%              |
| <b>FY 12-13</b>    | 0.8%              |
| <b>FY 13-14</b>    | 1.4%              |
| <b>FY 14-15</b>    | 8.5%              |
| <b>FY 15-16</b>    | 12.1%             |
| <b>FY 16-17</b>    | <b>-1.2%</b>      |
| <b>FY 17-18</b>    | 6.9%              |
| <b>FY 18-19</b>    | 10.0%             |
| <b>FY 19-20</b>    | <b>-2.8%</b>      |
| <b>FY 20-21</b>    | 11.9%             |
| <b>FY 21-22</b>    | 2.3%              |
| <b>FY 22-23</b>    | 20.5%             |

The declaration of a "severe and unanticipated financial event," "extreme fiscal necessity," or "fiscal crisis or fiscal emergency" are also objectively determined, as these are official legal terms that the City Council must use in its budget resolution if it wants to waive certain minimum funding or staffing requirements – for example, to waive minimum library funding, minimum City Auditor's Office staffing, or the Democracy Dollars program minimum staffing and funding. The City Council has further defined or elaborated on these terms in Council Resolution [No. 89803](#) (Jun. 22, 2023).

## Item 6. Staff Memo

**Advantages** of this option may include that:

- The increase is mostly automatic, with very little PEC discretion except in times of fiscal crisis;
- The pay of superior court judges appears to be fairly close to the Mayor's current pay;
- Other strong mayor cities (LA, San Diego, and Fresno) use this approach, so using this approach would mean that Oakland's Mayor's pay will stay proportionally in step with these three peer jurisdictions;
- It is administratively simple to implement.

**Disadvantages** to this option may include that:

- The duties and responsibilities of a superior court judge are not comparable to a mayor;
- The Legislature may change judicial pay in the future, which could cause mayoral pay to become far too high or too low; and
- It provides the PEC with little discretion to exercise its best judgment on what is a fair and competitive salary.

### **Option A2: Adjust for Inflation, Generally Capped at 5%**

#### **Proposal Summary:**

- Every two years, the PEC increases the Mayor's salary by the change in the Bay Area Consumer Price Index (CPI, i.e., inflation), capped at no more than a 5% increase, or higher to reflect actual inflation in the PEC's discretion, but not to exceed a 10% increase.
- The PEC, in its discretion, may waive a or reduce a salary increase for that two-year period if the City Council declares that the City is facing an extreme fiscal necessity/crisis.

This option adjusts the Mayor's salary for every two years to account for inflation, but generally caps the increase at 5%, unless inflation is higher, in which case the PEC has some discretion to award a higher amount. This option mostly follows how the PEC is required to adjust the City Council's salary, pursuant to recent charter amendments, except it also allows the PEC to waive or reduce a mandated increase when the City is facing fiscal hardship.

Under current law, the PEC adjusts the City Council's salary for inflation, up to a 5% cap over a two-year period. However, if inflation exceeds 5% in that two-year period, the PEC, in its discretion, may "adjust the salary for the office of Councilmember by an amount not exceeding five percent for each year, but not more than the total CPI per year." The 5% cap is new and was added when the voters approved Measure X (2022), and so has not yet been implemented by the PEC. Prior to Measure X, the PEC adjusted Councilmembers' salaries for inflation over the prior two years but could also provide up to an additional 10% salary increase in its discretion. The PEC's prior, inflation-based increases between 2022 and 2016 are displayed below; increases that exceed the new 5% cap are bolded for reference.

#### **PEC Two-Year Council Salary Percentage Increases, 2016-2022**

## Item 6. Staff Memo

| Calendar Year | Annual Inflation |
|---------------|------------------|
| 2022          | 6.3%             |
| 2020          | 7.1%             |
| 2018          | 6.6%             |
| 2016          | 4.7%             |

As the chart above demonstrates, two-year inflation has generally exceeded 5% in prior years. Because this cap is new, the PEC has yet to consider how it will exercise its discretion when inflation exceeds the cap, which it will also have to consider in setting the Mayor's salary under this option. An alternative to this option would be to adjust Mayoral salaries solely for inflation, without a cap. This would provide the PEC with less discretion over salary increases, and likely result in the Mayor receiving higher pay.

Like Option A1 (peg to superior court salary), this adjustment would be largely automatic, with some PEC discretion to go a few percentage points over the 5% cap in times of high inflation, or to waive or reduce a salary increase if the City declares a fiscal necessity/crisis. The use of an inflation adjustment to set mayoral salaries is also used in some other cities like Long Beach.

**Advantages** of this option may include that:

- The increase is mostly automatic, with the PEC's discretion limited to considering raises when inflation is high and considering pay cuts when the City experiences a financial hardship;
- The increase will generally account for increases in the cost of living;
- The bi-annual increases are likely to be incremental, rather than causing large increases which may be controversial;
- The method is similar to what the PEC uses for the City Council; and
- It is administratively simple to implement.

**Disadvantages** to this option may include that:

- Using inflation as the main driver for compensation may lead to mayors being significantly over or under-compensated compared to executives in peer jurisdictions and top staff, especially over a long period of time;
- It assumes that the mayor's current salary is about right;
- there are no criteria for when the PEC should exercise its discretion to grant raises in times of high inflation; and
- It provides the PEC with little discretion to exercise its best judgment on what is a fair and competitive salary.

### **Option A3: Adjust Based on Public Employee Salary Increases**

#### **Proposal Summary:**

## Item 6. Staff Memo

- Every two years, the PEC changes the Mayor's salary by the change in salary of the largest non-sworn public employee union in the City.
- The PEC, in its discretion, may waive or reduce a salary increase for that two-year period if either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) if the GPF revenue for the current fiscal year is projected to decline.

This option automatically ties the Mayor's salary increases to that of the largest non-sworn City employee union, presently SEIU 1021, except that, because the PEC would be setting the Mayor's salary every two years, the Mayor's raises would take effect months to over a year after those of City employees. For context, the current SEIU Local 1021 contract provides the following wage increases:

- 5% effective the first full pay period in July 2022;
- 2.5% effective the first full pay period in July 2023;
- 2.5% effective the first full pay period in January 2024;
- 2% effective the first full pay period in July 2024; and
- 2% effective the first full pay period in March 2025.

From staff's discussion with Budget Office staff, employee union wage increases tend to apply uniformly across the board to all represented employees in the union, although in some cases certain job classifications will receive extra compensation in the agreement. For example, in the most recent agreement, a 5 to 7.5% "special equity" pay increase was awarded to engineers. In such cases, the PEC would only consider the bargaining unit-wide increase of the largest non-sworn bargaining unit.

