

CITY OF OAKLAND



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Office of the City Attorney
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July 6, 1993

HONORABLE CITY COUNCIL
Oakland, California

**Subject: Report From The City Attorney Regarding
The Oakland Campaign Reform Act, An
Ordinance Creating Local Campaign
Contribution Limitations And Voluntary
Campaign Expenditure Ceilings**

Mayor Harris and Members of the City Council:

BACKGROUND

A draft ordinance to establish an Oakland Campaign Reform Act was presented to the Oakland City Council for consideration on May 25, 1993. After a public hearing, the Council determined that the School Board should be afforded more time to consider the impact of the proposal on school district elections. The Council directed the City Attorney to meet with groups and individuals on record as supporting or opposing the proposal and representatives from the School District, in order to narrow differences over the substantive provisions of the draft ordinance in light of issues raised at the public hearing.

Pursuant to Council directive, the City Attorney convened working group meetings on June 11, 1993 and again on June 18, 1993, with the campaign treasurers and others on record as interested parties. The meetings were generally cooperative and productive. It should be noted that Mr. Bob Stern, Director of the California Commission on Campaign Finance and former General Counsel to the Fair Political Practices Commission, was on hand to explain how the Oakland proposal compares to campaign finance provisions in other jurisdictions. In addition, the Legislation and Long Term Planning Committee at its June 22, 1993 meeting, made further recommendations regarding refinements to the ordinance. As a result of this process, consensus was reached regarding a number of proposed modifications to the May 25, 1993 draft.

A report and copy of the attached proposed ordinance has been submitted to the Legislation and Long Term Planning Committee today, July 6, 1993, for consideration and recommendation to the City Council.

The latest revised version of the proposed ordinance incorporating refinements and suggestions generated from the working group convened by the City Attorney is attached as Exhibit "A", for your review and consideration. A version with "redlining" and "strikeouts" is also attached for your reference as Exhibit "B". The attached version provides for local campaign contribution limitations and voluntary expenditure ceilings, and features the following:

1. A personal campaign contribution limitation of \$100.00 per contributor for each election. (Section 300(a).)
2. A broad based political committee contribution limitation of \$250.00 per committee for each election. (Section 300(b).)
3. All candidates opting for voluntary expenditure limitations would be allowed to accept personal contributions of \$500.00 instead of \$100.00 for each election, and broad based political committee contributions of \$1,000.00 instead of \$250.00 for each election. (Section 300(c).)
4. Prohibition against depositing campaign contributions greater than \$25.00 in the campaign checking account unless the contributor provides his or her name, occupation, employer, and address to the candidate or his or her committee. (Section 308.)
5. Prohibition against contractors doing business with the City of Oakland from making contributions. (Section 309.)
6. Allowance for an officeholder expense account which would not be counted toward expenditures under the Act. (Section 310.)
7. Allowance for the donation of office space to the City for use by officeholders in connection with the performance of their official duties. (Section 311.)

8. Candidates for Mayor and City Council may agree to voluntary expenditure ceilings equal to 300% of the salary for the office sought for primary elections, and 250% of the salary for the office sought for general elections. Candidates for School Board may agree to voluntary expenditure ceilings equivalent to expenditure ceilings for City Council candidates. Candidates for City Auditor and Councilmember-at-large may agree to accept voluntary expenditure ceilings equal to 500% of the salary for the office sought for primary elections, and 400% of the salary for the office sought for general elections. (Section 401.)
9. A "wealthy candidate" provision which would lift the expenditure ceiling for all competing candidates who accepted expenditure ceilings, and allow them to accept contributions at the higher limit, when a candidate refuses to adhere to the expenditure ceiling and receives contributions or makes expenditures in excess of 50% of the expenditure ceiling. (Section 403.)
10. Promulgation of appropriate regulations by the City Clerk, subject to Council approval. (Section 600.)
11. Misdemeanor penalties for knowingly and wilfully violating the Act, and civil liability for intentionally and negligently violating provisions of the Act. (Sections 700 and 701.)
12. Exclusion of contributions received and monies spent prior to the effective date of the ordinance from contribution limitations and the expenditure ceilings. (Section 802.)

Areas of agreement and points where consensus has not been reached between participants of the working committee convened by the City Attorney and members of the Legislation and Long Term Planning Committee are discussed more fully below.

DISCUSSION

I. AREAS WHERE CONSENSUS WAS NOT REACHED

Some local campaign treasurers have spoken in opposition to local campaign finance regulations for the City of Oakland, stating that such regulations would impose burdensome and confusing

reporting requirements which would make it difficult, even impossible, for a candidate and his or her campaign treasurer to comply with. In addition, the previous version of the attached City of Oakland draft was subjected to criticism by campaign treasurers and others who characterized the proposal as unwieldy, unworkable, and poorly crafted.

The Council should note that in most respects, the current draft ordinance contains provisions substantially similar in wording and effect to ordinances enacted in cities and counties throughout the state, with language that closely tracks provisions of a model ordinance adopted in whole or in part by a number of jurisdictions. The City of Oakland draft ordinance contains one unique feature which sets it apart from other local campaign finance ordinances enacted throughout the state. Namely, inclusion of a "voluntary expenditure ceiling" which would allow as an inducement for accepting spending limits a higher contribution limitation.

