MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
February 12, 2018
6:30 p.m.

A. MEETING CALLED TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. January 22, Regular session minutes

F. APPOINTMENTS to BOARDS & COMMISSIONS

1. Cirri Moran is nominated for **re**-appointment to serve a special third term on the Plan Commission by Councilmember Terry Crow.
2. Carl Hoagland is nominated for **re**-appointment to serve first full term on the Park Commission by Councilmember Paulette Carr.
3. John Solodar is nominated to the Green Practices replacing Robert Elgin's expired term, by Councilmember Steve McMahon.
4. Mary Gorman is nominated to the Green Practices as a **fill in** replacing Scott Edison's unexpired seat, by Councilmember Michael Glickert.

G. SWEARING IN to BOARDS & COMMISSIONS

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

I. PUBLIC HEARINGS

J. CONSENT AGENDA – Vote Required

1. Annual Fuel Purchase Agreement

K. CITY MANAGER'S REPORT

1. Drone Program
   (Presentation and Discussion Only)
2. Janet Majerus Park Improvements – Engineering Svc Contract
   (Vote Required))
3. Kingsland Bridge Contract Award
   (Vote Required)
4. Classification and Compensation Study – Request for funding
   (Vote Required)

L. UNFINISHED BUSINESS

BILLS

M. NEW BUSINESS

RESOLUTIONS

1. **Resolution 2018-2** – Campaign Contributions

BILLS

2. **BILL 9350 –** AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN. (7000 Kingsbury)

3. **BILL 9351 –** AN ORDINANCE AMENDING CHAPTER 400, ARTICLE VII, SECTION 400.2010 OF THE UNIVERSITY CITY MUNICIPAL CODE, RELATING TO THE ZONING CODE, OFF-STREET PARKING AND LOADING REQUIREMENTS, LOCATION OF PARKING AREAS.

N. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes
4. Other Discussions/Business

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Q. Roll-Call vote to go into a Closed Council Session according to RSMo 610.021 (1)Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys.

R. ADJOURNMENT

MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
January 22, 2018
6:30 p.m.

A. MEETING CALLED TO ORDER

At the Regular Session of the City Council of University City held on the fifth floor of City Hall, on Monday, January 22, 2018, Mayor Shelley Welsch called the meeting to order at 6:32 p.m.

B. ROLL CALL

In addition to the Mayor, the following members of Council were present:

Councilmember Rod Jennings
Councilmember Paulette Carr
Councilmember Steven McMahon
Councilmember Terry Crow
Councilmember Michael Glickert
Councilmember Bwayne Smotherson

Also in attendance was City Manager, Gregory Rose, and City Attorney, John F. Mulligan, Jr.

C. APPROVAL OF AGENDA

Councilmember Smotherson requested that the nomination of Jeffrey Mishkin for reappointment to the Traffic Commission be added to the appointments.

Councilmember McMahon requested that under his appointments Jaclyn's name be amended to read *"Kirouac-Fram,"* rather than *"Kirouac-Farm"*.

Councilmember Carr moved to approve the agenda as amended, it was seconded by Councilmember Jennings and the motion carried unanimously.

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. January 8, 2018, Regular Session minutes were moved by Councilmember Glickert, seconded by Councilmember Jennings and the motion carried unanimously.

F. APPOINTMENTS TO BOARDS & COMMISSIONS

1. Barbara Chicherio and Mary Harvey are nominated for re-appointment to the Urban Forestry Commission by Councilmember Steve McMahon, it was seconded by Councilmember Carr and the motion carried unanimously.
2. Robert Wilcox and David Stokes are nominated for re-appointment to CALOP by Councilmember Steve McMahon, it was seconded by Councilmember Carr and the motion carried unanimously.
3. Jaclyn Kirouac-Fram is nominated for re-appointment to Human Relations by Councilmember Steve McMahon, it was seconded by Councilmember Carr and the motion carried unanimously.
4. Jeffrey Mishkin is nominated for re-appointment to the Traffic Commission by Councilmember Smotherson, it was seconded by Councilmember Crow and the motion carried unanimously.

Councilmember Crow stated he would like to put his colleagues on notice of his intent to reappoint Ms. Cirri Moran, whose term has expired. He is asking that consideration be given to making an exception to allow Ms. Moran to serve either a partial or full term based on the numerous items currently before the Planning Commission and its lack of senior voting members.

G. SWEARING IN TO BOARDS & COMMISSIONS

1. Kathy Caton, Ben Evans, Ryan Patterson and Jen Rieger, were sworn into the Loop Special Business District Board on Jan 19th in the Clerk's office.

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Jeff Hales, 7471 Kingsbury, University City, MO

Mr. Hales expressed satisfaction with Council's decision to hire Mr. Rose, as the new City Manager, and hopes that sometime in the near future he will implement the same wonderful streaming of meetings that he did in Maricopa County.

Mr. Hales stated he is troubled by the accusations being made in the Sunday newsletters, specifically, the Mayor's article where she questions the motives of various members of Council. These kinds of comments do not serve the City well, so he looks forward to the day when Council can handle their disputes in these chambers and not out in the public.

Don Fitz, 720 Harvard, University City, MO

Mr. Fitz expressed the following concerns about the highly dubious nature of the unsigned packet submitted to City Council on January 8th, referred to as the *"Firefighter's Media Report".*

- Page 6 claims *"Prop H was formed and supported by the 2014 candidates who worked closely with the Firefighter's Union."* (This confuses Preserve U City; which was a citizen's organization spearheaded by residents of University Heights whose community was directly threatened, with Prop H, a measure that was placed on the ballot.)
- Page 12 claims that Axiom Strategies was a so-called media partner of Preserve U City. (At no time did he, as the head of this campaign, collaborate or meet with any representative of Axiom Strategies.)
- Page 2 claims that *"The people of U City and the entire St. Louis region deserve to know what is happening"*. (Ms. Welsch has a Trump-like ability to hypnotize followers into believing anything she says, even if it contradicts their own interest.)

Mr. Fitz requested that the authors of this report identify themselves, acknowledge their misrepresentations, and apologize to the people who successfully won 69 percent of the residents' vote. *(Mr. Fitz asked that his written comments be made a part of the record.)*

Judith Gainer, 721 Harvard, University City, MO

Ms. Gainer addressed the following claims made in the Firefighter's Media Packet.

- The document asserts that it is the work of *"U City residents who were concerned about the negative influence that large amounts of cash donated by local Paks and two U City businessmen have on the legislative process in U City"*. (Outside of James Baskin, she does not know who these concerned citizens are, or who prepared the document.)
- Page 6 claims that the professional firefighters of Central St. Louis County Pak contributed to Prop H, a total of $4,495.00 and that $3,995.00 of this amount was paid in direct expenditures which were not reported to the Missouri Ethics Commission.
- Page 56 claims that Preserve U City and its *"media partner, Axion Strategies,"* received 60 percent of its funding from firefighter Paks. It also claims that Preserve U City failed to report the $3,995.00 allegedly received from the firefighters on the Ethics' Report.

As Treasurer of the April 2016 Prop H initiative she can unequivocally state that $3,383.00; which includes a $500.00 contribution from the firefighters, was reported on the Missouri Ethics and was the total of all contributions received by Preserve U City; that this $500.00 contribution constituted less than 15% of the total funding received by Preserve U City and not 60 percent as claimed, and finally, that Preserve U City never had a media partner and none of the core group of residents working for Prop H had any contact with Axion Strategies.

Ms. Gainer stated it is extremely disheartening to have her integrity impugned and now has a new sense of empathy for civil servants who have to tolerate this kind of malicious carelessness on a regular basis.

I. PUBLIC HEARINGS

J. CONSENT AGENDA

K. CITY MANAGER'S REPORT

1. Site Plan - Lady of Lourdes

City Manager, Gregory Rose stated staff is recommending approval of the Lourdes' Site Plan which seeks to build an addition to the school and parking lot.

Andrea Riganti, Director of Community Services, stated this property is located on the southeast corner of Forsyth and Asbury and is currently the site of a church and school. The Site Plan illustrates a 12,813 square foot expansion of the existing school to the west, and the demolition of adjacent properties acquired by Our Lady of Lourdes for the construction of a new parking lot. The Site Plan review procedures per the Zoning Code have been satisfied, and include a traffic impact analysis that was presented to the Traffic Commission on 12/13/17. The Commission's comments have been incorporated into Staff's Report. Ms. Riganti stated as a side note, approval will also be required from MSD however it is not contingent upon the City's approval.

Councilmember Crow moved to approve, it was seconded by Councilmember Glickert.

Citizen's Comments:

Thomas Jennings, 7055 Forsyth, University City, MO

Councilmember Jennings stated in his opinion, the Our Lady of Lourdes' proposal should be viewed as a positive improvement for the entire neighborhood and surrounding areas. For the first time in many years, young families are starting to move into the area which ultimately, produces an enhanced base of citizens. So his hope is that Council will vote to approve this proposal.

Voice vote on Councilmember Crow's motion carried unanimously.

2. Funding Authorization – Hiring Engineering Firm - MSD Project

Mr. Rose stated staff is recommending that Council give consideration to the allocation of funds for the purpose of hiring a consulting engineer to review MSD's proposed options to determine the most reasonable approach for the construction of sewer lines and storage tanks in U City. If approved, funding will be taken out of the Capital Projects Reserve Fund and upon completion of the review, Council will be provided with the consultant's recommendation.

Councilmember Crow moved to approve, it was seconded by Councilmember Glickert.

Citizen's Comments:

Tim Cusick, 7915 Glenside Place, University City, MO

Mr. Cusick stated as a candidate for Council in the 2nd Ward, MSD's plans to place wastewater storage containers in the 2nd Ward is important to him both politically and personally.

After talking with residents in the area where MSD is proposing to place these containers he can honestly say that no one wants this in their neighborhood. One of the proposed locations for the final placement of these containers; specifically Area C, Option 6, will not only be in his and several of his neighbor's backyards, it will require that sections of their yards be utilized for placement of the proposed easements. He stated while MSD claims to have received numerous responses from residents asking that the containers be buried underground in Area C, Option 6, many of the residents he spoke to expressed an intent to sell their homes and move out of the area should this proposal be approved. Therefore, he would question the validity of the process used to reach this consensus, especially since there are looming questions that still remain.

1. How safe will these storage containers be?
2. What happens if there is a catastrophic failure?
3. Area C, Option 6 is located in the floodplain; will this generate any odors?
4. Will there be any damage or alterations made to the aesthetics of these neighborhoods during construction?
5. Will property values for homes located in the immediate area be impacted?
6. Isn't the proposal to place these containers underground in a nonresidential area a more viable alternative?

Mr. Cusick stated now is the time for U City to be more proactive in their dealings with MSD, and consequently, he would urge Council to approve the funding recommendation to hire an engineering firm. He also suggested that the City submit an invoice to MSD to recoup the monies spent to conduct this engineering study. Mr. Cusick acknowledged his gratitude for the Councilmembers; specifically, Councilmembers Carr and Smotherson, who have kept residents in the 2nd and 3rd Wards informed and up-to-date on this issue.

Mayor Welsch questioned whether the City would have access to the information already prepared by MSD and Burns McDonnell to assist the engineering firm with conducting their review?