Staff is unaware of another city that bases mayoral salary increases on represented employee increases. However, when the PEC sets the salaries of the City Attorney and the City Auditor, it must consider the compensation of the highest paid staff in those offices. While those are likely not represented employees, PEC staff understand that in Oakland management raises generally track the raises provided to represented employees.

As with Options A1 (superior court) and A2 (inflation adjustment), the PEC would have the ability to waive or reduce the increases if the City is facing a significant fiscal hardship or revenues decrease. Another addition the PEC may consider for this option (or potentially others) is that, if the largest employee union agrees to amend its contract to reduce costs, the PEC would then be authorized or required to decrease the Mayor's salary by the same percentage as the cost reduction. San Francisco utilizes this latter approach.

**Advantages** of this option may include that:

- The increase will almost always be automatic, with very little PEC discretion except in times of fiscal crisis;
- The increase matches negotiated increases with City employees, reflecting what City leadership considers to be fair to employees and affordable to the City; and
- It is administratively simple to implement.

**Disadvantages** to this option may include that:



## Item 6. Staff Memo

- Basing the mayor's salary on public employee union compensation may create a conflict of interest or the appearance of a conflict if the Mayor was involved in those salary negotiations;
- Using public employee wage increases to set compensation may lead to mayors being significantly over or under-compensated compared to executives in peer jurisdictions and top staff; and
- It provides the PEC with little discretion to exercise its best judgment on what is a fair and competitive salary.

### **Option B1: Adjust to Provide Comparable and Equitable Pay**

#### **Proposal Summary:**

- Every four years, taking effect at the start of a new mayoral term, the PEC adjusts the Mayor's salary considering:
  - The salaries of the chief executives (city manager or mayor in a strong mayor system) in comparable California jurisdictions;
  - The salary of the highest-paid mayoral employee;
  - The salary of City Department heads; and
  - Inflation since the last adjustment.
- The PEC, in its discretion, may postpone or temporarily reduce a salary increase in any fiscal year in which either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) the GPF revenue for the current fiscal year is projected to decline.

This option closely resembles the process the PEC already uses to set the City Auditor and City Attorney's salaries. Under this option, salary-setting would generally not be automatic, but also would not be fully discretionary. The PEC would set the Mayor's salary after weighing enumerated criteria, none of which are based on the PEC's subjective evaluation of the Mayor's performance. However, similar to its salary-setting role with respect to the City Attorney and City Auditor, the PEC would have discretion in deciding how to weigh these potentially conflicting considerations, as well as which peer California jurisdictions to select as a benchmark for a chief executive's salary.

However, selecting comparable peer jurisdictions and deciding how to account for their executives' pay may be more complicated in the context of setting the Oakland Mayor's salary than it is with respect to the City Attorney or City Auditor, which are more specialized positions that tend to have similar duties and responsibilities to other elected and non-elected city attorneys and auditors in the state. A mayor's powers and responsibilities can vary significantly between cities, which often affects compensation. Mayors are generally paid significantly more in so-called "strong mayor" cities, where the mayor is the executive of the city, and less in "weak mayor" cities, where the mayor typically is a member of council with no additional executive powers. Oakland's form of government, which includes a City Administrator rather than a city manager, is sometimes described as falling between these two systems,<sup>2</sup> which may make one-to-one comparisons more difficult. In addition, city managers are typically paid significantly more than even more traditional strong mayors. This raises the question of whether the salary of Oakland's Mayor should be set equal to other strong mayors or city managers, or at some lower rate?



## Item 6. Staff Memo

The current City Charter, for example, specifies that the mayor's pay must be between 70 to 90% of the executives in the six cities nearest to Oakland in population.

For reference, the Mayor recently-adjusted salary of \$216,202 is less than the median for city executives for the next six cities closest in size to Oakland (\$308,860); less than the median City department head (\$238,420); and about 5% more than her highest paid employee (\$205,000), although the City's management practice is for managers to make 15 to 20% more than their top paid employee.

Rather than leave the question of the appropriate target to the PEC's discretion, this option could be modified to identify what is the "goal" for each factor – e.g., identifying what percentage of the median peer executive's salary the Mayor should make, what percentage the Mayor should make above the top mayoral employee's salary, and so on. Even so, the PEC would still have to decide how to evaluate these different factors when their target salary amounts diverge; e.g., should they be averaged, create a range of salary options, establish a salary floor, or be considered in some other manner?

While similar, this proposed option B1 differs from the PEC's current responsibilities for setting the City Attorney and City Auditor's salary in a few respects. First, it adds the option for the PEC to reduce or postpone a salary increase if the City is facing a significant financial hardship, objectively defined, similar to the options previously discussed. This seeks to address one criticism of the current Charter process, which is that it required the City Council to significantly raise the Mayor's salary, despite the fact that the City was facing the largest budget deficit in its history. Second, it includes inflation since the last salary adjustment as a consideration.

Finally, under this option the Mayor's salary would only be adjusted every four years, rather than every year for the City Attorney and City Auditor, or every two years as is currently required for the Mayor. An annual salary adjustment would require more PEC staff time and may lead to a more politicized process if the salary adjustment is perceived as a referendum on the incumbent mayor's performance. Instead, a four-year cycle could be aligned so that the PEC is adopting a salary that only takes effect at the start of a new mayoral term. Because an incumbent mayor may not be running for re-election, or at least is not guaranteed reelection, this timing may shift the focus of the salary-setting discussion from being about the current officeholder to a broader discussion of what salary is in the best interests of the City.

**Advantages** of this option may include that:

- It is fairly similar to the process that the PEC already uses to set City Attorney and City Auditor salaries;
- It provides the PEC with significant discretion to exercise its best judgment on what is a fair and competitive salary, using clear guideposts;
- It makes it less likely that the Mayor's salary will fall out of step with peer jurisdictions or with top mayoral staff than a more automated process; and
- It aligns the salary adjustment to the start of a new mayoral term, which may help depoliticize the process.

**Disadvantages** to this option may include that:

- It provides the PEC significant discretion on how to set the Mayor's salary, which may require the PEC to make difficult values-based decisions on how to weigh different criteria and may lead to a far more politically contentious process;

## Item 6 – Staff Memo

- It provides no salary adjustments in years 2-4, which means the real value of the Mayor's salary would decrease each year of their term; and
- It is more administratively complicated than the previous options, requiring PEC staff to collect more data points, but only every four years instead of every two.