Information available to this office suggests that the draft ordinance would not constitute an undue burden on candidates and their treasurers. To the extent possible, reporting requirements have been tied to existing state requirements, so that additional filing and reporting would be minimized. The primary impact would be on the City Clerk and City Attorney, responsible for providing training to candidates and their treasurers, and for monitoring compliance over time. Those cities which have enacted comparable or even more complex campaign finance reporting requirements indicate that local requirements have not been unduly burdensome, and there are no instances of candidates or their treasurers being subjected to civil or criminal penalties for inadvertent violations of local campaign finance ordinances. To facilitate understanding of and compliance with the ordinance, the City Clerk and the City Attorney would conduct informational workshops with the candidates and their treasurers.

A description of specific provisions where consensus has not been reached is provided as follows:

A. Extensions of Credit Subject to Contribution Limitations

Section 304(d) of the draft ordinance now reads as follows:

"(d) Extensions of credit other than loans pursuant to subdivision (c) for a period of more than sixty (60) days are subject to the contribution limitations of this Act."

Mari Lee, a campaign treasurer for a number of Bay Area elected officials, has suggested that this provision should be removed in its entirety. It has been her experience that most campaigns are extended credit at the outset of a campaign for services which may be rendered much later in time, or over an extended period of time. She indicates that the costs for such services often cannot be accurately determined at the time the services are requested, since over the course of a campaign the need for a particular service may fluctuate.

Ms. Lee believes Section 304(d) would require a candidate for City office to determine at the outset the value of a service to be rendered to the candidate in the future. If it turns out that the value of the service exceeded the contribution limitation specified in Section 300, and the service is not paid for within sixty days of agreeing to accept such service, the candidate might unwittingly violate the prohibition against accepting contributions in excess of the limitations, because under Section 304(d), the expenditure would become a "contribution" subject to the contribution limitations of the ordinance if not paid within 60 days. Ms. Lee concludes that this would force candidates to alter the normal way they run their campaigns, and could result in a candidate violating the contribution limitations inadvertently.

Ms. Lee's concerns regarding this provision were addressed at the June 18, 1993 working group meeting by Mr. Bob Stern, Director of the California Commission on Campaign Finance. Mr. Stern indicated that the practical effect would be that candidates would need to pay for services within 60 days from the date the extension of credit was provided, or such extension of credit would be considered a contribution, subject to contribution limitations. He further noted that the provision is not overly complicated, and that a stricter 30 day requirement has been in place in Los Angeles with no significant problems being reported. The benefit of the provision is that it would help reduce instances where candidates incur substantial campaign debts due to the availability of long term extensions of credit. Weighted against this perceived benefit is a concern that less affluent candidates could not run a competitive campaign without an allowance for extensions of credit beyond 60 days.

**B. Prohibition Against Receiving Contributions From
Persons Contracting with the City of Oakland**

At one point the Legislation and Long Term Planning Committee considered a draft ordinance which prohibited persons contracting with the City from making contributions to candidates for City office. However, a concern was expressed that a candidate

and his or her treasurer, especially a first time candidate, could not reasonably be expected to know that a particular contribution was provided by an individual who has contracted with the City for an amount which would require Council approval. As a result, this provision was withdrawn from the May 25, 1993 version of the ordinance.

A new provision prohibiting contributions from individuals contracting with the City is included in the current draft as Section 309. This version of the original provision makes it clear that the contractor, and not the candidate, is liable for civil and/or criminal penalties for violating the provision. However, even with the clarification as to liability for violation of the provision, the Legislation and Long Term Planning Committee is not unanimous in support of the prohibition, some members stating their belief that the provision is unnecessary, since contractors would be subject to the same contribution limitations as persons generally under section 300.

C. Aggregation of Payments

Several campaign treasurers have suggested that section 303, "Aggregation of Payments", should be eliminated from the proposal. This provision is intended to prevent different but related entities from making separate contributions which would exceed the contribution limitations provided for in section 300. According to Ms. Mari Lee, section 303 places too great a burden on the candidate to determine the source of contributions, and would inevitably result in a candidate unwittingly or inadvertently accepting contributions from what appear to be separate sources, when under the draft ordinance the contributions would be treated as if they came from a single source. Ms. Lee has noted that a candidate would have to determine whether separate contributions received over an election period are considered under the terms of the ordinance to be from a single source, and if so, whether the aggregated amount exceeds the contribution limitation.

This office agrees that the aggregation of payments provision would require greater diligence on the part of candidates in monitoring contributions to determine if certain contributions made over the course of an election should be aggregated, and if so, whether they exceed the contribution limitation. I believe that compliance with the provision would require additional diligence, but is not impossible. This office is aware that other jurisdictions with campaign finance regulations have similar requirements. Los Angeles, for example, has an identical provision, and no pattern of hardship to the candidates has been associated with its enactment. A decision regarding inclusion of the provision should be based upon whether the hardship to

candidates outweighs the benefit to the electorate in preventing multiple contributions from the same or related sources.

Inclusion of the aggregation provision is strongly recommended by Mr. Bob Stern, because without such a requirement, multiple contributions from essentially the same source would be permissible, which could undermine the intent and effect of the contribution limitations by magnifying the influence of unions, corporations and business entities in relation to individual contributors.