Mr. Rose stated based on his understanding, MSD has agreed to work cooperatively with the City, and staff has already submitted a request for information regarding their designs. Although to date, no information has been received, he concurs that this would be vital information for the consultant and since it is public information staff can pursue alternative options for its retrieval.

Councilmember Smotherson stated his concern regarding Area C, Option 6, is that the permanent easement will be located in the 3rd Ward on 82nd Street, and impact roughly six to ten homes.

Voice vote on Councilmember Crow's motion carried unanimously.

3. Heman Pool – Main Drain Valve Replacement

Mr. Rose stated staff is recommending the approval of funding to replace the main drain valve at Heman Pool.

Sinan Alpaslan, Director of Public Works and Parks, stated the main drain valve operates to isolate the filter room of the pool from the main basin and impacts the water quality where swimming occurs. The valve must be opened and closed on a weekly basis in order to clean the filters, and since there is no auxiliary system to handle this function, last summer staff had to close the pool because of the valve's failure to operate properly. Therefore, staff is recommending that the replacement of this main drain valve be completed prior to the opening season. This is an unbudgeted expense and although only one estimate of slightly over $30,000 is being presented to Council, staff's evaluation of industry norms determined this to be a reasonable price.

Mr. Alpaslan stated the estimate; which was received from the original installer of the pool, includes overflow gutters that connect to the filter room, as well as the addition of an auxiliary valve located in front of the main drain valve, that can now be used as a backup in case of a failure or maintenance activities.

Mayor Welsch asked if a one-year warranty was also considered the industry norm? Mr. Alpaslan stated a one-year warranty covering any workmanship defects does constitute the norm; however the product warranty would exceed one-year.

Councilmember Glickert stated the pool; which was built in 1933, seems to have been experiencing major problems over the last ten years. So he is curious to know whether staff has performed any type of needs assessment to assist in the development of a plan to address issues that are bound to happen in the future? Mr. Alpaslan stated his goal is to ensure that there is a plan going forward because even a 15-year lifespan for this type of valve does not meet industry standards and there should be a more durable system. He stated that he and his staff will look into possible solutions and present a recommendation to Council via the City Manager.

Mr. Rose stated staff has already initiated their budgeting process. And as a part of that process, they have been asked to examine every facility and develop a strategy to determine the amount of funding the City should be investing for the maintenance of these buildings versus having to approach Council with urgent requests like this. He stated that if approved, the intent is to utilize funding from the Capital Reserve Fund and take any excess funds from projects that come in under budget to cover the cost.

Although there was no pending motion, Mayor Welsch called for a voice vote to approve the recommendation which was unanimous.

L. UNFINISHED BUSINESS

BILLS

M. NEW BUSINESS

RESOLUTIONS

Introduced by Councilmember Crow

1. **Resolution 2018–1** Budget Amendment #2 – FY18. The motion was seconded by Councilmember Carr and carried unanimously.

BILLS

N. COUNCIL REPORTS/BUSINESS

1. <u>Boards and Commission Appointments Needed</u>
   Mayor Welsch announced the appointments that were needed.
2. Council Liaison Reports on Boards and Commissions
3. Boards, Commissions and Task Force Minutes
4. <u>Other Discussions/Business</u>
   a) **Requests from Park Commission:** (*Requested by Councilmembers Carr and Smotherson)*
   (1) Formation of an Enterprise Fund, and
   (2) Review of Ordinances to deal with problems noted at Park recreation facilities.

City Clerk, LaRette Reese, asked Council if they could provide her with the author of the motion for Item No. 3, under the City Manager's Report? Mayor Welsch stated her assumption was that Councilmember Glickert made the motion and that it was seconded by Councilmember Carr. But perhaps, she may have moved too fast?

Councilmember Carr noted that Council has previously been made aware of these requests pursuant to Council Liaison Reports presented on behalf of the Park Commission at several meetings last year.

ITEM NO. 1 - On May 16, 2017, the Park Commission voted and unanimously approved the following Resolution, which declares:

- That Ruth Park Golf Course and Driving Range generates revenue above expenses;
- That the Park Commission believes revenue generated to Ruth Park in Fiscal Year 2018, and thereafter, should be treated as a separate Enterprise Fund;
- That should 2018, and thereafter, generate total revenue in excess of golf course-related expenditures 50 percent of said excess shall be retained and maintained in the separate Enterprise Fund to be used for Ruth Park Golf Course and Driving Range capital improvements, and
- That any remaining funds be used for U City parks.

Councilmember Carr stated that along with this Resolution she has provided Council with an email from Mr. Goldstein, the Chair of the Park Commission, which includes financials based on conversations with Ms. Charumilind regarding expenses and revenue for the golf course. The Commission has therefore asked that the City Manager review this request to determine its feasibility, and provide both Council and the Commission with his recommendation.

Mayor Welsch stated she has asked Mr. Rose if he would provide Council with the pros and cons of Enterprise Funds to use in their discussion.

ITEM NO. 2 - A memo prepared by Mr. Goldstein and adopted by the Park Commission was sent to Councilmember Carr, Mr. Alpaslan, and Ms. Riganti on October 17, 2017. This memo seeks to determine whether the City's current ordinances cover the problems presented, and if not, whether these issues can be addressed through the amendment or adoption of new ordinances.

Mayor Welsch asked if members of the Park Commission had developed a list of the problems identified at various parks? Councilmember Carr informed Mayor Welsch that Mr. Goldstein was in the audience and could provide more details about the Commission's request.

Citizen's Comments**:**

Mr. Goldstein stated one example of the problem, is that on more than one occasion while playing golf, players have placed Bluetooth speakers in their cup holders so they can listen to music. Oftentimes this occurs in close proximity to a tee shot, which is contrary to proper golf etiquette to not disturb anyone during a shot. And as reported to him by Mrs. Taylor, this same type of activity occurs at the pool.

On the issue of giving private lessons, there is an individual; who is not a PGA licensed pro, that hangs out at the golf course and solicits potential clients by handing out his business cards. Mr. Goldstein stated the Commission's belief is that the current ordinances are insufficient, and as a result, puts City employees in the untenable position of having no regulations to support or enforce actions that might need to be taken. So just as other City Codes become incomplete or obsolete due to the passage of time or the advancement of new technology, it is the Commission's belief that these issues fall into that same category.

Council's Comments:
Councilmember Glickert stated he is in absolute agreement with Mr. Goldstein's comments. As far as the music is concerned, this seems to be a regional or maybe even a national phenomenon that based on his observations, may not be limited to just the younger generation. He also noted that these issues might be a little more sophisticated than the so-called *"Marshal;"* a retired individual who gets to play golf for free, might be accustomed to dealing with.

Councilmember Glickert applauded the Commission for introducing Council to the concept of an Enterprise Fund.

Councilmember Smotherson stated he would be interested in finding out whether there really is a profit being made at the golf course, and if so, the total amount of that profit. He stated he would also like the City Manager to provide an opinion on whether earmarks were necessary to accomplish the Commission's requests.

Councilmember Carr stated the Park Commission and staff have a lot of facilities to take care of that are fundamental to the City's recreation programs.
There is never enough money, so she too would applaud the Commission for their efforts to think out of the box in an attempt to come up with a plan that covers these expenses.

Mayor Welsch apprised Mr. Rose about the number of complaints she has lodged regarding the volume of the pool's loudspeaker system which can be heard around Vernon and Midland as she takes her walks through Heman Park.

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Councilmember Crow praised Mr. Rose for his ability to promptly move Council through tonight's agenda. Yet, in spite of this progress, there seems to be one continuing trend which saddens him; the Mayor's Sunday evening missive. Regarding the financing of campaign comments expressed several weeks ago by concerned citizens, the Mayor writes, *"Mr. Logan then called on the Council to pass a Resolution that would limit the size of such contributions to Councilmembers, groups or individuals, who do business with the City"*. However, if this was important enough for the Mayor to memorialize, one would presume that her next step would have been to put this on the agenda and allow every member of Council to ask questions about each other's campaign finances. So perhaps, her intent really is to take this in a different direction?

Next, the Mayor writes about EMS outsourcing and the misguided efforts of some members of Council. *"Those who are attacking Gateway are by doing so insinuating that the company somehow has convinced all of our U City staff dispatchers to fudge the numbers. This is simply not the case and insults the integrity of our staff members and Gateway."*
Councilmember Crow stated he has no knowledge of any member of staff's integrity being insulted. However would admit, that he is not overly concerned about insulting Gateway's integrity. And in his opinion, this statement pales in comparison to the Mayor's statement that the Interim City Manager was not professional. He stated it cost the City an awful lot of money the last time the former administration relied on a citizen who pretended to be an expert on the numbers and does not believe that the *Baskin/Logan Report*; as the Mayor has now termed it was developed to explain the cost of restoring EMS. Councilmember Crow stated, at this point, the only action that has been taken is a request by the new City Manager to be provided with an opportunity to review the contract, the relationship, and determine the next steps. Next, she writes, *"But I would say why take on a service that we know costs hundreds of thousands of dollars a year after an initial, very expensive startup if the service is already being provided in an excellent fashion by another entity?"* Councilmember Crow stated while the Mayor's comments do not make sense from a fiscal standpoint, the reason this should be considered is that U City residents did not support the outsourcing of this service at the time it was proposed, and still do not support it. So it's time that we right that wrong.

The Mayor's next comment is, *"I believe that using Prop P Funds would go against the wishes of the voters of U City."* This is somewhat ironic since the wishes of U City voters were not considered when EMS was outsourced. Next; *"If in fact, Gateway were to go away, residents would not have to worry because the other surrounding communities would help through the use of mutual aid"*. Councilmember Crow stated U City screwed-up its opportunity to participate in the Mutual Aid Agreement. Next; *"There is no indication that Gateway Ambulance is having any financial difficulties. Gateway's finances were checked out in depth before the former City Manager made the recommendation. This type of talk, I believe, is an effort to frighten our residents."*

Councilmember Crow stated what he and several of his colleagues want is an honest discussion about the pros and cons of outsourcing; to determine Gateway's satisfaction with the current relationship and to implement a transition plan in the event Gateway decides to terminate its contract with the City. Next; *"The decision on whether or not to return EMS to U City firehouses is a policy decision. The new City Manager is going to have to deal with whatever happens and adjust the budget to cover the cost if Council directs him to do so. But I believe to do so would put the integrity of our City Government at-risk within the wider business community."* Councilmember Crow stated he would question who, in the wider business community is really concerned about this issue? Nevertheless, for the Mayor to lecture Council about the integrity of this City's Government when the night before Mr. Walker was kicked out of the ICMA for life, a group of five Councilmembers deleted the ethic's portion of his contract, is a pretty low blow. And as a side note, out of the five members of Council who voted to approve Mr. Walker's contract, one has retired; one resigned, and the remaining three have chosen to forgo putting their names on the ballot in the next election. Next; *"If a future Council pulls out of this contract the City will be put at a legal risk; Gateway may sue and in fact, should sue."* Councilmember Crow stated to hear a statement like this coming from the Mayor of this community is extremely sad.

The Mayor's final quote states, *"Our City's financial well-being is at stake here. There is no doubt about that and we should not be putting our financial future at risk because a Union provides lots of campaign donations. And I believe that is why some members of Council are making this a policy discussion once again."* Councilmember Crow stated he views this as another sad statement from someone who has repeatedly lectured Council about questioning the motives of their fellow colleagues.