### **Option B2: Adjust to Provide Comparable and Equitable Pay but within a Range**

#### *Proposal Summary:*

- Every four years, taking effect at the start of a new mayoral term, the PEC adjusts the Mayor's salary to be within 70 and 90% of the executives in the three nearest California cities higher than and three nearest California cities lower than Oakland in population, and considering:
  - The salary of the highest-paid mayoral employee;
  - The salary of City Department heads; and
  - Inflation since the last adjustment.
- The PEC, in its discretion, may postpone or temporarily reduce a salary increase in any fiscal year in which either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) the GPF revenue for the current fiscal year is projected to decline.

This option is the same as the last option (B1 – periodic review), except that it sets lower and upper limits on the salary that the PEC can select. This option blends the current City Charter requirement that the Mayor's salary be between 70 and 90% of the six nearest cities to Oakland in population and has the PEC select an amount within that range largely applying the same factors that the PEC uses to set the City Attorney and City Auditor's salary. Similar to the other options, it also gives the PEC the authority to postpone or temporarily reduce the salary increase if the City is experiencing a financial hardship.

For example, in July, when the City Council last adjusted the Mayor's salary, the applicable 70% to 90% salary range was between \$216,202 and \$277,974 (up from the \$202,999 the Mayor was then making). The Council chose the lowest possible salary increase in that range. Under this proposed option, the PEC generally would have been required to also select within that range except that, because the Council declared that the City was facing a severe fiscal necessity, the PEC could have chosen to postpone or temporarily reduce the increase instead.

**Advantages** of this option are largely the same as B1, except that the PEC would generally have to set a salary within objective upper and lower bounds, limiting the PEC's discretion as to the magnitude of the salary adjustment. Having the Charter specify the salary range also resolves how the PEC should weigh executive salaries in peer jurisdictions.

**Disadvantages** to this option are largely the same as B1, except that the lower and upper limits may force the PEC to give a raise that, in consideration of the other factors, may appear unfair or inappropriate in the PEC's judgment.

### **Option C: Hybrid Option – Adjust for Inflation But Include a Periodic Review**

## Item 6 - Staff Memo

### Proposal Summary:

- Every two years, the PEC increases the Mayor's salary by the change in the Bay Area CPI over the last two years, but capped at 5% (similar to Option A2) but without PEC discretion to go beyond the cap.
- Every four years, taking effect at the start of a new mayoral term, the PEC has the discretion to instead adjust the Mayor's salary to promote greater pay equity and competitive compensation (same as Option B1), but by no more than the rate of inflation over the past two years plus an additional 10 percent. In making a discretionary adjustment, the PEC shall consider:
  - The salaries of the chief executives (city manager or mayor in a strong mayor system) in comparable California jurisdictions;
  - The salary of the highest-paid mayoral employee; and
  - The salary of City Department heads.
- The PEC, in its discretion, may waive or reduce a salary increase in any fiscal year in which either (a) the City Council declares that the City is facing an extreme fiscal necessity/crisis or (b) the GPF revenue for the current fiscal year is projected to decline.

This option uses a biannual inflation adjustment as its baseline increase, with a 5% cap and no opportunity for the PEC to waive the cap but permits the PEC to do a periodic review and re-assessment of the salary every four years. To prevent large jumps in salary, that re-assessment could be capped to no more than inflation plus ten percent.

This option is somewhat similar to how San Francisco sets its Mayor's salary. In San Francisco, the Civil Service Commission sets the Mayor's salary every five years by averaging the salaries of the chief executives of five neighboring counties. (San Francisco has the highest mayoral salary in California as a result.) In the intervening four years, the Commission also adjusts the Mayor's salary for inflation. As previously mentioned, the Commission must also reduce the Mayor's salary if employee unions agree to amend their contracts to reduce costs. One significant difference between San Francisco's approach and this proposed option is that San Francisco's Commission does not appear to have any discretion in setting the Mayor's salary and only one factor – the pay of neighboring county administrators – is considered.

**Advantages** of this proposed option may include that:

- It is mostly a blend of the process that the PEC already uses to set City Attorney, City Auditor, and City Council salaries.
- It provides the PEC with significant discretion to exercise its best judgment on what is a fair and competitive salary but limits the magnitude of the increases permitted at the four-year re-assessment. This would also have the likely effect of providing more incremental pay increases than Options B1 and B2, which only have a four-year periodic review.
- It makes it less likely that the Mayor's salary will be out of step with peer jurisdictions or top mayoral staff than a more automated process; and

## Item 6. Staff Memo

- It aligns the salary re-assessment to the start of a new mayoral term, which may help depoliticize the process.

**Disadvantages** to this option may include that:

- It provides the PEC significant discretion on how to set the Mayor's salary at the four-year re-assessment, which may require the PEC to make difficult values-based decisions on how to weigh different criteria and may lead to a more politically contentious process;
- It does not provide an objective standard for when the PEC may choose to do a re-assessment rather than continue to provide inflation adjustments; and
- It is more administratively complicated than any of the prior options, requiring PEC staff to collect more data points.

### Option D: Statement of Principles

Proposal Summary: If the PEC cannot reach agreement on a specific option to recommend to the City Administrator, it may wish to provide more general statement of principles that it would like to see in a draft charter amendment, including:

- The responsibility for setting the Mayor's salary should be transferred to the PEC;
- The charter should provide politically-neutral, objective criteria for the PEC to follow in setting the Mayor's salary;
- The PEC should have limited discretion to set the Mayor's salary, with salary adjustments mostly being automatically applied based on objective criteria;
- The PEC should have the discretion to waive or reduce a salary increase if either (a) the City Council declares that the City is facing an extreme fiscal necessity or a fiscal crisis or emergency, or (b) the GPF revenue for the current fiscal year is projected to be lower than it was in the last fiscal year.
- The PEC should not adjust the Mayor's salary more frequently than once every two years.

This proposal would give general guidance to the City Administrator on the PEC's preferences, while reserving the PEC's ability to review and comment on the specific proposal the Administrator develops.

### Other Considerations

In addition to changing the Mayor's salary, the PEC may wish to consider recommending other changes to the charter around the salary-setting process, including changes for the other elected offices the PEC sets the salary for, or other non-criteria-based procedural changes.

For example, depending on the mayoral salary option the PEC selects, it may make sense to recommend that the salary-setting process for the City Council, or the City Auditor or City Attorney, be changed to conform to that new proposed process. This would simplify the administration of these different salary setting obligations for the PEC; however, depending on the different nature of the office -- for example

## Item 6 - Staff Memo

the City Auditor and Attorney being more professional positions -- different processes may be appropriate. Less ambitiously, the PEC might propose more minor revisions, such as changing the City Auditor and City Attorney salary-setting process to a run on a two-year or four-year cycle rather than an annual cycle, or applying the proposal that the PEC be given the discretion to waive salary increases in times of financial hardship to all offices.