II. AREA OF CONCEPTUAL AGREEMENT

Officeholder Expense Account

In order to defray the costs associated with the performance of an officeholder's official duties, it has been suggested that officeholders be allowed to maintain an officeholder expense account which could be replenished yearly, such funds to be expended for any governmental, political, or other lawful purpose. Such a provision is included in the attached draft as section 310. This provision is similar to provisions which other jurisdictions, including Los Angeles, employ in their campaign finance ordinances.

Most parties are in agreement that providing for officeholder expenses is a reasonable and practical inclusion for any campaign finance ordinance. There is no consensus, however, as to the amount and scope of the allowance for various city offices. The allowances provided in the attached ordinance are suggested figures based upon an estimate of average officeholder expenses over time. There is no legal reason for retaining these amounts, should the Council choose to adjust the figures.

III. AREAS OF AGREEMENT

Although there were three areas where consensus was not reached, the working group meetings resulted in consensus on a number of significant issues. The attached ordinance contains a number of modifications agreed to by all parties involved in these meetings, including the following:

A. Contribution Limitations Based On Elections Rather Than Election Cycles

There is overall support for changing the contribution limitation from a set amount per election cycle to a set amount for each election within an election cycle. This means that a person

or committee could contribute up to the maximum amount to a candidate for a primary election, and contribute the maximum amount to the same candidate for the general election, should a runoff be required.

Language affecting this change is provided in the attached ordinance, sections 202 and 300.

B. Prohibition Against Receiving Contributions Without Recording The Identity, Occupation, Employer, And Address Of The Contributor

Inclusion of this provision would prevent a treasurer from depositing a contribution greater than \$25.00 into a candidate's campaign checking account without first obtaining requisite information as to the donor's identity, occupation, and address. Anonymous cash contributions would be prohibited. This would assist in complying with the aggregation of payments provision at section 303.

Language affecting this change is provided in the current draft as section 308.

C. Inclusion Of A "Wealthy Candidate" Provision

In order to ensure to the greatest extent possible a "level playing field" for all candidates, a "wealthy candidate" provision has been included. The provision would assure that, when a wealthy candidate rejects expenditure ceilings and spends in excess of 50% of the expenditure ceiling or receives contributions exceeding 50% of the expenditure ceilings, challengers would be allowed to exceed the expenditure ceiling and maintain higher contribution limitations, if they had opted to accept expenditure ceilings at the outset.

Language affecting this change is provided in the current draft as Section 403.

D. Effective Date Of Ordinance

Because the City Clerk and the City Attorney would need to promulgate regulations and conduct trainings to assist treasurers and candidates in complying with the ordinance, it has been determined that the ordinance should not take effect prior to January 1, 1994.

IV. ADDITIONAL ISSUES

A. Legal Expense Fund

In addition to an officeholder expense account, certain jurisdictions allow for maintenance of a legal defense expense fund, intended to allow contributions to a candidate to defray legal expenses. Such contributions would not be subject to the contribution limitations or expenditure ceilings of the Act. Draft language to permit such an account is attached as Exhibit "C", should the Council determine that such a provision would be desirable.

B. Volunteer Service Exception

The services of volunteers can be specifically exempted from the provisions of this Act. Draft language to specify such an exemption is attached as Exhibit "D", for review and consideration.

V. COST OF IMPLEMENTING AND MONITORING THE ORDINANCE

The City Clerk and the City Attorney have verified that there will be long term costs associated with the passage of the proposed ordinance. In the case of the City Clerk, it would be necessary to add one FTE (Administrative Assistant I) at a cost of \$38,292.93 per year. The additional FTE position would be devoted to maintaining compliance with the provisions and requirements of the ordinance under the supervision of the Elections Services Coordinator. Also, the City Clerk would need to update existing computer equipment to allow for automated inputting and tracking of campaign statements. The cost of updating the equipment is estimated at \$3,500.00.

In the case of the City Attorney, the precise cost of implementing this new program is difficult to predict because the hours estimated by attorneys in cities that already have campaign reform ordinances vary from a low of 100 hours a year to a high of one full time attorney in election years. Oakland's legal costs would have to be bifurcated because the advisory work would be performed by in-house staff while the enforcement work would be performed by independent counsel.

Advisory legal work under the ordinance would include drafting regulations, drafting filing instructions, annotating state forms, and providing day to day complex interpretive advice to candidates and their campaign treasurers. A conservative estimate for the upcoming fiscal year which will be an election

HONORABLE CITY COUNCIL
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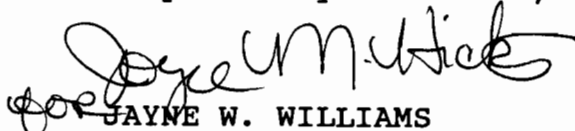
year is a minimum of from 750 to 1000 City Attorney hours for the year. I recommend that a .50 Deputy City Attorney III position be added to the City Attorney's fiscal year 93/94 budget to handle this new program and complex area of the law. An average Deputy City Attorney's salary including benefits at \$50 per hour would cost the City from \$37,500 to \$50,000 for the first year of implementation and administration of this ordinance for an average of \$43,750. In addition, this office estimates that funding for additional part-time secretarial staff (.33 FTE) at a cost of \$15,010.00, and funding for two computers, at a cost of \$10,000.00, should be provided.