Councilmember Crow stated he is optimistic, that at this City moves forward residents will be able to notice that the dysfunction is not within this Chamber, but in the Mayor's one-sided lectures that appear every Sunday evening. These Sunday evening missives that impugn the integrity of people who have dedicated their lives to this community need to stop. One can only hope that the same demeanor of dignity and grace displayed by President Obama as he transitioned out of office will be exhibited in this instance.

Councilmember Carr stated during her election campaign in 2016, the resounding question asked time and time again, was; are you for or against the outsourcing of EMS? She won that election by almost 70 percent, and that is the guiding principle for why reason she believes the Mayor's comments sound very disconnected. Not only were these halls filled on the day when residents begged Council to postpone taking this action, the people who greeted her at their doors were fed up. So when the Mayor insinuates that her integrity is based on a minor campaign contribution, her response would be, look in your own pot.

Councilmember McMahon stated a few months ago he made a proposal for the establishment or reinstatement of an Architectural Review Board and his understanding was that the City Attorney and Director of Community Development were going to research this issue. He stated conversations with a number of residents have not only disclosed their excitement about this proposal, but their eagerness to contribute to the guidelines and serve on such a Board once it is up and running.

So to keep this process moving forward if possible, he would like to be provided with an update.

Recently, the City Clerk certified the individuals officially running for office in the upcoming election. So he would like to announce his decision to run for reelection, which is a little bittersweet since he does not have an opponent. But at the same time, this lack of interest may also fuel the debate regarding the need for Council to augment their discussions by including issues that are important to the residents of U City. In 2016 the issues centered on change; increased funding for streets; greater transparency, and the quality of Council meetings. Those were the changes this current Council set out to accomplish, and he believes they have been delivered. Councilmember McMahon stated one of his campaign promises was to put residents ahead of himself. And that's exactly what is happening when Council starts to express concerns about campaign contributions and the outsourcing of EMS.

Gateway's contract was sold based on a scientific analysis of outcomes associated with the location of Gateway's ambulances. However, to this day, no one has explained why putting an ambulance at the Jack-In-The-Box is better than putting one at the Monument on Olive. The contract states that ambulances should be located at the Golf Course and behind Cicero's, but they aren't there because they move around all over town. And in spite of the fact, that he and possibly several other members of this Council have received troubling information, Gateway has been on the job for two years and no one has ever conducted a review of their performance. Councilmember McMahon stated this is an important issue that needs to be discussed. But instead, he is being questioned and accused of having no independent judgment when it comes to issues about public safety because of a $1,000 contribution he received in 2014 when he ran as a write-in candidate for Mayor and lost. In 2016, he never received one penny or in-kind contribution for his campaign. So if the accusation is that they've found someone they can pay off, then why haven't those contributions continued? That's why he was glad when he had the opportunity to speak with Mr. Logan about his comments. And what Mr. Logan said was that his comments were not about pay-to-play, they were just a way of reminding people that when you take any kind of contribution you have to be cognizant of the fact that there is a need to put the City's interest first. Councilmember McMahon stated while he certainly agrees with Mr. Logan's position, the interesting thing is that no one else had bothered to talk to him about his views or motivation as it relates to EMS. Nonetheless, they've assumed them, published them, and put them out there for the public to see; which is absolutely their right to do. However, he wants everyone to know that he is not for sale and that he will continue to put the interest of this City's residents before himself. So he is going to continue to make this an issue; continue to keep looking for potential problems, and work to ensure that Council is provided with an opportunity to conduct a review of this process in the right way.

For the record, Mayor Welsch stated that she and Councilmember Glickert have talked about a Resolution related to the suggestion of Mr. Logan. And as a result, Mr. Logan has provided the two of them with information from San Diego to assist them in their research. So their goal is to shot for completion by late February or early March.

Q. ADJOURNMENT

Mayor Welsch thanked everyone for their attendance and closed the City Council meeting at 7:42 p.m.

LaRette Reese
City Clerk

Statement to City Council of U City, January 22, 2018 by **Don Fitz, 720 Harvard, U City**

U City Friends,

I am speaking regarding the unsigned packet submitted to City Council of U City, January 8, 2018, the first line of which read "Index for background information packet" and has been referred to as "The firefighters media report." The fact that the authors were unwilling to sign their work and ignorant of how to give it a clear title reflect its highly dubious nature.

The report mentions Prop H or Preserve U City on pages 1, 6, 8, 12 and 56. Since that document had bizarre page numbering, reference numbers of the pages I received may not correspond to its numbering. On my page 6, it claims that "Prop H … was formed and supported by the 2014 candidates … who worked closely with the firefighters union."

First, this reveals the sloppy work by the author, who confuses Preserve U City, which was a citizens organization, with Prop H, which was the measure put on the ballot. Vastly more serious was the false claim that the group was started by candidates for public office.

I know quite a bit about the creation of Preserve U City, since it occurred in the living room of my home. On June 29, 2015 we met as the Outreach Committee of the Delmar-Harvard Redevelopment Concerned Citizens, the DHRCC. The DHRCC had been formed to stop the building of a 5 story apartment building and 6 story garage on the old playground of Delmar-Harvard. Toward the end of the meeting, former City Manager Frank Ollendorff mentioned that Kay Drey had spearheaded efforts to halt the sale of parks by having an amendment to the City Charter that would require a vote prior to the sale of any park.

It was clear to us that the sale of the Delmar-Harvard playground would the first step in a land grab of Civic Plaza buildings for Washington University development of student housing. So, we imagined a referendum to save them.

That quickly evolved into the Preserve U City campaign. It was spearheaded by residents of University Heights, whose community was most directly threatened. To say that it was formed by candidates for public office is insulting, demeaning and inaccurate.

The report makes an even worse allegation on page 12 when it claims that Axiom Strategies was a so-called "media partner" of Preserve U City. I was the head of the campaign and at no time did I collaborate or meet with any representative of Axiom Strategies. I didn't even know that such an entity existed until I read the report making the false accusation.

If the person writing this report so erroneously reported the history of Preserve U City and Proposition H, one must ask how much of the rest of the report is in error,

I request that the authors of the report identify themselves, acknowledge its misinformation, and apologize to the over 200 people who became involved and won 69% of the vote from Univ City residents.

The report states on p 2 that "The people of University City and the entire St. Louis region deserve to know what is happening." However, its falsification of fact means that the true nature could not have been to bring truth to Univ City.

Perhaps its goal was to smear the Firefighters Union so that providing quality emergency service would not be given back to that organization.

Or perhaps it aimed to smear those who have challenged Shelley Welsch and encourage her supporters to launch a last minute write-in campaign to restore her to power. On rare occasions, write-in campaigns do win. Ms. Welsch does have a Trump-like ability to hypnotize followers into believing anything she says, even if it contradicts their own interests.

I found this out during the Prop H campaign, when a group of people who usually support historic preservation actually opposed their own values by encouraging votes against Prop H.

They seem to have been taken in by Welsch's ludicrous statement that Prop H was unnecessary because there were no plans to sell off historic buildings. Such a claim would only make sense if the council which existed at that time would remain in office for eternity – otherwise, it was obvious to any thinking person that a charter amendment would protect future councils from selling historic property. The absurdity of Welsch's claim only led credence to the suspicion that there were secret plans to auction our historic sites to the highest bidder.

Tim Cusick, 7915 Glenside Place.

I stand here in support of the Funding Authorization for Hiring an Engineer firm to look into the MSD Project to build waste water storage containers in University City.

As you all know, I am a candidate for Council in the 2nd Ward. Let me say that this MSD project to place waste water storage containers in University City, and now, specifically in the 2nd ward, is not only political for me, but also personal. Politically, I have been spending time speaking with the residents in the areas where MSD is proposing to place these containers. I can truly say that no one wants these containers in our neighborhoods. And I say this MSD project is personal, because the proposed final placement of these containers by MSD, specifically, Area C, Option #6, is in my immediate back yard. Not across the street or 50-100 feet away, but right smack in the back of my yard. MSD talks about some permanent property easements, these easements would take sections of my back yard and the yards next to mine.

MSD has stated, in their most recent release, that they have received responses from people in the area and that most responders want these containers buried. And buried in Area C, Option 6. While they may have received many responses and people have said they want them buried, I question the validity of the process they used to determine this solution. I have been to ALL of the MSD town hall meetings, meetings held in this esteemed chamber, and at the MSD board meetings downtown. And it seems to me that they were offering the underground storage as an either or---either we take the homes in the 3rd Ward, or we build it underground in the 2nd ward. How then would people respond? Of course we want it underground. I question their methodology to make these determinations. I don't feel that the study they did was valid.

And, MSD, still, to this day, does not answer key questions that many residents and members of this council have put to them. Looming questions remain: How safe will these storage containers be? What happens if there is catastrophic failure? And the area they have chosen, Area C, Option 6 is in the flood plain area. What about odors? What will our neighborhoods look like during the construction process? What about the property values of the homes in the immediate area? MSD has probably spent a lot of money on studies, engineering

studies, feasibility studies, research and other technical aspects for a project such as this---given the price tag--yet still remain consistently and completely ignorant as well as seemingly indifferent on how this will impact the value of the homes in the area. And I can say with certainty, that the residents in the area do not want this. I have had many of my neighbors tell me to let them know if this project is a certainty in the area that MSD is now proposing, because they are going to put their homes on the market, sell and move. They won't live here.

It does seem that now is the time for University City to be more proactive and aggressive when it comes to dealing with MSD. The proposal of placing these storage containers underground in a less residential area seems a viable alternative, and MSD has even suggested as much. And there does seem to be areas available for this.

OH, and also, let's send the bill to MSD for the money that University City will be spending to do this engineering study.

In closing let may say that I am very grateful for the council members who have been involved in keeping those of us in the 2nd, and 3rd Ward, informed and up to date on this issue. I would specifically like to thank Council members Carr and Smotherson. Thank you.

Statement by Judith Gainer, Treasurer of April 2016 *Proposition H ballot initiative Preserve UCity*
Meeting of the University City City Council
January 22, 2018

I am here tonight to address claims made in a document entitled "Firefighters Media Packet "which was read into the record at the January 8 City Council meeting. The document is the work of, and I quote, "University City residents who are concerned about the negative influence large amounts of cash donatedby local union PACs and two University City businessmen will have on the legislative process in UniversityCity"

I don't know who these concerned residents are or who actually prepared this document. What I can categorically and unequivocally state is that the document makes false assertions that relate to my role as treasurer of the April 2016 Proposition H ballot initiative, Preserve UCity. Specifically,

#1. On Page 6 in a section titled FUNDING MORE THAN CANDIDATES, the author of the document claims that the "Professional Firefighters of Central St Louis County PAC contributed to Proposition H a total of $4,495--$500 in cash and **$3,995 paid in direct expenditures.**

#2. On Page 56, the document claims that "Preserve UCity and it media partner, Axion Strategies, received 60% [of its funding] from firefighter PACS."

#3. Also on Page 56 the document claims that Preserve UCity failed to report the $3,995 allegedly received from the firefighters on its filing with the Missouri Ethics Report.

I can state categorically and unequivocally that Preserve UCity did not have a media partner, and that none of us in the core group of residents

working for Prop H had any knowledge of or contacts with Axion Strategies.

I can also state categorically and unequivocally that the $3,383, that includes a $500 contribution from the Firefighters, that was reported on the Missouri Ethics Report, was the total of all contributions received by Preserve UCity.