The PEC may also wish to consider whether there are other non-criteria-based procedural changes, that could strengthen the PEC's political independence in salary-setting and the transparency of this process.

## Item 6 - Staff Memo

### Appendix I. Mayoral Salary in Ten Largest California Cities and Perceived Controversy

*In response to Commissioner questions and feedback at and after the October PEC meeting, staff have updated the chart from the memo for that meeting identifying the salary setting practices of California's ten largest cities to also include a city's population, number of public employees, mayoral salary as of 2022, excerpts and links to recent articles about the salary-setting process in that city, and a subjective assessment by a leader of the local chapter of the League of Women Voters as to how controversial recent salary adjustments have been in that city. As to the latter, nine out of the ten local League chapter leaders identified by the State League responded to this survey.*

| City & Population <sup>1</sup> | Mayor Type | City Staff <sup>2</sup> | 2022 Salary <sup>3</sup> | Mayoral Salary Rule                                     | Recent Coverage and Perceived Recent Controversy of Salary-Setting Process                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------|------------|-------------------------|--------------------------|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Anaheim<br>344,461             | Weak       | 3,286                   | \$10,877                 | Follows rules for general law cities. Charter Sec. 502. | Local LWV: <b>1/5 controversy</b> . "[I am] not aware of any controversy. Not aware of any recent changes."<br><u>Article</u> : None found                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Bakersfield<br>410,647         | Weak       | 2,116                   | \$48,211                 | Set at \$24,000/year. Charter Sec. 20.                  | Local LWC: <b>no response</b><br><u>Article (Opinion)</u> : "A case can be made for for increasing the pay of Bakersfield City council members, but not on the scope of Sacramento's and San Jose's. Bakersfield council members receive \$785.79 monthly, which is a combination of being given a car allowance and what compensation the Charter mandates. The mayor earns \$2,000 monthly and is given a car. But council members and the mayor also the receive fully-paid medical, dental and vision insurances costing from \$7,720.79 (single rate) to \$23,243.46 annually." Bakersfield, 4/6/2022 |
| Fresno<br>545,567              | Strong     | 5,015                   | \$141,520                | Salary set by City Council. Charter Sec. 308.           | Local LWV: <b>N/A</b> "No I do not know of any controversy surrounding the mayor's salary in recent memory."<br><u>Article</u> : "A proposal from the Fresno City Council would give elected officials a dramatic pay raise in future years. ... "This [proposal tying council and mayor pay to Fresno County supervisor pay, which is based                                                                                                                                                                                                                                                               |

<sup>1</sup> U.S. Census Bureau, "Annual Estimates of the Resident Population for Incorporated Places in California: April 1, 2020 to July 1, 2022," <https://www2.census.gov/programs-surveys/popest/tables/2020-2022/cities/totals/SUB-IP-EST2022-POP-06.xlsx>.

<sup>2</sup> State Controller, "Government Compensation in California," <https://publicpay.ca.gov/>.

<sup>3</sup> State Controller, "Government Compensation in California," <https://publicpay.ca.gov/>.

## Item 6 - Staff Memo

|                          |        |        |           |                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                          |        |        |           |                                                                                                       | on superior court judge pay] provides the greatest transparency while also taking the ability to vote on future raises out of the hands of councilmembers,” [Councilmember] Maxwell said. ... The mayor’s salary — currently at \$130,000 — would be tied to the city council and earn a multiple of just over 160% of that rate. That would bump up the next mayor’s salary to \$219,447. ... Fresno Mayor Jerry Dyer is not convinced this is the best plan. “I am concerned with the message this will send to our employees as well as our tax payers, as the raises are significant. I think a more moderate approach should be taken that provides annual pay raises similar to that of employees,” Dyer.” GV Wire 6/21/22 [Note: proposal passed.]                                                                                              |
| Long Beach<br>451,307    | Weak   | 6,705  | \$169,497 | Set at \$67,500 + CPI (set in 1988). Charter Sec. 203.                                                | <u>Local LWW: 1/5 controversy.</u> “[N]ot aware of any controversy.”<br><u>Article:</u> “The council placed a voluntary pay cut item on the agenda during a Sept. 8 meeting in which the city’s budget was approved. A motion that direct money saved from elected officials’ salaries to city libraries and parks did not get approved. Instead, the forgone salaries will be distributed to the city’s general fund, which is used to pay for public services. The mayor’s salary is \$157,145.16 annually, while the council salary is \$39,290.47, according Gross. Due to federal tax laws and pension agreements, the city could not slash these salaries by 10% across the board, as workers did. Instead, the city made an approximate cut to their individual salaries to equate a 10% pay cut and called it a donation.” LB Post, 10/13/2020 |
| Los Angeles<br>3,822,238 | Strong | 68,322 | \$301,588 | 30% more than Councilmembers (who receive salaries equal to superior court judges). Charter Sec. 218. | <u>Local LWW: 1/5 controversy.</u> “[T]his issue is so off the radar in LA, we have so many more pressing issues, I think I can safely tell you that there has been almost no mention of it from any sector of the political spectrum.”<br><u>Article:</u> “The proposed pay raise, public campaign financing and ethics reforms will be linked in a single ballot measure in June, meaning that voters must grant elected officials the pay raise if they want to adopt the reforms.” LAT, 2/14/1990                                                                                                                                                                                                                                                                                                                                                  |
| Oakland<br>430,553       | Strong | 6,117  | \$226,557 | Council set salary to 70% to 90% of the average City Manager or CEO salary of                         | <u>Local LWW: 4/5 controversy, but “short-lived.”</u> “The only controversy over the Mayor’s salary anyone, including longtime residents and committee members, could recall was the recent one in 2023 of the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |



## Item 6 - Staff Memo

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|------------------------|--------|--------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                        |        |        | (Note. <sup>4</sup> ) | 6 nearest-in-size cities.<br>Charter Sec. 300.                                                                                                               | <p>setting of Mayor Thao's salary. People believe that may have been because the previous Mayor Schaf did not accept increases or the City Council did not comply with its mandate to review and adjust the salary at regular intervals. ... The belief is that the context of Oakland's sizeable deficit made the initial recommendation of a maximal salary increase particularly controversial. ”</p> <p><a href="#">Article</a>: “Caving to public pressure, the Oakland City Council gave the city’s mayor the smallest pay raise allowable under the law, marking the first salary bump the position has received in a decade.” <i>Oaklandside</i>, 7/19/2023</p> <p><a href="#">Editorial</a>: “The charter requires the City Council to review the mayor’s salary in odd-numbered years. The mayor’s salary under the charter is to be not less than 70% nor more than 90% of the average salaries of the city managers of the six California cities with the three immediate higher and the three immediate lower populations. It’s a nonsensical standard and comparison. City managers or administrators are usually highly trained professionals with years of education and experience in municipal management and finance. Their skill sets and responsibilities are completely different from those of a mayor.” <i>EBT</i>, 7/17/2023</p> |
| Sacramento<br>528,001  | Weak   | 5,606  | \$146,749             | Appointed Compensation Committee sets salaries that are “reasonable and consistent with other cities similar in size and structure.” <i>Charter Sec. 29.</i> | <p><u>Local LWV: 1/5 controversy.</u> “The LWV Sacramento County has not found the Mayor’s salary to be publicly controversial except perhaps among the members of the commission that sets the salary for the Mayor and City Council.”</p> <p><a href="#">Article</a>: “[Mayor] Steinberg’s annual salary will increase from \$158,652 to \$164,205 starting June 17, the city’s Compensation Commission decided ... [which] was roughly 3.5%, which was the amount of the raises most unionized city employees received last year.” <i>SacBee</i>, 5/5/2023</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| San Diego<br>1,381,162 | Strong | 12,829 | \$236,851             | Salary equal to salary of superior court judge.<br><i>Charter Sec. 24.1.</i>                                                                                 | <p><u>Local LWV: 1/5 controversy.</u> “The mayor's salary has not been controversial. In 2018, Measure L passed, which set the mayor's salary equal to that of California Supreme Court judges.”</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

<sup>4</sup> Note: The State Controller’s Data does not match the City’s figures for mayoral pay. The City Council recently adopted a Mayoral salary of \$216,202.42, which was about a \$13,000 increase over the 2022 salary for this position.

## Item 6 - Staff Memo

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|--------------------------|--------|--------|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                          |        |        |           |                                                                                                                                                                                                                                                                                                                                            | <a href="#">Article</a> : “Before voters approved Measure L, the awkwardness and potential political costs of voting to give themselves raises had prevented San Diego council members from doing so for more than 15 years.” <i>SDUT</i> , 6/2/2023                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| San Francisco<br>808,437 | Strong | 39,238 | \$357,084 | Every 5 years, Civil Service Commission sets salaries based on average of 5 Bay Area counties. In other 4 years, salaries are adjusted for inflation, but capped at 5%. If City employee unions amend their MOUs to save costs, the Commission shall amend the Mayor’s salary to achieve comparable savings. <i>Charter Sec. A8.409-1.</i> | Local LWV: <b>N/A</b> “LWVSF has not been part of any discussions or advocacy around mayor compensation for the past few years at least. We are aware that there is usually discussion about the mayor’s compensation by the residents and the media, such as this recent example from the San Francisco Chronicle [below] about San Francisco’s mayor being the highest-paid in California.”<br><a href="#">Article</a> : “San Francisco Mayor London Breed had the highest compensation among California city mayors last year, exceeding the compensation of mayors in more populous cities, including Los Angeles, San Diego and San Jose. ... Though Breed may have an unusually high salary relative to her peers, her compensation is still a fraction of what a top manager at a private company would earn, said Steven Falk, former interim city administrator of Oakland and a longtime city official who has served in six California cities.” <i>SF Chron</i> , 7/10/2023              |
| San Jose<br>971,233      | Weak   | 8,475  | \$209,402 | Appointed Salary Setting Commission sets salary taking “commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.” City Council may reduce salaries. <i>Charter Sec. 407.</i>                                                                    | Local LWV: <b>N/A</b> “There is no one available who feels they have enough background/experience on this to comment for your survey.”<br><a href="#">Article</a> : “A city commission on Monday unanimously approved salary increases for San Jose elected leaders, including a whopping \$58,000 raise for Mayor Sam Liccardo and a \$28,000 raise for city councilmembers. But on Tuesday morning, Liccardo rejected the raise in a new memo released by his office. Instead, Liccardo suggested aligning current and future mayoral salary increases with those typical for most employees, about 3 percent annually. ... [V]oters approved Measure U last fall [ie 2018], which removed councilmembers and the mayor from approving their own salaries — a hot button issue that voters agreed was a conflict of interest. Previously, the commission made recommendations for raises, but the City Council voted to adopt them, which became a highly-politicized affair. Now, the commission |

Item 6 - Staff Memo

|  |  |  |  |  |                                                                                                                          |
|--|--|--|--|--|--------------------------------------------------------------------------------------------------------------------------|
|  |  |  |  |  | approves the salaries outright, taking the decision-making out of the elected officials' hands.” SJ Spotlight, 4/22/2019 |
|--|--|--|--|--|--------------------------------------------------------------------------------------------------------------------------|

## Item 6 - Staff Memo

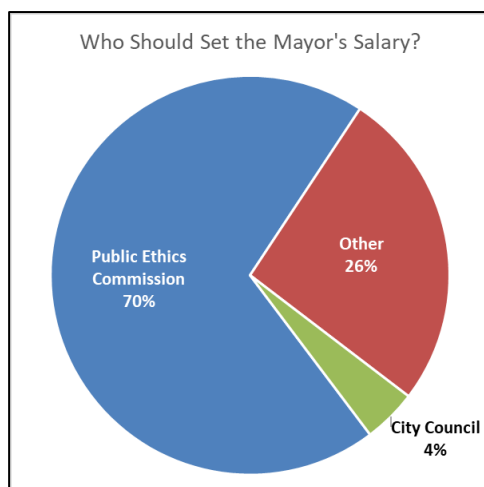
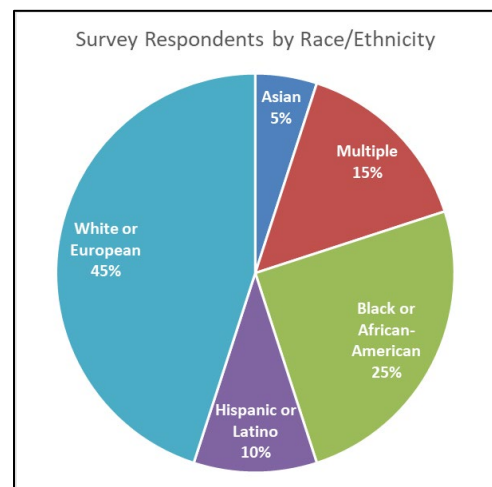
### Appendix II: Public Comment Survey on Mayor's Salary

To solicit greater public comment on this item, the PEC designed and created a survey asking respondents whether the PEC should be assigned the role of setting the Mayor's salary or not and, if so, what criteria should the PEC use, and what level of discretion should the PEC have. The survey was open from November 20 through November 29 and distributed by email to the PEC's distribution list twice, shared through the PEC's social media accounts, and posted to NextDoor.