The cost of enforcement, designated under the ordinance to be performed by independent counsel, is especially difficult to predict because most jurisdictions have not prosecuted actions under their ordinances. We would roughly estimate that an enforcement action could take up to 200 hours including the audit, discovery, trial preparation and the trial. With independent counsel billing at a minimum of \$125 per hour, an enforcement action could cost \$25,000. The ordinance does provide for the award of attorneys' fees to the prevailing party, but an enforcement action does not guarantee victory. In summary, excluding the cost of independent counsel, first year implementation costs to the City for this ordinance would exceed \$110,000.

CONCLUSION

The proposal before you provides local campaign finance regulations which meet the City Council's requirement that such proposal be effective, legally defensible, and to the extent possible require minimal enforcement and monitoring costs.

Respectfully submitted,


JAYNE W. WILLIAMS
City Attorney

Attachments

Attorneys assigned:
JOYCE M. HICKS
J. PATRICK TANG

THIS REPORT APPEARS AS ITEM G ON THE LEGISLATION & LONG TERM PLANNING COMMITTEE AGENDA OF 7-6-93. SEE LEGISLATION & LONG TERM PLANNING COMMITTEE AGENDA FOR ATTACHMENTS TO THIS REPORT.

TO: Mayor
City Council Members

FROM: Vice-Mayor Mary Moore

RE: Campaign Finance Reform
Article 3, Sec. 4 (d)
Agenda items 41 and 45

This article proposes a sixty day pay-off limit on all campaign debt other than loans.

I propose an exemption for those candidates who would not qualify for a bank loan big enough to pay off vendor and consultant debts within the proposed time period. If a payment schedule has been set and the debt is being paid down on a steady basis to the debtor, (i.e., vendor, consultant or other), it should be defined as a loan and exempt from the sixty day pay-out.

DATE: July 6, 1993

TO: Mayor
Members of City Council
FROM: Sheila Jordan, District 1
RE: City of Oakland Campaign Reform Act

This ordinance will come before us at Council tonight, and I continue to be concerned that two provisions in the Act which are contrary to our intended purpose of reforming campaign finances. One of these provisions actually raises the amount allowed to be spent to almost three times the average amount which has been spent in recent years. The other provision punishes both the poorer candidates (often challengers) and local merchants.

Article 4, Sec. 401 sets the amount of expenditure ceilings. For City Council members, this amount is \$96,000 for the three-and-one-half year period (which includes the June election) and \$80,00 for the six-month period (which includes the November election). The combined amount is \$176,000.

These amounts are tied to City Council salaries. There is no logic for doing this.

The proposed ordinance allows officeholder expenditures of \$25,000 per year, a provision which I support. Now, in the name of campaign reform, I cannot support a provision which allows City Council members to spend \$176,000. Over the past three years, the average amount spent by City Council candidates was approximately \$64,000, with many spending approximately \$50,000.

Therefore, I urge us to reconsider this section. I would recommend that we select some dollar limits for all the City of Oakland offices, or possibly tie the amount to either registered voters or residents living within each district.

Article 3, Sec. 304(d) provides that vendors and other creditors who do not collect their invoiced amounts from the campaigns within 60 days will be subject to the contribution limitations of the Act.

I would recommend that we either eliminate this provision entirely or at least change it to only apply to extensions of credit above \$1,500 which are more than ninety (90) days late. In addition, I strongly recommend that any penalties which may be assessed against the vendor or creditor becomes an obligation of the campaign itself.

In addition, Article 3, Sec. 309, which prohibits certain contractors from making contributions seems unnecessary, given the contribution limits in this act. I recommend that we delete this section.

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41 & 45
1-6-93

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CITY OF OAKLAND CAMPAIGN REFORM ACT

NOTE: THE ATTACHED VERSION OF THE CITY OF OAKLAND CAMPAIGN REFORM ACT CONTAINS CHANGES RESULTING FROM THE JULY 6, 1993 MEETING OF THE LEGISLATION AND LONG TERM PLANNING COMMITTEE.

CHANGES ARE TECHNICAL IN NATURE, EXCEPT THAT THE FOLLOWING PROVISIONS HAVE BEEN INCLUDED AS PART OF THE ORDINANCE:

SECTION 312: LEGAL EXPENSE FUNDS.

Contained in the original report to Council for July 6, 1993, as Exhibit "C". Allows for a candidate to receive contributions in a separate account to defray legal expenses.

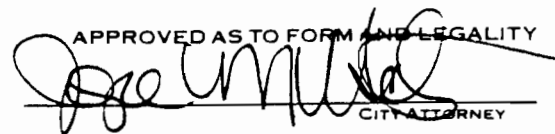
SECTION 313: VOLUNTARY SERVICES EXEMPTION.

Contained in the original report to Council for July 6, 1993, as Exhibit "D". Allows for a candidate to make use of time donated by volunteers, without having to report such donated time as a contribution or expenditure.

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7-6-93

INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

ORDINANCE No. _____ C. M. S.