The $500. contribution of the Firefighters constituted a little less than 15% of the total funding received by Preserve UCity, not the 60% claimed by the authors of the Firefighters Media Packet.

Whoever prepared this packet seems to have connected the wrong dots. It is my understanding that in a filing, the Firefighters claimed a direct expenditure to Axion Strategies. The Firefighters also claimed a donation to Preserve UCity. But how someone then made the leap to claim that Axion Strategies was a "media partner" with Preserve UCity is beyond me! Preserve UCity had and continues to have no knowledge of the services for which the Firefighters paid Axion Strategies.

In conclusion, I must say it is extremely disheartening to have my integrity as the treasurer of Preserve UCity impuned, and I now have a new sense of empathy for those civil servants who have to tolerate this kind of malicious carelessness on a regular basis.

Council Agenda Item Cover

MEETING DATE: 2/12/2018

AGENDA ITEM TITLE: Annual Fuel Bid

AGENDA SECTION: Consent Agenda

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW: The City solicited for bids from regional fuel suppliers to provide gasoline, diesel, and biodiesel fuel for City vehicles and equipment. The bids are based on a markup or discount of the OPIS (Oil Price Information Service) wholesale rack average. This is the benchmark for the wholesale fuel trading prices in the St Louis area and the rack average price fluctuates daily according to market conditions. The markup or discount would apply to the price per gallon of fuel on the day it is delivered. Four vendors responded. The analyzed bid results (please see Attachment 1 – Bid Tabulation Detail for a review of the analysis methodology) are as follows:

Vendor	**Combined Mark-Up/Discount Totals Based on Est. Usage**
Petroleum Traders	Negative $2,660.00
The Kiesel Co.	Negative $4,084.00
Energy Petroleum	Negative $2,582.50
Home Oil Service	Negative $2,002.50

RECOMMENDATION: It is the City Manager's recommendation to award the bid to The Kiesel Company based on the overall highest discount that results in the lowest annual price for purchase of fuel.

ATTACHMENTS:

1) Bid Tabulation Detail
2) Bid forms
3) OPIS Report for 1/08/2018 (submitted with bid from Petroleum Traders)

87 Octane Unleaded

Vendor	Tank Wagon*	Times Est. Usage (1500 Gallons)	Transport*	Times Est. Usage (100,000 gallons)
Petroleum Traders	$0.100	$150.00	-$0.0386	-$3860.00
The Kiesel Co.	$0.048	$72.00	-$0.022	-$2200.00
Energy Petroleum	$0.0150	$22.50	-$0.0115	-$1150.00
Home Oil Service	$0.055	$82.50	-$0.0125	-$1250.00

B5 Diesel

Vendor	Tank Wagon*	Times Est. Usage (1500 Gallons)	Transport*	Times Est. Usage (100,000 gallons)
Petroleum Traders	$0.100	$150.00	$0.0075	$750.00
The Kiesel Co.	$0.048	$72.00	-$0.021	-$2100.00
Energy Petroleum	$0.0150	$22.50	-$.0150	-$1500.00
Home Oil Service	$0.055	$82.50	-$0.010	-$1000.00

#2 Off Road Diesel

Vendor	Tank Wagon*	Times Est. Usage (1500 Gallons)
Petroleum Traders	$0.100	$150.00
The Kiesel Co.	$0.048	$72.00
Energy Petroleum	$.0150	$22.50
Home Oil Service	$0.055	$82.50

Totals

Vendor	Combined Mark-Up/Discount Totals Based on Est. Usage
Petroleum Traders	-$2660.00
The Kiesel Co.	-$4084.00
Energy Petroleum	-$2582.50
Home Oil Service	-$2002.50

***Mark-Up or discount per gallon**

BID FORM

To: The City of University City

The following bid is being submitted in response to your Invitation to Bid dated January 11, 2018.

Description	Tank Wagon OPIS Average + Mark-Up *(OPIS Rack Average x Mark-Up)*	Transport OPIS Average + Mark-Up *(OPIS Rack Average x Mark-Up)*
Gasoline, unleaded, 87 octane	$1.7974 x $ 0.1000 =$ 1.8974	$1.7974 x $(-0.0386)=$ 1.7588

Estimated Usage: 100,000 gal Transport, 1,500 gal Tank Wagon

	OPIS Average + Mark-Up *(OPIS Rack Average x Mark-Up)*	OPIS Average + Mark-Up *(OPIS Rack Average x Mark-Up)*
Diesel Fuel B5 Blend	$2.0503 x $0.1000 =$ 2.1503	$2.0503 x $0.0075 =$ 2.0578

Estimated Usage: 100,000 gallons Transport, 1,500 Tank Wagon

Description	OPIS Average + Mark-Up *(OPIS Rack Average x Mark-Up)*
#2 Off- Road Diesel	$2.0820 x $ 0.1000 =$ 2.1820

Minimum Deliveries:	Tank Wagon	Transport
Gasoline, unleaded	150	6000
#2 Diesel	150	6000
Bio Diesel Blend	150	6000
Charges if Minimum Delivery is not met	$ 50.00	$ 100.00

Payment Terms: Net 30, no discount

EXCEPTIONS: Winter additive upon request at +0.0250 per gallon. Minimum load size may be achieved by split loads of gasoline and diesel fuel.

PLEASE CHECK IF BUSINESS IS: MINORITY OWNED___ WOMAN OWNED___
Minorities and females in work force assigned to carry out this contract: 56 %

ITEM BID IS UNITED STATES MANUFACTURED, ASSEMBLED AND PRODUCED: YES X NO__
If "NO", please indicate which item(s) are foreign manufactured, assembled and/or produced.

ALL STATE AND CITY TAXES DUE HAVE BEEN PAID: YES X NO__

January 8, 2017 DATE	Petroleum Traders Corporation COMPANY
Net 30, no discount TERMS	7120 Pointe Inverness Way ADDRESS
35-1462227 FEDERAL TAX I.D. NUMBER	Fort Wayne, IN 46804 CITY/STATE/ZIP CODE
800-348-3705 option 4 TELEPHONE	Gayle Newton SIGNATURE AND TITLE Gayle Newton - Contract Sales Manager

BID FORM

To: The City of University City

The following bid is being submitted in response to your Invitation to Bid dated January 11, 2018.

OPIS 1/6/18

	Tank Wagon	Transport
Description	***(OPIS Rack Average x Mark-Up)***	***(OPIS Rack Average x Mark-Up)***
Gasoline, unleaded, 87 octane	$1.7974 x $ .048 + =$ 1.8454	$1.7974 x $ -.022 =$ 1.7754

Estimated Usage: 100,000 gal Transport, 1,500 gal Tank Wagon

	(OPIS Rack Average x Mark-Up)	***(OPIS Rack Average x Mark-Up)***
Diesel Fuel B5 Blend	$2.0572 x $ .048 + =$ 2.1052	$2.0592 x $ -.021 =$ 2.0362

Estimated Usage: 100,000 gallons Transport, 1,500 Tank Wagon

Description	***(OPIS Rack Average x Mark-Up)***
#2 Off- Road Diesel	$2.0822 x $ .048 + =$ 2.13

Minimum Deliveries:	Tank Wagon	Transport
Gasoline, unleaded	200	6,000
#2 Diesel	200	6,000
Bio Diesel Blend	200	6,000
Charges if Minimum Delivery is not met	$ 35.00	$ 100.00

Payment Terms: NET 15 DAYS

EXCEPTIONS: AS LONG AS THE COMBINED TOTAL OF A SPLIT LOAD OF B-5 AND UNLEADED GAS EXCEED 6,000 GALLONS, WE WOULD NOT CHARGE A SERVICE FEE OF $100.00 TANKWAGON DELIVERIES LESS THAN 200 GALLONS IS A $35.00 SERVICE FEE.

PLEASE CHECK IF BUSINESS IS: MINORITY OWNED___ WOMAN OWNED √
Minorities and females in work force assigned to carry out this contract: 100 %

ITEM BID IS UNITED STATES MANUFACTURED, ASSEMBLED AND PRODUCED: YES √ NO___
If "NO", please indicate which item(s) are foreign manufactured, assembled and/or produced.

ALL STATE AND CITY TAXES DUE HAVE BEEN PAID: YES √ NO___

1/11/18	THE KISSEL COMPANY
DATE	COMPANY
NET 15 DAYS	4801 FYLER AVENUE
TERMS	ADDRESS
43-0834609	ST. LOUIS, MO. 63116
FEDERAL TAX I.D. NUMBER	CITY/STATE/ZIP CODE
314-351-5500	K Y Lem - SALES MANAGER
TELEPHONE	SIGNATURE AND TITLE

BID FORM

To: The City of University City

The following bid is being submitted in response to your Invitation to Bid dated January 11, 2018.

	Tank Wagon	Transport
Description	*(OPIS Rack Average x Mark-Up)*	*(OPIS Rack Average x Mark-Up)*
Gasoline, unleaded, 87 octane	$1.8496 x $ +.0150 =$ 1.8646	$ 1.8496 x $ -.0115 =$ 1.8381

Estimated Usage: 100,000 gal Transport, 1,500 gal Tank Wagon

	(OPIS Rack Average x Mark-Up)	*(OPIS Rack Average x Mark-Up)*
Diesel Fuel B5 Blend	$2.1022 x $ +.0150 =$ 2.1172	$ 2.1022 x $ -.0150 =$ 2.0872

Estimated Usage: 100,000 gallons Transport, 1,500 Tank Wagon

Description	*(OPIS Rack Average x Mark-Up)*
#2 Off- Road Diesel	$ ____ x $ +.0150 =$ ____

Minimum Deliveries:	Tank Wagon	Transport
Gasoline, unleaded	200	6500
#2 Diesel	200	6500
Bio Diesel Blend	200	6500
Charges if Minimum Delivery is not met	$ 150.00	$ 150.00

Payment Terms: Net 10

EXCEPTIONS: Minimum transport Loads can be met by combining Min 35 Deliveries Winter Additive will be an additional .0200/gal when needed

PLEASE CHECK IF BUSINESS IS: MINORITY OWNED___ WOMAN OWNED___
Minorities and females in work force assigned to carry out this contract: ____%

ITEM BID IS UNITED STATES MANUFACTURED, ASSEMBLED AND PRODUCED: YES✓ NO__
If "NO", please indicate which item(s) are foreign manufactured, assembled and/or produced.

_____

ALL STATE AND CITY TAXES DUE HAVE BEEN PAID: YES__ NO__

1/11/18	Evergy Petroleum Co
DATE	COMPANY
Net 10	2130 Kienlen Ave
TERMS	ADDRESS
43-0705844	St. Louis MO 63121
FEDERAL TAX I.D. NUMBER	CITY/STATE/ZIP CODE
314-383-3700	Commercial Fuel Manager
TELEPHONE	SIGNATURE AND TITLE

BID FORM

To: The City of University City

The following bid is being submitted in response to your Invitation to Bid dated January 11, 2018.