The PEC received a total of 23 responses to its survey. Of those respondents, 20 volunteered their demographic information to the Commission. Of those, 5 percent identified as Asian, 25 percent Black or African American, 10 percent as Hispanic or Latino, 45 percent as White or European, and 15 percent identified with multiple race and ethnicity categories, and 74 percent identified as Female, and 26 percent as Male<sup>1</sup>. Because this was not a randomized sample, like traditional oral public comment at government meetings, the responses are not necessarily representative of the views of all Oaklanders.

Overall, commenters responding to this survey generally favored the PEC taking on the responsibility of setting the Mayor's salary. Public commenters seemed to generally think that all the factors the PEC has identified as potential criteria for setting the Mayor's salary were important considerations; however, the most popular consideration was the City's financial condition. Finally, public commenters were mostly split in thinking that the PEC should have some to a great deal of leeway in setting the salary.

The overall survey responses to each question are below, along with any unique answers or other volunteered comment provided by a survey respondent.



#### 1. Who do you think should set the Mayor's Salary?

*Answers provided for "Other":*

- "All city employees should receive percentage salary increases by the same city civil service system. The mayor should be no different and should also have held the office at least two-three years. An increase a few months after taking office is ridiculous."
- "I feel both entities should set the Mayor's salary."
- "Not sure who. Definitely not Council. What would Ethics Commission consider in setting salary?"
- "Oakland property tax payers (who live in the city)"
- "Oakland registered voters"

<sup>1</sup> The survey used demographic categories used by the U.S. Census for consistency and comparability.

## Item 6 - Staff Memo

- “The voters should set the salaries for all elected officials in Oakland!”

**2. If given this responsibility, please rank how important the following factors should be in setting the salary (0 = Not at all important, 4 = Very important):**

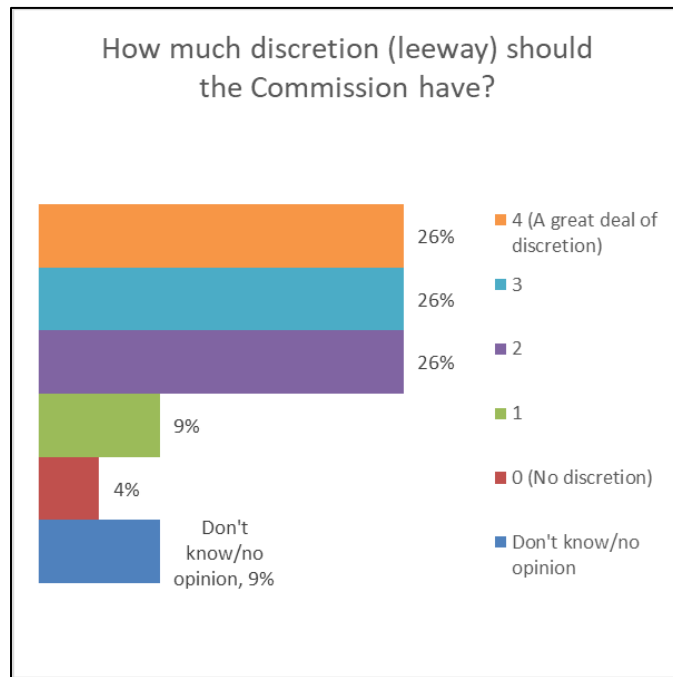
| Factors for Consideration                                                                  | 0   | 1   | 2   | 3   | 4   | Don't know/no opinion |
|--------------------------------------------------------------------------------------------|-----|-----|-----|-----|-----|-----------------------|
| Salary of the top-paid employee in the Mayor's Office                                      | 26% | 0%  | 9%  | 4%  | 48% | 13%                   |
| Salaries of other City Department heads                                                    | 17% | 4%  | 13% | 4%  | 57% | 4%                    |
| Salaries of chief executives in Cities similar in size to Oakland                          | 22% | 0%  | 22% | 9%  | 48% | 0%                    |
| Inflation since the last Mayoral salary adjustment                                         | 17% | 17% | 4%  | 9%  | 48% | 4%                    |
| Pay increases received by civil service employees since the last Mayoral salary adjustment | 22% | 17% | 4%  | 17% | 39% | 0%                    |
| The financial condition of the City                                                        | 0%  | 0%  | 4%  | 9%  | 83% | 4%                    |

**3. Are there other important factors not listed above that should be considered when setting the Mayor's salary?**

- “Efficiency of doing the work since elected. No reason why the position shouldn't get an annual review”
- “Ethics of course “
- “How long they have been mayor”
- “I feel that the Mayor's salary should only be raised after the first two years of holding the office.”
- “No”
- “Salary should be comparable to similar jurisdictions.”
- “See my comment above.”
- “She needs to step up and clean the city, do her job as a mayor before she get a raise.”
- “Since Oakland does not have a strong mayor system, the mayor's salary should be compared against the mayoral salaries in similar sized cities who have similar responsibilities.”
- “the Mayor's performance, of course”
- “The salaries should be frozen until Oakland's problems are resolved”
- “The time in the job”
- “There should be some performance and results measurement by third party evaluator.”
- “Where Oakland ranks in crime compared to nearby cities”
- “Whether or not the mayor is effective and responds to constituents demands”
- “Yes, whether we're under a strong mayor system, or not.”

## Item 6 - Staff Memo

4. If given this responsibility, how much discretion (leeway) should the Ethics Commission have in setting the amount of the Mayor's salary?



5. What else would you like the Ethics Commission to know about this topic?

- "A goal should be to provide the greatest transparency in the mayoral salary setting process."
- "Haven't seen much ethics yet in Oakland government. Who are you? Hope we trust you?"
- "I am soooo embarrassed to admit that I live in Oakland."
- "I've lived here approx 35 years and da Mayor and da DA are taking this city down"
- "I feel that there must be 'safety nets' in place to ensure that there are no 'cozy' relationships between the Mayor and any person involved in deciding the Mayor's salary! No Commissioner should be a former/current staff person of the Mayor! We don't need or want another situation like the CPUC and PG&E!"
- "Make sure a mayor doesn't hire relatives, boyfriends, girlfriends, children, neighbors"
- "More education of public and MUCH more community engagement is needed on this matter before any vote."
- "No comments."
- "Not sure how this issue was pitched as something within this Commission's jurisdiction. Not sure what other entity in the City should do this. This is an important topic especially at this time of budget shortfalls."
- "See my first comment."
- "The current situation in Oakland re: the Mayor's salary is untenable and wholly unethical - it MUST be changed."
- "The Ethics Commission should also look at either a stipend or pay for the Planning Commission and Port Commission, even if it means going to the ballot."