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

The Oakland City Council does ordain as follows:

Article 1

FINDINGS AND PURPOSE

100. Title

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

101. 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 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 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.

(e) Officeholders are responding to high campaign costs by raising large 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) The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

102. 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 of Oakland, 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 officeholders 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 help restore public trust in governmental and electoral institutions.

Article 2

DEFINITIONS

200. 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 Government Code sections 81000 et seq. as they appear in 1993 shall govern the interpretation of this Act.

201. City Offices

For the purposes of this Act, City Offices include: Mayor, City Auditor, City Councilmembers and School Board members.

202. Election

"Election" means any primary or general election held in the City of Oakland for city office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1 of the first year of an election cycle up to and including June 30 of the fourth year of the election cycle, and the general election period shall extend from July 1 of the fourth year of the election cycle up to and including December 31 of the fourth year of the election cycle.

203. Election Cycle

An "election cycle" is a four year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1, and ending on December 31 of the fourth year thereafter.

204. Person

"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.

205. Broad Based Political Committee

"Broad Based Political Committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

206. Qualified Campaign Expenditure

(a) "Qualified campaign expenditure" for candidates includes

all of the following:

- (1) Any expenditure made by a candidate, officeholder or committee controlled by the candidate or officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for City Office.
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.
- (3) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the greater of the cost actually paid or incurred by the committee or controlled committee of the candidate or the proportionate share of the total cost attributable to each such candidate. The number of candidates sharing costs and the emphasis on or space devoted to each such candidate shall be considered in determining the cost attributable to each such candidate.

(b) "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 3

CONTRIBUTION LIMITATIONS

300. Limitations on Contributions From Persons

(a) No person shall make to any candidate for city office and the controlled committee of such a candidate, and no such candidate for city office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than \$100.00 for each election except as stated in (c) below.

(b) No person shall make to any committee which supports or opposes any candidate for city office and no such committee shall accept from any person a contribution or contributions totaling more than \$100.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the

controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

301. Limitations on Contributions From Broad Based Political Committees

(a) No broad based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

(b) No broad based political committee shall make to any committee supporting or opposing a candidate for city office and no such committee shall accept from a broad based political committee a contribution or contributions totaling more than \$250.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no broad based political committee shall make to any candidate for city office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$1,000.00 for each election.

302. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt. 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 48 hours of receipt.

303. Aggregation of Payments

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

(a) All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad based political committee.

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidiary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee and no broad based political committee which supports or opposes a candidate for office 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.

304. 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's campaign statement on which the loan is first reported.

(c) 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) Extensions of credit other than loans pursuant to subdivision (c) for a period of more than sixty (60) days are subject to the contribution limitations of this Act.

305. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

306. One Campaign Committee and One Checking Account Per Candidate for City Office.

A candidate for city office shall have no more than one campaign committee and one checking account for the city office being sought, 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.

307. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts

Any funds received by any elected city official or candidate running in the jurisdiction or any committee controlled by such an 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 Political Reform Act, Government Code sections 87100 et. seq.

308. Identification of Contributor Required

No contribution of \$25.00 or more shall be deposited into a campaign checking account of a candidate for City office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

309. Contractors Doing Business With the City of Oakland Prohibited From Making Contributions

(a) No person who contracts with the City of Oakland, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, shall make any contribution to an elected official, candidate, or committee controlled by such official or candidate at any time between commencement of negotiations and either the completion of the performance under, or the termination of negotiations for, such contract, whichever occurs later.

(b) A person who contracts with the City of Oakland for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, and who

violates subsection (a) above, shall be subject to the enforcement provisions of article 7 of this Act.

310. Officeholder Fund

(a) Every elected City officeholder shall be permitted to establish one officeholder fund and account. For City Auditor and School Board members, total contributions to an officeholder account shall not exceed \$10,000 per year in office. For District Councilmembers, total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-at-large, total contributions to an office holder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

(b) Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used in connection with any election for City office.

(c) No funds may be transferred from the officeholder account of an elected City officeholder to any other committee.

(d) If an elected City officeholder has more than one committee which makes expenditures not related to an election at the time of the effective date of this section, the funds from all such committees shall be transferred into one officeholder account within 30 working days of the effective date of this section, to the extent otherwise allowed by law.

(e) Contributions received by or made to the officeholder fund shall be subject to the contribution limitations of article 3 of this Act.

(f) Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

311. Allowance for Donation of Office Space

(a) Donation of office space for use by city officeholders 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, City Councilmembers or City Auditor or in the case of School Board members, the donation is made to the Oakland Unified School District;

- (2) the name, address, employer, and occupation of the donor, and the current market value of the donated office space, is provided to the City Clerk.

(b) Use of office space donated pursuant to this section by a city officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 206 of this Act.

312. Legal Expense Funds

(a) An elected City officeholder or candidate for city office 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 officer's 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 officeholder's governmental activities and duties.

(b) Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of article 3 of this Act.

(c) Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

313. Volunteer Services Exemption

Volunteer personal services, and payments made by an individual for 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 4

EXPENDITURE CEILINGS

400. Expenditure Ceilings

All candidates for city office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in sections 300 (c) and 301 (c) of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk 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.