	Tank Wagon	Transport
Description	***(OPIS Rack Average x Mark-Up)***	***(OPIS Rack Average x Mark-Up)***
Gasoline, unleaded, 87 octane	$1.8504 + $ .055 = $ _____	$1.8504 + $ -.0125 = $ 1.8379

Estimated Usage: 100,000 gal Transport, 1,500 gal Tank Wagon

	(OPIS Rack Average x Mark-Up)	***(OPIS Rack Average x Mark-Up)***
Diesel Fuel B5 Blend	$2.0962 + $ .055 = $2.1312	$2.0762 + $ -0.01 = $ 2.0662

Estimated Usage: 100,000 gallons Transport, 1,500 Tank Wagon

Description	***(OPIS Rack Average x Mark-Up)***
#2 Off- Road Diesel	$2.0918 + $ .055 = $ 2.1468

Minimum Deliveries:	Tank Wagon	Transport
Gasoline, unleaded	150	8,000
#2 Diesel	150	7,000
Bio Diesel Blend	150	7,000
Charges if Minimum Delivery is not met	$ 150	$ 150

Payment Terms: Negotiable

EXCEPTIONS: See exceptions page

PLEASE CHECK IF BUSINESS IS: MINORITY OWNED___ WOMAN OWNED___
Minorities and females in work force assigned to carry out this contract: 50 **%**

ITEM BID IS UNITED STATES MANUFACTURED, ASSEMBLED AND PRODUCED: YES X NO__
If "NO", please indicate which item(s) are foreign manufactured, assembled and/or produced.

ALL STATE AND CITY TAXES DUE HAVE BEEN PAID: YES__ NO__

January 10th, 2018
DATE

Home Service Oil
COMPANY

Negotiable
TERMS

6910 Front Street
ADDRESS

43-0685457
FEDERAL TAX I.D. NUMBER

Barnhart, MO 63012
CITY/STATE/ZIP CODE

(636) 262-3801
TELEPHONE

Charles Bauman, Energy Partner
SIGNATURE AND TITLE

St. Louis, MO Daily 01/08/2018

OPIS Gross RFG Ethanol 10% Prices

		Terms	Unl	Mid	Pre
Shell	u	N-10	1.8326	2.0786	2.3126
Shell	b	125-3	1.7990	1.9408	2.2936
BP	b	1-10	1.8156	1.9706	2.2306
Hartford	u	N-10	1.7956	1.9429	2.1856
Streett	u	N-10	1.7250	1.8950	2.1450
XOM	b	1-10	1.8165	1.9665	2.2265
HlyFrntr	u	N-10	1.8015	-- --	2.1815
PSX	b	1-10	1.7930	1.9546	2.2071
OPIS Low			1.7250	1.8950	2.1450
OPIS High			1.8326	2.0786	2.3126
OPIS Average			1.7974	1.9641	2.2228
Branded Low			1.7930	1.9408	2.2071
Branded High			1.8165	1.9706	2.2936
Branded Average			1.8060	1.9581	2.2395
Unbranded Low			1.7250	1.8950	2.1450
Unbranded High			1.8326	2.0786	2.3126
Unbranded Average			1.7887	1.9722	2.2062

St. Louis, MO Daily 01/08/2018

OPIS Gross B5 SME Prices

		Terms	ULS No.2	ULS Pre	ULS2 RD	ULS2P RD
Hartford	u	N-10	2.0514	2.0714	2.0549	2.0749
Growmark	u	N-10	2.0492	-- --	2.0527	-- --
OPIS Low			2.0492	2.0714	2.0527	2.0749
OPIS High			2.0514	2.0714	2.0549	2.0749
OPIS Average			2.0503	2.0714	2.0538	2.0749
Unbranded Low			2.0492	2.0714	2.0527	2.0749
Unbranded High			2.0514	2.0714	2.0549	2.0749
Unbranded Average			2.0503	2.0714	2.0538	2.0749

St. Louis, MO Daily 01/08/2018

OPIS Gross No. 2 Red-Dyed Distillate Prices

		Terms	LS	ULS
Cenex	b	1-10	-- --	2.0728
Sinclair	u	1-10	-- --	2.1060
Sinclair	b	1-10	-- --	2.1060
Shell	u	N-10	-- --	2.0733
BP	b	1-10	-- --	2.0880
Apex	u	N-10	-- --	2.0730
U.S. Oil	u	N-10	-- --	1.5644o
Center	u	N-10	-- --	2.1000
Hartford	u	N-10	-- --	2.0405
Streett	u	N-10	-- --	2.0650
HlyFrntr	u	N-10	-- --	2.0965
PSX	b	1-10	-- --	2.0814
OPIS Low			-- --	2.0405
OPIS High			-- --	2.1060
OPIS Average			-- --	2.0820
Branded Low			-- --	2.0728
Branded High			-- --	2.1060
Branded Average			-- --	2.0871
Unbranded Low			-- --	2.0405
Unbranded High			-- --	2.1060
Unbranded Average			-- --	2.0792

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: Drone Program Presentation

AGENDA SECTION: City Managers Report

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

City Council briefing and presentation on the proposed use of a Drone program in University City.

ATTACHMENTS:

- Drone sUAS Program Presentation

City Of University City Missouri

UNIVERSITY CITY sUAS PROGRAM

City Council Briefing
Strategic Planning Session

DRONE PROGRAM PROPOSED USES

- Fire Fighting
- Search and Rescue
- Site Evaluation and Pre Planning for Incidents
- Suspect Recovery
- Code Enforcement
- Evidence Collection
- Over watch for Police, Fire and Code Enforcement activities
- Public Relations Photos and Coverage
- Capturing Footage of Events in University City
  - Fair U-city
  - Runs and other events

CURRENT STATUS AND READINESS

- Fire Department currently has 2 Training Drones
- FAA account has been established for drone registration and waiver application
- Fire Department is currently training 3 FAA type 107 certified pilots and is planning on 3 more by July. (Allowing two pilots for each on duty crew)
- Department Standard Operating Procedures are in place and being refined
- Police and Fire and discussing appropriate integration of drone program for joint Fire/Police team operations
- Pilots are having hands on practice with the training drones
- Currently coordinating with other departments with drone programs to train together in current tactics and skills

CURRENT STATUS AND READINESS

- Department is refining SOGs for Operations
- Planning for Rapid Deployment Capability
- Department is writing SOP's for
  - Daily Maintenance
  - Readiness Checks
  - Pre Flight Inspections
  - Post Flight Inspections
  - Ongoing Care, Maintenance and Repairs
  - Cataloging and Maintaining Flight Records and Videos

TRAINING DRONES

- DJI Mavic Pro drones
  - 4k Cameras with up to 2x zoom capability
  - DJI refresh program – Insurance that will repair or replace drones for 1 year while training new pilots
  - Same command and control system as the commercial tactical drone

TRAINING DRONES

- Safety
  - Redundant gyroscopes and compasses
  - Smart Battery system
  - GPS location and self awareness
  - Mapping and record keeping
  - Occusync Remote Control System
    - 4.3 mile range
    - Secure
  - Return to Home Feature

THE NEXT STEP: MATRICE 210

PROPOSED AIRFRAME FOR PROGRAM

- DJI Matrice 210 dual camera commercial sUAS
  - Thermal Imaging Camera
  - Z30 zoom camera
  - Sense and Avoid Sensors
  - ADB Aircraft Reciever
  - FPV Camera
  - Redundant flight systems
  - Dual battery system redundancy
  - Heated Batteries (cold weather)
  - IP43 military grade
  - Same flight system as trainers
  - Expansion Ports (Haz Mat Sensors)
  - Safe and Reliable

XT THERMAL IMAGING CAMERA

- Thermal Imaging
- Automated Hotspot Identification
- Temperature Isolation
- Real time Command Information
- Rapid location of missing persons / suspects on foot in dangerous environments

Z30 OPTICAL ZOOM CAMERA

- 30x Optical zoom with 6x digital zoom
- Allows for stand off observation and greater effectiveness in Search and Rescue

WHY THE MATRICE AIRFRAME?

- DJI is current market leader in Commercial and Retail Drones
- Matrice Airframe is IP43 certified for water and dust infiltration, making it extremely durable for various missions
- System is capable of transmitting video of incidents to commanders and decision makers, giving a previously unavailable tool - Real time decision making
- This airframe uses the same controls and software that our training drones use. Skills and tactics can be learned with an insured drone costing considerably less than the tactical drone. These learned skills and tactics are directly applicable to the Tactical Drone system
- This system has the most safety and capabilities built in of any of the other systems we have researched

WHAT IS NEXT?

- Selection and Acquisition of Tactical Drone system
- Based upon the features of our system, the FAA will allow for:
  - Flying beyond 400 ft altitude
  - Flying beyond line of sight
  - Flying beyond daylight hours
  - Flying over people
- Ongoing Tactical Training for the Fire and Police department on current best practices for sUAS operations
- Ongoing refinement of SOGs related to sUAS operations
- Ongoing Operational development
  - Rapid Deployment Protocols
  - Planned Deployment Protocols
  - Checklists
  - Record Storage
  - Program Administration

QUESTIONS

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: St. Louis County Municipal Park Construction Grant – Consulting Services Agreement – Majerus Park

AGENDA SECTION: City Manager's Report

CAN THIS ITEM BE RESCHEDULED?: Yes

BACKGROUND:

In December of 2015, with the approval of City Council, the City received a Municipal Park Grant to hire a consultant to update the Majerus Park Master Plan. After surveying residents and users of the parks, meeting with the Park Commission and two (2) Public Meetings, a revised Master Plan for Majerus Park was presented to the Park Commission for approval.

In July of 2016 the Park Commission recommended approval of the new Master Plan for Majerus Park, and in August of 2016 it was approved by City Council.

In late August of 2017, with a recommendation from the City Park Commission and approval from City Council, City staff submitted an application for a St. Louis County Municipal Park Construction Grant in order to complete Phase I of construction in Majerus Park. In December of 2017, City staff received notification that the St. Louis County Municipal Park Construction Grant was awarded for Majerus Park.

Since receiving notice of award, staff contacted Planning Design Studio, a consultant pre-qualified by St. Louis County Municipal Parks Commission and the consultant that completed the Majerus Park Master Plan, requesting submittal of an agreement to complete all design, bidding, and construction services for the Majerus Park Phase I Improvements Project. This agreement with Planning Design Studio provides a compensation of $69,437.00 for design, engineering, bidding services, construction administration and surveying services. The St. Louis County Municipal Park Grant Commission will reimburse up to $69,437.00 of the contract amount.

RECOMMENDATION:

Approval to grant authority to City Manager to sign and enter into this contract with the Consultant (Planning Design Studio).

ATTACHMENT:

1) Design-Construction Services Agreement
2) Fee Estimate Worksheet

Design Services Agreement

for Majerus Park Playground & Perimeter Trail Improvements

Project:	**Majerus Park Playground & Perimeter Trail Improvements**
Client or City:	**City of University City** (also referred to as the City or Client) **Department of Public Works** 6801 Delmar Boulevard University City, Missouri 63130
City's Contact:	Chris Kalter, Project Manager Phone: 314. 505.8548 Email: ckalter@ucitymo.org
Consultant:	**Planning Design Studio LLC** (also referred to as PDS) 727 North First Street – Suite 360 St. Louis, Missouri 63102
PDS Contact:	Noel T. Fehr, Principal Telephone: (314) 241 3600 (Ext 12)

1.0 PROJECT LOCATION & OVERVIEW:

The proposed project improvements are in Majerus Park, located on the northeast corner of Partridge Avenue and Raymond Avenue in University City, Missouri. The objective of this Agreement is the provision of professional design services by Planning Design Studio LLC (and sub-consultants) to the City of University City. These services shall include:

- Topographic site surveys of the park.
- Final Design & Construction Documents of the project improvements generally described as construction of a new playground, re-construction of the perimeter trail and associated improvements.
- Assisting the City during the bidding & construction periods.