## Item 6 - Staff Memo

- “This commission needs to be made of regular people living in Oakland from every demographic”
- “This topic seems to be a hot one at the moment, largely because most Oakland residents feel the City government is corrupt and our tax dollars are going anywhere except into taking care of our city. A large raise for elected officials feels like graft. Our streets are filthy and badly deteriorated. Our cars are being stolen right out of our driveways, traffic laws are a joke. So when we hear about raises for city officials, we feel violated. We want public officials that care more about fixing what's broken than getting a raise. Which makes us want public officials to have salaries more in line with what the rest of us receive--people who struggle to pay all our bills, instead of sitting in their offices feeling so important that they don't have time to answer our emails or phone calls. We trust used car salesmen more than the mayor and the dispute over her salary is one reason why.”





## Item 6 - Staff Memo

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

Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
Ana Lara-Franco, Commission Analyst  
DATE: September 29, 2023  
RE: Discussion of Options for Setting the Mayor's Salary

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At its July 18, 2023 meeting, the City Council passed a motion directing the City Administrator to bring back a proposal for a November 2024 ballot measure transferring the duties of setting the Mayor's salary from the City Council to the Public Ethics Commission (Commission or PEC). At its August retreat, PEC commissioners indicated that, rather than wait for the Administrator's proposal, they would prefer that the PEC recommend to the Administrator whether the PEC should take on this responsibility, and if so how.

This item was agendized to provide an opportunity for the public to provide comment, and for commissioners to discuss, what the Commission may wish to recommend. Based on this discussion, and any initial feedback, guidance, or request for additional information from commissioners, staff anticipates returning to the PEC this December with a proposal or proposals for the Commission's consideration.

To further this initial discussion, this memorandum provides background information on how the Mayor's salary is set; how the PEC sets salaries for other City elective offices; how other California jurisdictions set their mayors' salaries; and policy questions the PEC may wish to consider as part of this discussion.

### **Background - Elected Official Salary-Setting in Oakland**

Under the City Charter, the PEC sets the salaries for the City Council, City Attorney, and City Auditor. Under Section 202 of the Charter, the PEC bi-annually adjusts city councilmember salaries by the increase in the consumer price index over the preceding two years, up to a total of five percent. Under Sections 401(1) and 403(1), the PEC must annually adjust the salaries for the City Attorney and City Auditor to "provide for competitive compensation and equitable alignment," taking into account the highest paid employee in each office, other department head salaries, and salaries for comparable public officials in other California cities and counties. The PEC's authority to set the salary for the City Attorney and City Auditor is recent; voters transferred this responsibility to the PEC with the passage of Measure X in 2022. The PEC set the City Attorney and City Auditor's salaries for the first time in 2023.

The only elected City official that the PEC does not set the salary for presently is the Mayor. Under Section 300 of the Oakland City Charter, the City Council sets the Mayor's salary in every odd-numbered year, which must be "not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland."

## Item 6. Staff Memo

### Charter Provision for Elected Official Salary-Setting

**Mayor's Salary (Sec. 300).** *The Mayor shall be nominated and elected from the City at large and shall receive an annual salary payable in equal monthly installments, and without any additional compensation or fees provided for in Section 202 of this Charter. The salary shall be set by the Council, which shall be not less than 70% nor more than 90% of the average salaries of City Managers'/Chief Executive Officers of California cities within the three immediate higher and the three immediate lower cities in population to Oakland, The Mayor's salary shall be reviewed by the City Council in odd-numbered years and may be adjusted by the Council as provided for herein.*

**Council Salaries (Sec. 202).** *The Public Ethics Commission shall bi-annually adjust the salary for the office of Councilmember by the increase in the consumer price index over the preceding two years, up to a total of five percent. If the increase in the consumer price index over the preceding two years exceeds five percent, the Commission shall have the discretion to adjust the salary for the office of Councilmember by an amount not exceeding five percent for each year, but not more than the total CPI per year.*

**City Attorney Salary (Sec. 401(1)).** *... The salary of the elected City Attorney shall be set annually by the Public Ethics Commission to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Attorney and salaries for other City department heads, and shall be comparable to the salaries of City Attorneys and other comparable positions, such as County Counsel or Port Attorney, in California cities, counties and agencies selected by the Commission. The City Attorney's salary may not be reduced during the City Attorney's term of office except as part of a general reduction of salaries of all officers and employees in the same amount or proportion.*

**City Auditor Salary (Sec. 403(1)).** *... The salary of the City Auditor shall be set annually by the Public Ethics Commission, to provide for competitive compensation and equitable alignment and, taking into account the top of the range for the highest paid professional employee in the Office of the City Auditor and salaries for other City department heads, and shall be comparable to the salaries of public sector auditor positions in California cities and counties selected by the Commission. The City Auditor's salary may not be reduced during the City Auditor's term of office, except as a part of a general reduction of salaries for all officers and employees in the same amount or proportion.*

Pursuant to the Charter, the City Council last set the Mayor's salary on July 18, 2023. At the time, the Mayor was earning a salary of \$202,999. According to a staff report prepared by the City Manager, the average salary for the city managers of Fresno, Sacramento, Long Beach, Bakersfield, Anaheim, and Stockton was \$308,860. Therefore, the available 70% to 90% salary range was between \$216,202 and \$277,974. The City Council adopted the lower range of that scale.

At that same meeting, Councilmember Fife also moved, and the City Council approved on a 6-2 vote, a motion to have the City Administrator "return to Council in a timely manner with proposed legislation to amend the City Charter in November of 2024 to move the responsibility for setting the Mayor's salary from the City Council to the independent Public Ethics Commission, as is now the case for other elected officials, including the City Attorney, City Auditor and Councilmembers." The City Administrator is likely to bring back his recommendation to the City Council in early 2024.

### How the Mayor's Salary is Set in Other California Jurisdictions

## Item 6. Staff Memo

There are two types of cities in California: general law cities, which are subject to the state's general laws, and charter cities, which are cities that have adopted a city charter (akin to the city's constitution) and have some home rule autonomy from the state's general laws with regards to matters of municipal concern, including elected officials' salaries. Oakland, like most large cities, is a charter city.