401. Amount of Expenditure Ceilings

(a) In primary elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(b) In primary elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 500% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 400% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(c) In primary elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for the office of the Mayor on the last date for filing for candidacy. In general elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for the office of the Mayor on the last date for filing for candidacy.

(d) For the purposes of this section, annual salary for a member of the City Council and the office of the Mayor shall also include the salary received as a member of the Redevelopment Agency.

402. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be prorated.

403. Expenditure Ceilings Lifted

If a candidate declines to accept expenditure ceilings and receives contributions or makes qualified campaign expenditures equal to 50% or more of the applicable expenditure ceiling, or if an independent expenditure committee or committees in the aggregate spend in support of or in opposition to a candidate more than \$20,000 in the case of a District City Council or School Board election, or \$40,000 in the case of an at-large City Council or City Auditor election, or \$50,000 in the case of a 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 amount set for such candidates in Sections 300(c) and 301(c) of this Act.

Article 5

INDEPENDENT EXPENDITURES

500. Contribution Limitations

(a) Any person who makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in sections 300(a) and (b).

(b) Any broad based political committee that makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution in excess of the amounts set forth in sections 301(a) and (b).

501. Independent Expenditures for Mass Mailings, Slate Mailings or Other Campaign Materials.

Any person who makes independent expenditures for a mass mailing, slate mailing or other campaign materials which support or oppose any candidate for city office shall place the following statement on the mailing in typeface of no smaller than 14 points;

**Notice to Voters
(Required by the City of Oakland)**

This mailing is not authorized or approved by any City candidate or election official.

It is paid for
by__ (name) _____
_____ (address, city, state)

Total cost of this mailing is: (amount)

Article 6

AGENCY RESPONSIBILITY

600. Duties of the City Clerk

The City Clerk shall:

- (a) Prescribe the necessary forms for filing the appropriate statements.
- (b) Propose necessary regulations in furtherance of this Act subject to City Council approval.

Article 7

ENFORCEMENT

700. Criminal Misdemeanor Actions

Any person who knowingly or willfully violates articles 3, 4, or 5 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 knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within (4) years after the date on which the violation occurred.

701. Civil Actions

(a) Any person who intentionally or negligently violates articles 3, 4, or 5 of this Act shall be liable in a civil action brought by independent counsel appointed by the City Attorney for such purpose or any resident of Oakland for an amount not more than three times the amount of the unlawful contribution or expenditure.

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

(c) Any person before filing a civil action pursuant to this subdivision, shall first file with the City Attorney a written request for independent counsel appointed by the City Attorney for such purpose to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. Independent counsel appointed by the City Attorney for such purpose shall respond within sixty (60) days after receipt of the request indicating whether a civil action will be filed. If independent counsel indicates in the affirmative and files a suit within sixty (60) days thereafter, no other action may be brought unless the action brought by independent counsel is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the City's general fund.

(e) No civil action alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

702. Injunctive Relief

Any resident of the City of Oakland and independent counsel appointed by the City Attorney may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

703. Cost of Litigation

The court may award to a plaintiff or defendant who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

704. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of sections 300 and 301, 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 Fair Political Practices Commission shall apply to interpretations of this section.

Article 8

MISCELLANEOUS PROVISIONS

800. Applicability of Other Laws

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

801. 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.

802. Transitional Provision

Contribution limitations provided for in article 3 and expenditure ceilings provided for in article 4 shall not apply to campaign contributions received and expenditures made prior to the effective date of this Act.

803. Effective Date

This Act shall take effect January 1, 1994.

I certify that the foregoing is a full, true and correct copy of an Ordinance passed by the City Council of the City of Oakland, California on

CEDA FLOYD
City Clerk

Per _____

, Deputy.

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY _____

ORDINANCE NO. _____ C. M. S.

CANDID B

THE CITY OF OAKLAND CAMPAIGN REFORM ACT

The Oakland City Council does ordain as follows:

Article 1

FINDINGS AND PURPOSE**100. Title**

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

101. 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 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.

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(d) 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.

(e) Officeholders are responding to high campaign costs by raising large 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) The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

102. 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 of Oakland, 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 officeholders 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 help restore public trust in governmental and electoral institutions.

Article 2

DEFINITIONS

200. 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 Government Code sections 81000 et seq. as they appear in 1993 shall govern the interpretation of this Act.

201. City Offices

For the purposes of this Act, City Offices include: Mayor, City Auditor, City Councilmembers and School Board members.

202. Election

"Election" means any primary or general election held in the City of Oakland for city office. Primary and general elections are separate elections for purposes of this Act. The primary election period shall extend from January 1 of the first year of an election cycle up to and including June 30 of the fourth year of the election cycle, and the general election period shall extend from July 1 of the fourth year of the election cycle up to and including December 31 of the fourth year of the election cycle.

203. Election Cycle

An "election cycle" is a four year period preceding a term of office as defined by the Oakland City Charter, beginning on January 1, and ending on December 31 of the fourth year thereafter.

204. Person

"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.

205. Broad Based Political Committee

"Broad Based Political Committee" means a committee of persons which has been in existence for more than six months, receives contributions from one hundred or more persons, and acting in concert makes contributions to five or more candidates.