The Project improvements are being funded through a Municipal Park Grant received by the City from the Municipal Park Grant Commission of St. Louis County. The Project improvements will generally follow the layout and descriptions included in the Majerus Park Master Plan (2016) and the Grant Application, with a construction budget in the range of $500,000 for these Improvements. The improvements will include the following items:

Playground Area Improvements

- Site preparation, erosion control, grading and drainage.
- Playground areas with equipment to serve children ages 2-5 years, 5-12 years and a swing set).
- An adult exercise area with outdoor fitness type equipment.
- Playground safety surfacing (ADA Accessible).
- Sidewalk and seating area (adjacent to playground) with benches, trash receptacles, bike rack.
- Site restoration and required water quality BMP's.

Perimeter Trail Improvements

- Site preparation, erosion control, grading and drainage.
- Concrete trail pavement meeting ADA requirements.
- Concrete stairs with handrail.
- Site restoration and required water quality BMP's.

2.0 SCOPE OF SERVICES: The Scope of Services includes the following items.

SURVEYS & DESIGN KICKOFF

1. Site Surveys: A topographic site survey and property boundary survey will be completed of Majerus Park (See Attachment "B" - Survey Scope of Services). Services will include establishing a survey benchmark on-site for use by the contractor during construction.

2. Project start-up and kick-off preparation:
    a. Review & confirm proposed facility improvement program and cost.
    b. Select and assemble "Cut Sheets" of manufactured products to be used.
    c. Identify site issue areas to be reviewed in the walk-thru.
3. Conduct a kick-off meeting and park walk-thru with City representatives to review and discuss:
    a. Schedules/milestones
    b. Project program elements, budget/cost items
    c. Other future site development as shown in the Master Plan
    d. Site conditions, issues, access and staging areas.
4. Contact MSD to discuss construction classification and Storm Water Quality BMP requirements.
5. Prepare base drawing sheets (22" x 34" full size – 11" x 17" half size).

PRELIMINARY DESIGN DEVELOPMENT

6. Based on the information taken from the Park Master Plan and input received from City representatives, prepare and submit 90% Preliminary Design Documents, including:
    a. Demolition Plan
    b. SWPPP Plan
    c. Park Development Plan
    d. Perimeter Trail Plan & Profile (multiple sheets at 1"=20')
    e. Trail Details
    f. Playground Area Enlargement Site Plan
    g. Playground & Site Construction Details
    h. JSP's, Specification and Marked-up City Front End documents
    i. Preliminary Design level cost estimate
7. Coordination with Utility companies and submit plans for review if required.
8. Prepare and make submittals to and coordinate with:
    a. MSD formal review process.
    b. Utility companies having facilities within the park
    c. Community Development Department for Building Code & SWPPP review.
9. Conduct a coordination meeting with City staff to review the Preliminary Design documents to receive comments and input before finalizing.

FINAL DESIGN & CONSTRUCTION/BID DOCUMENTS

10. Based on the comments and input received on the Preliminary Design documents and any further adjustments in the scope or budget of the project directed by the City, PDS shall prepare final construction documents consisting of drawings and technical specifications setting forth in detail the requirements for the construction of the Improvements for the project. The construction drawings are anticipated to be:
    a. Cover Sheet
    b. Notes, Abbreviations & Survey Reference Data
    c. Demolition Plan
    d. Park Development Plan
    e. Perimeter Trail Plans (multiple sheets at 1"=20')
    f. Trail Details
    g. Playground Area Enlargement Site Plan
    h. Playground & Site Construction Details
11. Prepare Job Special Provisions and technical specifications.
12. Revise the construction cost estimates to a final design level.
13. Coordinate with City staff to adjust/refine the City's standard front end contract documents.

14. Prepare and submit documents for agency review (including University City Building Department and MSD).
15. Submit pre-final construction drawings, specifications, and cost estimates for final review to the City.
16. Conduct a meeting with City Staff to review pre-final documents. Coordinate with bid dates with City Staff.
17. Based on input received from the above reviews, PDS will revise, finalize and submit final plans and specifications to the City for bidding. (final submittal to City will include one full size (22"x34"), two half-size (11"x17") and digital files (PDF's and AutoCAD files)

BIDDING

18. Assist the City during the bidding period with the following task.
    a. Provide digital files in PDF format on a CD with the Bid Documents (Drawings and Technical Specifications) to the City, who will forward these files to their bid document vendor (Drexel Technologies) who will distribute the Bid Documents to prospective bidders/contractors.
    b. Answer RFI questions and issue addendum (if required) during the bid period.
    c. Provide a bid sheet
    d. Provide a bid analysis, assist the City evaluate the bids and provide a recommendation for contract award.

CONSTRUCTION PERIOD SERVICES

19. Provide Construction Period Services to assist the City in the oversight of construction activities on the project during the construction period, anticipated to be about 6-months. The services include:
    a. Attend the Pre-Construction Meeting with Contractor and City staff;
    b. Review contractor preconstruction submittals and/or shop drawings for:
        i. Manufactured products and/or systems;
        ii. Proposed construction material certificates (i.e. aggregates, concrete, etc.);
        iii. Verification of benchmark elevation for use during construction;
        iv. Contractor's traffic control, site access/construction staging and erosion control plans;
    c. Review contractor's installed material testing reports (i.e. compaction test, cylinder test, etc.);
    d. Inspect traffic control signage, site access/construction staging and erosion control during construction for conformance with approved plans;
    e. Construction Observation by supplementing City review with construction oversight by conducting ± weekly site reviews;
    f. Review Contractor's Pay Request
    g. Responding to Request for Information (RFI's);
    h. Issue Change Orders during construction (if required);
    i. Complete a pre-final inspection and prepare a punch list;
    j. Conduct follow-up final inspection to verify completion of Punch List items.

3.0 CITY RESPONSIBILITIES. The CITY shall work with PDS to provide input and direction as requested, and provide the following items required for completion of the project:

- A contact person to issue instructions and authorizations to PDS.
- Provide necessary information/data for PDS to carry out the Scope of Services tasks, including current edition of City's front end documents.
- Bid advertisement(s) and distribution of bidding documents.

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- Payment of all required Agency review and permit fees.

4.0 SCHEDULE: PDS will coordinate with the City to identify mutually agreeable submittal dates, but generally the project is anticipated to be completed in the following schedule framework.

i)	Surveys & Schematic Design Program (Task 1 thru 5)	3 weeks
ii)	Preliminary Design Development (Task 6 thru 9)	3 weeks
iii)	Drawings for MSD Review (Task 14)	1 weeks
iv)	Final Bid Documents (Task 15 -17)	2 weeks
TOTAL SCHEDULE THUR FINAL BID DOCUMENTS		9 weeks
v)	Task 18 - Bidding Period Services	± 3 weeks
vi)	Review with City Staff & Council Approval	± 3 weeks
vii)	Task 19 - Construction Period Services	Approx. 24 weeks

5.0 COMPENSATION: The City will compensate PDS for the Scope of Services described above on a Lump Sum Fee basis in the amount of as follows:

a) Task 1 - 18 Survey & Design Services

Boundary Property & Topographic Surveys	$ 8,330.00
Final Design, Construction Documents & Bidding	$ 35,107.00
TOTAL SURVEY & DESIGN SERVICES	$ 43,437.00

b) Task 19 Construction Period Services ..... $ 26,000.00

TOTAL ..... $ 69,437.00

The Lump Sum Fee amounts include all costs including direct expenses required to complete the scope of work. Payment shall be made monthly upon submission of an invoice based on the percentage of the work completed in the preceding month. All invoices shall be due and payable within thirty (30) calendar days.

6.0 TERMS & CONDITIONS: Included as Attachment A - Standard Terms & Conditions.

7.0 ACCEPTANCE: The following authorized representatives hereby execute this Agreement and accept the terms and conditions herein.

Planning Design Studio LLC	**City of University City, Missouri**
Noel Fehr	
Signature	Signature
Noel T. Fehr	
Typed Name	Typed or Printed Name
Principal	
Title	Title
January 26, 2018	
Date	Date

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1. INTERPRETATION

This AGREEMENT, consisting of these standard terms and conditions and the terms/instructions typed on the face of this AGREEMENT together with the Exhibits attached hereto, and all documents, drawings, specifications and instructions specifically referred to herein and made a part hereof shall constitute the entire AGREEMENT between the parties, and no other proposals, conversations, bids, memoranda, or other matter shall vary, alter or interpret the terms hereof.

Failure of either party to exercise any option, right or privilege under this AGREEMENT or to demand compliance as to any obligation or covenant of the other party shall not constitute a waiver of any such right, privilege or option, or the performance thereof, unless waiver is expressly required in such event or is evidenced by a properly executed instrument.

2. SEVERABILITY

It is understood and agreed by the parties hereto that if any part, term, or provision with this AGREEMENT is held illegal or in conflict with any law having jurisdiction over any of the parties hereto, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the AGREEMENT did not contain the particular part, term, or provisions held to be invalid, unless the effect thereof would materially change the economic burden of or benefit to either party.

3. GOVERNING LAW

This AGREEMENT and the Attachments hereto shall be governed by and construed in accordance with the laws governing the location where the work is performed.

4. INDEPENDENT CONTRACTOR

In the performance of the services under this AGREEMENT, PLANNING DESIGN STUDIO (PDS) shall be an independent contractor, maintaining complete control of PDS's personnel and operations. As such, PDS shall pay all salaries, wages, expenses, social security taxes, unemployment taxes and any similar taxes relating to the performance of this AGREEMENT. PDS, its employees and agents shall in no way be regarded nor shall they act as agents or employees of the CLIENT.

5. CHANGES

The CLIENT, through its authorized representative, without invalidating this AGREEMENT, may order changes within the general scope of the services required by this AGREEMENT by altering, adding to and/or deducting from the services to be performed. If any changes under this clause cause an increase or decrease in PDS's cost of, or the time required for, the performance of any part of the work under this AGREEMENT, an equitable adjustment shall be made by mutual AGREEMENT and the AGREEMENT modified in writing accordingly. All such changes in the Services shall be in writing and shall be performed subject to the provisions of this AGREEMENT.

6. STOP WORK ORDER

CLIENT may at any time, by written notice to PDS, require PDS to stop all or any part of the work called for by this order for a period of up to ninety (90) days after the notice is delivered to PDS ("Stop Work Order"). Upon receipt of the Stop Work Order, PDS shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of ninety (90) days after a Stop Work Order is delivered to PDS, or within any extension of that period to which the parties have agreed, CLIENT shall either cancel the Stop Work Order, or terminate the work covered by this order as provided in the "Termination" paragraphs of this AGREEMENT. PDS shall resume work upon cancellation or expiration of any Stop Work Order. An equitable adjustment shall be made in the delivery schedule or prices hereunder, or both, and this AGREEMENT shall be modified in writing accordingly. If the Stop Work order results in an increase in the time required for the performance of this order or in PDS's costs properly allocable thereto, PDS may stop work, at its sole option, if CLIENT fails to make payment of PDS invoices within 30 days of receipt as required by Article 17 below.