For general law cities, state law sets mayoral compensation. In cities with a population of more than 250,000 residents, city councilmembers, including a mayor who is a member of the council, may be paid up to \$1,000 per month. That amount may be adjusted by no more than "5 percent for each calendar year from the operative date of the last adjustment of the salary in effect" when the salary ordinance was adopted. (Government Code Section 36516.) \$12,000 per year is very low, and likely reflects that, in most general law cities, the office of councilmember is a part-time position.

Charter cities like Oakland, however, are not governed by the State's general laws with regards to councilmember or mayoral salary. PEC staff surveyed the ten largest California cities (all of which are charter cities) and found many different approaches to mayoral salary-setting. In Fresno, the City Council has wide discretion in setting the mayor's salary. Other cities adopt a stricter approach, where there is very little discretion in salary-setting. For example, both Los Angeles and San Diego base their mayor's salaries on a superior court judge's salary. Anaheim follows the salary rules for general law cities. Other cities provide some discretion in salary amount, while setting standards for the types of factors that should be considered in setting compensation. For example, Sacramento and San Jose use appointed bodies to set salaries, while directing those bodies to take into account compensation provided in similar-sized cities.

The power and responsibilities of the mayor should also be considered in salary setting. Cities are generally described as having one of two forms of government (or a blend of both): the City Manager form of government, sometimes called the "weak mayor" form, where the city manager is the chief executive of the city and the mayor is a member of the city council, and the Mayor-City Council form of government, sometimes called the "strong mayor" form, where the mayor is the executive of the city and not a member of council. Because mayors in strong mayor cities have more power and responsibilities than mayors in weak mayor cities, they tend to have higher compensation. In California, five cities are commonly described as being either "strong mayor" cities or having "strong mayor" attributes: Fresno, Los Angeles, Oakland, San Diego, and San Francisco.

## Item 6. Staff Memo

### Comparison – Mayoral Salary-Setting in the Ten Largest California Cities

| Jurisdiction  | Type of Mayor | Mayoral Salary Rule                                                                                                                                                                                                                                                     |
|---------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Anaheim       | Weak          | Follows rules for general law cities. <i>Charter Sec. 502.</i>                                                                                                                                                                                                          |
| Bakersfield   | Weak          | Set at \$24,000/year. <i>Charter Sec. 20.</i>                                                                                                                                                                                                                           |
| Fresno        | Strong        | Salary set by City Council. <i>Charter Sec. 308.</i>                                                                                                                                                                                                                    |
| Long Beach    | Weak          | Set at \$67,500 + CPI (set in 1988). <i>Charter Sec. 203.</i>                                                                                                                                                                                                           |
| Los Angeles   | Strong        | 30% more than Councilmembers (who receive salaries equal to superior court judges). <i>Charter Sec. 218.</i>                                                                                                                                                            |
| Oakland       | Strong        | Council set salary to 70% to 90% of the average City Manager or CEO salary of 6 nearest-in-size cities. <i>Charter Sec. 300.</i>                                                                                                                                        |
| Sacramento    | Weak          | Appointed Compensation Committee sets salaries that are “reasonable and consistent with other cities similar in size and structure.” <i>Charter Sec. 29.</i>                                                                                                            |
| San Diego     | Strong        | Salary equal to salary of superior court judge. <i>Charter Sec. 24.1.</i>                                                                                                                                                                                               |
| San Francisco | Strong        | Civil Service Commission sets salaries based on average of 5 Bay Area counties. Commission may reduce salaries if City and employee unions reduced their salaries. <i>Charter Sec. A8.409-1.</i>                                                                        |
| San Jose      | Weak          | Appointed Salary Setting Commission sets salary taking “commensurate with salaries then being paid for other public or private positions having similar full time duties, responsibilities and obligations.” City Council may reduce salaries. <i>Charter Sec. 407.</i> |

### Questions the PEC May Wish to Discuss

In discussing how the mayor’s salary should be set, commissioners may wish to consider the following questions:

#### 1. Who should set the Mayor’s salary?

Should the salary be set by the City Council (current law), the PEC (which sets all other City elected official salaries), or some other body (like the Civil Service Commission, as in San Francisco)?

- The City Council may provide political accountability to the voters for the process. However, it also risks politicizing the salary-setting process, where the mayor’s salary might depend significantly on whether or not his or her allies control the Council.
- A politically-insulated body, like the PEC, may lead to a fairer process where charter criteria, such as setting the salary based on compensation in peer jurisdictions, are more likely to be followed over political considerations. However, heightened scrutiny over the salary-setting process may pressure the PEC to make political decisions and subject the PEC to criticism that could undermine public trust in the PEC’s other mandates around campaign finance and government ethics compliance.

#### 2. How much discretion should the salary-setting body have?

## Item 6. Staff Memo

Should the salary-setting body have complete discretion to set the salary on whatever factors it deems relevant? Should the body have some discretion, while having to base its decision on certain charter-defined criteria, as the PEC does for the City Attorney and City Auditor? Or should there be very little to no discretion, similar to the PEC's limited role in adjusting the councilmembers' salaries for inflation or how San Diego ties mayoral pay to superior court judge compensation, or Los Angeles to a multiple of councilmember compensation?

- More discretion may enable a salary-setting body to better take into account unique circumstances, such as fiscal crises, in deciding whether to raise salaries and by how much. However, it may make the process more susceptible to abuse or accusations of abuse, and invite the salary-setting body to subjectively evaluate how well elected officials are performing, which is a political judgment.
- Conversely, less discretion narrows the opportunity for abuse, but reduces the salary-setting body's ability to address unique circumstances. If the salary-setting body has no discretion, it may not be necessary to assign salary-setting to an independent body.

### **3. What factors, if any, should or must the salary-setting entity consider?**

For the City Auditor and City Attorney, the PEC must provide for competitive compensation and equitable alignment and take into account:

- The salary for the highest paid professional employee in the official's office;
- The salary of other City department heads; and
- The salary for the same office in other California cities and counties.

Other considerations might include inflation, anticipated raises for represented employees, the financial condition of the City, or other factors.

The PEC may also wish to discuss, for the mayor, what might constitute a comparable office in other cities? Should the salary of weak mayor cities be considered, or only strong mayors? Should city manager pay be considered, or only elected official pay? Should jurisdictions outside of California be considered?

### **4. If the PEC sets the Mayor's salary, should the factors the PEC applies or considers be the same as those used for setting the salaries of the City Council, City Auditor, and/or City Attorney, or different?**

Using the same or a similar standard would likely be more administratively simple for staff and promote compensation fairness across elected offices. (This may mean recommending that the salary-setting process for the City Council, City Attorney, and City Auditor be adjusted in the same measure that reassigns mayoral salary-setting to the PEC.) On the other hand, there may be differences in the nature of the different offices that should require the application or consideration of different standards.