206. Qualified Campaign Expenditure

(a) "Qualified campaign expenditure" for candidates includes all of the following:

- (1) Any expenditure made by a candidate, officeholder or committee controlled by the candidate or officeholder, for the purpose of influencing or attempting to influence the actions of the voters for or against the election of any candidate for City Office.
- (2) A non-monetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.
- (3) That portion of the total cost of a slate mailing or mailing of other campaign literature produced or authorized by more than one candidate which is the greater of the cost actually paid or incurred by the committee or controlled committee of the candidate or the proportionate share of the total cost attributable to each such candidate. The number of candidates sharing costs and the emphasis on or space devoted to each such candidate shall be considered in determining the cost attributable to each such candidate.

(b) "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 3

CONTRIBUTION LIMITATIONS

300. Limitations on Contributions From Persons

(a) No person shall make to any candidate for city office and the controlled committee of such a candidate, and no such candidate for city office and the candidate's controlled committee shall accept from any such person, a contribution or contributions totaling more than \$100.00 for each election except as stated in (c) below.

(b) No person shall make to any committee which supports or opposes any candidate for city office and no such committee shall accept from any person a contribution or contributions totaling more than \$100.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no person shall make to a candidate for city office and the controlled committee of such candidate, and no such candidate for city office and the controlled committee of such candidate shall accept contributions totaling more than \$500.00 from any person for each election.

301. Limitations on Contributions From Broad Based Political Committees

(a) No broad based political committee shall make to any candidate for city office and the controlled committee of such a candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$250.00 for each election except as stated in (c) below.

(b) No broad based political committee shall make to any committee supporting or opposing a candidate for city office and no such committee shall accept from a broad based political committee a contribution or contributions totaling more than \$250.00 for each election.

(c) For candidates who adopt the expenditure ceilings as defined in section 401 of this Act, no broad based political committee shall make to any candidate for city office and the controlled committee of such candidate, nor shall a candidate and the candidate's controlled committee accept from a broad based political committee, a contribution or contributions totaling more than \$1,000.00 for each election.

302. Return of Contributions

A contribution shall not be considered to be received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor within 72 hours of receipt. 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 48 hours of receipt.

303. Aggregation of Payments

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

(a) All payments made by a person, committee or broad based political committee whose contributions or expenditure activity is financed, maintained or controlled by any corporation, labor organization, association, political party or any other person, committee or broad based political committee, including any parent, subsidiary, branch, division, department or local unit of the corporation, labor organization, association, political party or any other person, or by any group of such persons shall be considered to be made by a single person, committee or broad

based political committee.

(b) Two or more entities shall be treated as one person when any of the following circumstances apply:

(1) The entities share the majority of members of their boards of directors.

(2) The entities share two or more officers.

(3) The entities are owned or controlled by the same majority shareholder or shareholders.

(4) The entities are in a parent-subsidary relationship.

(c) An individual and any general partnership in which the individual is a partner, or an individual and any corporation in which the individual owns a controlling interest, shall be treated as one person.

(d) No committee and no broad based political committee which supports or opposes a candidate for office 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.

304. 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's campaign statement on which the loan is first reported.

(c) 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) Extensions of credit other than loans pursuant to subdivision (c) for a period of more than sixty (60) days are subject to the contribution limitations of this Act.

305. Family Contributions

(a) Contributions by a husband and wife shall be treated as separate contributions and shall not be aggregated.

(b) Contributions by children under eighteen years of age shall be treated as contributions by their parents and attributed proportionately to each parent (one-half to each parent or the total amount to a single custodial parent).

306. One Campaign Committee and One Checking Account Per Candidate for City Office.

A candidate for city office shall have no more than one campaign committee and one checking account for the city office being sought, 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.

307. Money Received by City Officials and Candidates Treated as Contributions, Income or Gifts

Any funds received by any elected city official or candidate running in the jurisdiction or any committee controlled by such an 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 Political Reform Act, Government Code sections 87100 et. seq.

308. Identification of Contributor Required

No contribution of \$25.00 or more shall be deposited into a campaign checking account of a candidate for City office unless the name, address, occupation and employer of the contributor is on file in the records of the recipient of the contribution.

309. Contractors Doing Business With the City of Oakland Prohibited From Making Contributions

(a) No person who contracts with the City of Oakland, for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, shall make any contribution to an elected official, candidate, or committee controlled by such official or candidate at any time between commencement of negotiations and either the completion of the performance under, or the termination of negotiations for, such contract, whichever occurs later.

(b) A person who contracts with the City of Oakland for the rendition of personal services, for the furnishing of any material, supplies or equipment to the City, or for selling any land or building to the City, whenever the value of such transaction would require approval by the City Council, and who violates subsection (a) above, shall be subject to the enforcement provisions of article 7 of this Act.

310. Officeholder Fund

(a) Every elected City officeholder shall be permitted to establish one officeholder fund and account. For City Auditor and School Board members, total contributions to an officeholder account shall not exceed \$10,000 per year in office. For District Councilmembers, total contributions to an officeholder account shall not exceed \$25,000 per year in office. For Councilmember-at-large, total contributions to an office holder account shall not exceed \$30,000 per year in office. For the office of the Mayor, total contributions to an officeholder account shall not exceed \$40,000 per year in office.