7. TERMINATION.

A. The CLIENT may terminate this AGREEMENT in the whole or in part at any time by written notice to PDS. Such termination shall be effective in the manner specified in the said notice, shall be without prejudice to any claims which the CLIENT may have against PDS and shall be subject to the other provisions of this AGREEMENT. On receipt of such notice PDS shall, except as and to the extent directed, immediately discontinue the services and the placing of subcontractor orders for materials, facilities and supplies in connection with the performance of the services, and shall, if requested, make every reasonable effort to procure termination of existing subcontracts upon terms satisfactory to the CLIENT. Thereafter, PDS shall do only such work as may be necessary to preserve and protect the services already in progress and to dispose of any property as requested by the CLIENT.

B. A complete settlement of all claims of PDS upon termination of the AGREEMENT, as provided in the preceding paragraph, shall be made as follows: (A) the CLIENT shall assume and become liable for all obligations and commitments that PDS may have in good faith undertaken or incurred in connection with the services which have not been included in prior payments; (B) the CLIENT shall compensate PDS for the reasonable cost of terminating existing subcontracts and preserving, protecting or disposing of the CLIENT's property and performing any other necessary services after the notice of termination has been received; and (C) the CLIENT shall pay PDS for all Services performed, prior to the date of termination, in accordance with this AGREEMENT. Prior to final settlement, PDS shall deliver to the CLIENT all Documents and all other required information and data prepared by PDS under this AGREEMENT and execute and deliver all documents, and take such other steps as are necessary, to vest fully in the CLIENT the rights and benefits of PDS arising from subcontracts issued in connection with this AGREEMENT, unless otherwise requested by the CLIENT in writing.

8. STANDARD OF CARE

PDS and its employees, independent professional associates, subconsultants, and subcontractors will exercise that degree of care and skill ordinarily practiced under similar circumstances by design professionals providing similar services. CLIENT agrees that services provided will be rendered without any warranty, express or implied. PDS shall exercise usual and customary professional care in its efforts to comply with applicable codes, regulations, laws rules, ordinances, and such other requirements in effect as of the date of execution of this AGREEMENT.

9. INDEMNITY

PDS shall indemnify and hold the CLIENT harmless from and against claims, liabilities, suits, loss, cost, expense and damages arising from any negligent act or omission of PDS in the performance of work and service pursuant to this AGREEMENT. PDS's liability for all of the aforesaid matters shall not exceed the total compensation received by PDS under this agreement.

To the fullest extent permitted by law, CLIENT shall defend, indemnify and hold harmless PDS and its subcontractors from and against claims, liabilities, suits, loss, cost, expense and damages arising from any negligent act or omission of CLIENT (and/or its subcontractors) in the performance of CLIENT'S work and service pursuant to this AGREEMENT.

10. FORCE MAJEURE

The respective duties and obligations of the parties hereunder (except the CLIENT's obligation to pay PDS such sums as may become due from time to time for services rendered by it) shall be suspended while and so long as performance thereto is prevented or impeded by strikes, disturbances, riots, fire severe weather, government action, war acts, acts of God, acts of the CLIENT, or any other cause similar or dissimilar to the foregoing which are beyond the reasonable control of the part from whom the affected performance was due.

11. ASSIGNMENTS

All obligations and covenants herein contained shall be intended to be binding upon the successors and assigns of PDS and the CLIENT. PDS shall not assign this AGREEMENT without the prior written consent of the CLIENT, which consent shall not be unreasonably withheld.

12. CONSEQUENTIAL DAMAGES

Neither the Client nor PDS shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the project or this agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings, or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

13. INSURANCE

PDS shall maintain the following insurance and at the CLIENT's request, PDS shall deliver to CLIENT certificates of insurance coverage.

A. Workers' Compensation and Employer's Liability insurance:

- Workers' Compensation in compliance with the applicable laws.
- Employer's Liability. Limit $1,000,000

B. Comprehensive General Liability Insurance including Blanket Contractual, Broad Form Property Damage, Complicated Operations and Independent Contractor's Liability all applicable to Personal Injury, Bodily Injury and Property Damage to a combined single limit of $1,000,000 each occurrence subject to $2,000,000 annual aggregate for Completed Operations and Personal Injury other than Bodily Injury.

C. Comprehensive Automobile Liability Insurance including owned, hired and non-owned automobiles, Bodily Injury and Property Damage to a combined single limit of $1,000,000 each occurrence.

D. Architects & Engineers Professional Liability Insurance affording, professional liability, if any, to a combined single limit of $1,000,000 each occurrence/claim, subject to $1,000,000 annual aggregate.

14. ACCEPTANCE BY CLIENT

The WORK shall be deemed accepted by CLIENT unless, within fifteen (15) days after receipt of PDS's written notification of final completion, CLIENT will have given PDS written notice specifying in detail wherein the WORK is deficient, whereupon PDS will promptly proceed to make necessary corrections and, upon completion, the Work shall be deemed accepted by CLIENT.

15. CLIENT FURNISHED DATA, DRAWINGS AND SPECIFICATIONS

PDS shall have no liability for defects in the work attributable to PDS's reliance upon or use of data, design criteria, drawings, specifications or other information furnished by CLIENT and CLIENT agrees to indemnity and hold PDS harmless from any and all claims and judgments, and all losses, costs and expenses arising there from. PDS shall disclose to CLIENT prior to use thereof, defects or omissions in the data, design criteria, drawings, specifications or other information furnished by CLIENT to PDS that PDS may reasonably discover in its review and inspection thereof.

16. OWNERSHIP & REUSE OF DOCUMENTS

All documents including plans, reports, drawings and specifications prepared by PDS pursuant to this AGREEMENT are instruments of its services in respect of the PROJECT, and become the property of the Client upon meeting the AGREEMENT terms. The documents are not intended or represented to be suitable for reuse by CLIENT or others on extension of the PROJECT or on any other project. Any reuse without specific written verification or adaptation by PDS will be at CLIENT's sole risk and without liability or legal exposure to PDS, and CLIENT shall indemnify and hold harmless PDS from all claims, damages, losses and expenses including attorney's fees arising out of or resulting there from. Any such verification or adaptation will entitle PDS to further compensation at rates to be agreed upon by CLIENT and PDS.

17. INVOICING & PAYMENTS.

Invoices are due and payable within 30 days after receipt. Interest at the rate of 1½% per month is due on all payments not paid on or before the 45th day after the invoice date. Interest shall be computed from the date of the invoice. In the event legal proceedings are necessary to collect payments not paid when due, CLIENT shall pay, in addition to such payments, PDS's reasonable attorney's fees and legal costs associated therewith.

In addition, PDS may, after giving seven days written notice to CLIENT, suspend services under this AGREEMENT until PDS has been paid in full all amounts due for services, expenses and charges. The contract value shall be increased accordingly by the amount of PDS's reasonable costs of shut down, delay and start up, which shall be effected by Change Order in accordance with Article 5, above.

If CLIENT disputes any portions of a request for payment, CLIENT shall pay the undisputed portion of such request as provided herein and shall promptly notify PDS of the amount in dispute and the reason therefore. Any portion of the disputed amount, which is ultimately agreed upon by CLIENT and PDS, to be owed to PDS, shall accrue interest at the rate and commencing upon the date stipulated in this Article.

Unless otherwise specified on the face page of this AGREEMENT, invoices will not require support documentation.

18. EQUAL EMPLOYMENT OPPORTUNITY

The Non-Discrimination clause contained in Section 202, Executive Order 11246, as amended, relating to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, or national origin and the implementing rules and regulations prescribed by the Secretary of Labor (41 CFR, Chapter 60, 41 CFR 60-250 and 41 CFR 60-741 are incorporated herein.

19. ORDER OF PRECEDENCE

Any inconsistency or conflict between the standard terms and conditions set forth therein and those typed on the face of this AGREEMENT or any attachment thereof shall be resolved by giving precedence in the following order: First, typed instructions and/or conditions on the face of this AGREEMENT; Second, the Standard Terms and Conditions; and Third, the attachment(s) (if any) attached hereto.

20. DISPUTE RESOLUTION

Prior to the initiation of any legal proceedings, the CLIENT and PDS agree to submit all claims and disputes arising out of this AGREEMENT to non-binding mediation. Mediation shall be conducted under the auspices of mediation upon which the parties agree. The party seeking to initiate mediation shall do so by submitting a formal written request to the other party to this AGREEMENT. This provision shall survive completion or termination of this AGREEMENT; however, neither party shall seek mediation of any claim or dispute arising out of this AGREEMENT beyond the period of time that would bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law.

21. HAZARDOUS MATERIAL

The scope of PDS's services for this agreement does not include any responsibility for detection, remediation, accidental release, or services relating to waste, oil, asbestos, lead, or other hazardous materials, as defined by Federal, State, and local laws or regulations.

Attachment "B"
Survey Scope of Services

Sabur, Inc.
1751 Ashby Road
St. Louis, MO 63114

Ph: 314-428-1414
Fax: 314-428-6082
www.sabur-inc.com

Professional Surveyors Development Consultants

July 12, 2017

Noel Fehr
Planning Design Studio
727 North First Street, Suite 360
St. Louis, Missouri 63102
241-3600, Fax: 241-3601, C: 636-222-0868
noelfehr@planningdesignstudio.com

RE: Majerus Park
University City, MO

Dear Mr. Fehr:

Thank you for the opportunity to provide a proposal for professional surveying services for the above referenced site. Our services would include the following:

Case #1:
TOPOGRAPHIC SURVEY:

Majerus Park (as identified on the exhibit previously provided by Planning Design Studio to Sabur, Inc. and attached.)

Included in the topographic survey will be items as defined in your request dated July 29, 2017. Sabur, Inc. will pick up items such as;
Tops and toes of terraces, swales, drainage pipes visible at-grade utilities, utility poles, paved paths, walks, guy wires, gravel road, retaining walls, buildings, sheds, signs, trees and tree masses, pond area, pavement improvements, street driving pavement to opposite curb, etc... Contours will be 1' intervals.

The deliverable will be in AutoCAD Civil 3D electronic format with (2) signed and sealed prints provided to the client.

Case #2:
TOPOGRAPHIC SURVEY/BOUNDARY SURVEY:

Sabur, Inc. will provide the topographic survey as stated in the Case 1 scenario above and also a boundary survey of the park. Sabur, Inc. will merge (blend) topographic survey information and contours with the boundary survey work.

The deliverable will be in AutoCAD Civil 3D electronic format with (2) signed and sealed prints provided to the client.