(b) Expenditures from an officeholder account may be made for any political, governmental or other lawful purpose, but may not be used in connection with any future election for City office.

(c) No funds may be transferred from the officeholder account of an elected City officeholder to any other committee.

(d) If an elected City officeholder has more than one committee which makes expenditures not related to an election at the time of the effective date of this section, the funds from all such committees shall be transferred into one officeholder account within 30 working days of the effective date of this section, to the extent otherwise allowed by law.

(e) Contributions received by or made to for the officeholder fund shall be subject to the contribution limitations of article 3 of this Act.

(f) Expenditures made from the officeholder fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

311. Allowance for Donation of Office Space

(a) Donation of office space for use by city officeholders 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, City Councilmembers or City Auditor or in the case of School Board members, the donation is made to the Oakland Unified School District;

- (2) the name, address, employer, and occupation of the donor, and the current market value of the donated office space, is provided to the City Clerk.

(b) Use of office space donated pursuant to this section by a city officeholder shall not be considered a "qualified campaign expenditure" pursuant to section 2056 of this Act.

312. Legal Expense Funds

(a) An elected City officeholder or candidate for city office 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 officer's 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 officeholder's governmental activities and duties.

(b) Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of article 3 of this Act.

(c) Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of article 4 of this Act.

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Volunteer personal services, and payments made by an individual for 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.

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All candidates for city office who adopt campaign expenditure ceilings as defined below are permitted the higher contribution limit as defined in sections 300 (c) and 301 (c) of this Act. Before accepting any contributions at the higher contribution limit, candidates who adopt voluntary expenditure ceilings must first file a statement with the City Clerk

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.

401. Amount of Expenditure Ceilings

(a) In primary elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, any candidate for city office, except a candidate for a city office specified in sections 401(b) and (c), who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(b) In primary elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 500% of the annual salary for a member of the City Council on the last date for filing for candidacy. In general elections, candidates for City Auditor and Councilmember-at-large agreeing to expenditure ceilings shall not make qualified campaign expenditures exceeding 400% of the annual salary for a member of the City Council on the last date for filing for candidacy.

(c) In primary elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 300% of the annual salary for the office of the Mayor on the last date for filing for candidacy. In general elections, a candidate for Mayor who agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding 250% of the annual salary for the office of the Mayor on the last date for filing for candidacy.

(d) For the purposes of this section, annual salary for a member of the City Council and the office of the Mayor shall also include the salary received as a member of the Redevelopment Agency.

402. Time Periods for Expenditures

For purposes of the expenditure ceilings, qualified campaign expenditures made at any time on or before June 30 of the election year shall be considered primary election expenditures, and qualified campaign expenditures made from July 1 until December 31 of the election year shall be considered general election expenditures. However, in the event that payments are made but the goods or services are not used during the period purchased, the payments shall be considered qualified campaign expenditures for the time period in which they are used. Payments for goods or services used in both time periods shall be

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The City Clerk shall:

- (a) Prescribe the necessary forms for filing the appropriate statements.
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Article 7

ENFORCEMENT

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Any person who knowingly or willfully violates articles 3, 4, or 5 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 knowingly or willfully aids and abets any other person in violation of any provision of this Act, shall be liable under the provisions of this section. Prosecution for violation of any provision of this Act shall be commenced within (4) years after the date on which the violation occurred.

701. Civil Actions

(a) Any person who intentionally or negligently violates articles 3, 4, or 5 of this Act shall be liable in a civil action brought by independent counsel appointed by the City Attorney for such purpose or any resident of Oakland for an amount not more than three times the amount of the unlawful contribution or expenditure.

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

(c) Any person before filing a civil action pursuant to this subdivision, shall first file with the City Attorney a written request for independent counsel appointed by the City Attorney for such purpose to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. Independent counsel appointed by the City Attorney for such purpose shall respond within sixty (60) days after receipt of the request indicating whether a civil action will be filed. If independent counsel indicates in the affirmative and files a suit within sixty (60) days thereafter, no other action may be brought unless the action brought by independent counsel is dismissed without prejudice.

(d) In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the plaintiff shall receive fifty percent of the amount recovered. The remaining fifty percent shall be deposited into the City's general fund.

(e) No civil action alleging a violation of any provision of this Act shall be filed more than four (4) years after the date the violation occurred.

702. Injunctive Relief

Any resident of the City of Oakland and independent counsel appointed by the City Attorney may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

703. Cost of Litigation

The court may award to a plaintiff or defendant who prevails in any action authorized by this Act, his or her costs of litigation, including reasonable attorneys' fees.

704. Disqualification

In addition to any other penalties prescribed by law, if an official receives a contribution in violation of sections 300 and 301, 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 Fair Political Practices Commission shall apply to interpretations of this section.

Article 8

MISCELLANEOUS PROVISIONS

800. Applicability of Other Laws

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

801. 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.

802. Transitional Provision

Contribution limitations provided for in article 3 and expenditure ceilings provided for in article 4 shall not apply to campaign contributions received and expenditures made prior to the effective date of this Act.

803. Effective Date

This Act shall take effect January 1, 1994.