The fee for the Topographic Survey/Boundary Survey will be: $8,330.00

PDS Planning Design Studio

PLANNING DESIGN STUIDO — Fee Estimate Form

Job # **JXXXX** — **Majerus Park**

FEE ESTIMATE

MAJERUS PARK PLAYGROUND & PERIMETER TRAIL IMPROVEMENTS

WBS	Task	Assumptions	Principal	Sr. Professional	Professional	Jr. Professional	Technical/CAD	Clerical/Word Proc		Total Hours		$		%
			$140.80	$120.50	$ 90.86	$ 60.96	$ 63.19	$ 69.60						
SURVEY & DESIGN Task 1 - 17														
	Surveys & Design Kickoff													
1		Survey - Topographic & Boundary (Subconsultant: Sabur Inc.)								0		$ 8,330		19%
2 - 4		Design Program Kickoff Preparation, Meeting & Walk Thru	8		20					28		$ 2,944		7%
5		Base Drawing Preparation			12					12		$ 1,090		3%
6 - 9	Preliminary Design - 90% Drawings, JSP's/Specs & City Front End		16		160	80				256		$ 21,666		50%
10 - 17	Final Design & Construction/Bid Documents		12		64	16				92		$ 8,480		20%
18	Bidding		4		4					8		$ 927		2%
										0		$ -		0%
	Total Task 1 - 18		**40**	**0**	**260**	**96**	**0**	**0**		**396**			**$ 43,437**	**100%**
CONSTRUCTION PERIOD SERVICES - Task 20 & 21														
19	Construction Period Services													
		Pre-Construction, Site Review Meetings (±20 visits)	40		40					80		$ 9,266		36%
		Review Submittals & Shop Drawings	16		60					76		$ 7,704		30%
		RFI's & Change Orders	20		40					60		$ 6,450		25%
		Punch List & Follow-up Inspections	8		16					24		$ 2,580		10%
	Total Task 19		**84**	**0**	**156**	**0**	**0**	**0**		**240**			**$ 26,000**	**100%**
TOTAL			**124**	**0**	**416**	**96**	**0**	**0**		**636**		$ 69,437	**$ 69,437**	

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: Kingsland Bridge Reconstruction Project Contract Award

AGENDA SECTION: City Manager's Report

CAN THIS ITEM BE RESCHEDULED?: YES

The Kingsland Avenue Bridge Reconstruction Project will remove and reconstruct remaining superstructure sections under Kingsland Avenue from just north of Etzel Avenue to just south of Bartmer Avenue and under the alley between Bartmer and Chamberlain Avenues.

This project was advertised on October 26, 2017 in the St. Louis American newspaper and the project was published on MoDOT's and City of University City's websites. On November 21, 2017 the City opened bids for the above referenced project and received and reviewed six (6) bids. The lowest bidder is Raineri Construction. The bid amount is $ 1,545,379.75. The bid results are as follows:

Company	Bid Amount
Raineri Construction	$1,545,379.75
R.V Wagner	$1,560,971.30
Millstone Weber	$1,627,000.00
KCI Constrcution	$1,628,809.80
Gershenson Co.	$1,725,220.00
Kozeny Wagner	$2,206,737.70

This Project is funded by a grant administered by East-West Gateway Council of Governments to cover seventy two percent (72%) or $1,108,037.28. The City's match is twenty eight percent (28%) or $437,342.47. The City has budgeted a total of $430,400.00 for the construction phase of this project and remaining funds of $6,942.27 is proposed to be expended from the 12-Capital Improvements Sales Tax Fund Reserve.

The Disadvantage Business Enterprise (DBE) participation requirement for this project is fourteen percent (14%). The low bidder Raineri Construction has committed to meet or exceed that goal and all its documentation will be submitted to the MoDOT's External Civil Rights for an approval. Raineri Construction, as part of a construction contract award, also agrees with the City of University City's workforce diversity requirements, as codified. Raineri Construction has previously completed other Capital Improvement Program projects in University City, and worked cooperatively with the University City citizens and staff on resolutions of any issues that arose during the construction phases of those projects. Our background reference review of this contracting company also revealed acceptable results for concrete and vertical construction project quality and execution, although Raineri Construction doesn't have previous bridge project experience.

RECOMMENDATION: The City Manager recommends that the contract be awarded to Raineri Construction. This contracting company is the lowest bidder and is on a list of approved contractors by the Missouri Department of Transportation (MoDOT). The department of public works has a contract with an engineering consulting firm for construction observation and administration services for oversight on the project, as well as the department's own staff that will provide construction inspections.

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: Compensation & Classification Analysis Study

AGENDA SECTION: City Manager's Report

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The City is in need of having a compensation and classification analysis study. The City last engagement in a review of its compensation plan was unknown, but it has to be approximately twelve years or more. The current pay plan has remained largely unchanged with the exception of adjusting 2% in cost of living to all the steps of each pay grade for five years.

Staff is drafting a Request for Proposal (as attached) seeking the qualified firms to conduct this study. Based on the information obtained from a few municipalities nearby that completed the similar study, the cost of this study is estimated to be approximately $50,000. Since a large number of the positions in this study involved a majority of Police Officers and Firefighters, it is recommended that $25,000 may be funded by the Public Safety sales tax revenue and the remaining $25,000 is recommended to be transferred from the General Fund reserve. The following is the list of those municipalities cost study:

City of Maricopa, AZ	Compensation & Classification Study	$	75,000
City of Clayton, MO	Compensation & Benefit		28,000
City of Chesterfield, MO	Compensation & Benefit		22,000

RECOMMENDATION: Staff recommends approving a budget of $50,000 to fund a Compensation & Classification Analysis Study.

ATTACHMENT: Draft RFP for Compensation and Classification Analysis Study

CITY OF UNIVERSITY CITY
REQUEST FOR PROPOSALS
COMPENSATION AND CLASSIFICATION ANALYSIS STUDY

PROPOSALS DUE BY
5:00 PM ON FRIDAY, XXXX, 2018

Introduction

The City of University City, Missouri, is requesting proposals from qualified firms to conduct a Compensation & Classification Analysis Study for the City.

Five (5) copies of the proposal, clearly marked on the outside of the envelope "City of University City Compensation & Classification Study" shall be delivered no later than 5:00 PM on Friday, xxxx, 2018 to the Finance Department, City of University City, 6801 Delmar Blvd., University City, Missouri 63130.

No proposals will be accepted after that date and time. Staff anticipates a recommendation to City Council on Monday, xxxx, 2018.

The City of University City reserves the right, at its sole discretion, to reject any or all proposals submitted. Any inquiries concerning the proposal process should be directed to Kellie Cannon, Human Resources Manager, no later than 5:00 PM on xxxx, 2018. Ms. Cannon can be reached at 314-505-8532 or at kcannon@ucitymo.org

During the evaluation process, the City of University City reserves the right to request additional information and clarifications from vendors submitting under this proposal. Proposals submitted in response to this Request for Proposal shall be valid for a period of ninety (90) days from the submission deadline of xxxx, 2018 and may not be withdrawn or modified by vendors prior to that date.

Submission of a proposal indicates acceptance by the firm of the conditions contained herein unless exceptions are clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of University City and the firm selected.

Scope of Services Requested

The successful proposer will, in accordance with the highest ethical, legal and professional standards, provide a compensation and benefits study that includes, but is not limited to, the following components:

Initial Meeting

To meet with the City's Management Team and other key advisors to the project. The purpose of the meeting is to:

1) Confirm the goals and objectives of the study
2) Review the City's current compensation and classification structures, as well as the reasons for this project

3) Finalize the timeline and specific dates for deliverables
4) Establish parameters and protocols for keeping the Management team updated and informed
5) Identify all comparable businesses and public entities in the metropolitan area used for comparison for survey purposes
6) Identify data or information needed to support the overall assignment
7) Conduct a comprehensive employee benefit investigation for each of the distinctly identified markets. Benefits include but are not limited to:
    a. Paid leave: vacation, sick leave, compensated time and holidays
    b. Retirement plans: defined benefit vs. defined contribution, employer and employee contribution percentages
    c. Employer provided: medical insurance, employer and employee paid premium
    d. Other insurance plans: workers compensation, disability and group life

Conduct Public Presentation

In addition to the initial meeting with the City's Management Team, the successful firm will have a minimum of two public presentations during which it is expected that the firm will participate in a question and answer session with the elected officials. The first presentation will include a review of the process and comparable city criteria. Findings and recommendations will be presented at the second meeting.

Proposal Requirements

All proposals shall include, at a minimum, the following information:

1) Listing of firm background and representative clients.
2) Listing and resumes of staff to be assigned to the project.
3) Outline of firm experience with the subject matter of the assignment.
4) General description of the firm's approach to completing the project.
5) Identify the process to be used in collecting data on salary and benefits from comparison organizations (both public and private) and any process or technique to normalize the data between comparison organizations of differing sizes or services levels.
6) Proposed time schedules for completion of project.
7) A written disclosure of any conflicts of interest.
8) Professional fee proposal including fee schedule for additional services.
9) Payment schedule for professional fees.
10) Proposed Contract form between City and Consultant.

In addition, any additional information relating to the firm's specific qualifications for this assignment, including appropriate documents which display experience such as similar program designs, program implementations, etc., will be considered.

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Evaluation of Proposals

All proposals received will be reviewed to determine compliance with the requirements of the RFP. Primary factors in the evaluation include, but are not necessarily limited to:

1) Firms' demonstrated experience in providing similar services to clients as identified in the Scope of Work.
2) Vendor staff demonstration of qualifications and expertise regarding relevant experience with.
3) The firm's ability to provide the requested services as demonstrated in the proposal.
4) Firm's past record of performance with respect to the quality of work and ability to meet stated timelines.
5) The proposed project timeline.
6) Proposed Fees.

Use of Documents

All of the documents, reports and work papers prepared or furnished by the consultant under this agreement shall become the property of the City of University City upon completion or termination of this agreement and shall be considered "open records" under the Sunshine Law except to the extent that the vendor shall request that certain processes or work papers shall be considered proprietary information. Such designations of proprietary work product must be detailed in your proposal.

Background

The City of University City, Missouri, is a 100 year-old inner ring suburb abutting the City of St. Louis. It has a population of 35,371 and is surrounded by established municipalities. It is near major transportation corridors such as I-64, I-170 and I-70. The City offers a variety of services such as police, fire protection, community development, public works, refuse collection and recreation services. The area is substantially developed and is predominantly residential.

The City has a charter which governs its operations. The form of government outlined in the charter is a Council - Manager form of government, led by the Mayor and seven Council members. The City Manager, as Chief Operating Officer, is responsible for daily operations of the City.

FY 2018 budget covers 245 full-time positions including 79 commissioned police officers. The adopted FY 2018 General Fund budget is $24.4 million. Personnel-related expenditures (salary

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and benefits) total 68.3% of General Fund expenditures. City Council has been giving all employees a 2% cost of living increase for the past five years.

Every City position has been assigned a pay grade. These pay grades, which consist of mostly five steps, a few pay grades consist six steps. On July 1st of each year, the pay ranges are adjusted by the same percentage of cost of living so that the City's pay grades keep pace with inflation.

Generally, when the City hires an employee for a new or vacated position, they are hired at the lowest step pay for that position unless approved by the City Manager. Employees are considered as probation employee for a minimum of six months until their first performance evaluation to release from the probationary status. During these six months they will accrue vacation and sick leave, but are not eligible to take until they complete the probationary period.

After one full year of service, employees are eligible for a step increase. The supervisor, with review by the department head, completes an evaluation and provides a numerical performance rating. The employee's performance score, along with additional input/information for consideration from their supervisor.

After employees have completed their initial probationary year and received their first merit review as of their employment anniversary, subsequent performance reviews occur annually on July 1st.

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Department	Number	Job Titles
Legislative	1	City Clerk
Administration	2	City Manager Secretary to City Manager
Administrative Services	8	Director of Finance Financial Analyst Senior Accountant Accountant Account Payable Specialist Accounting Clerk Financial Administrative Assistant Print Shop Operator
Human Resources	1	Human Resources Manager
Information Technology	1	IT Coordinator
Municipal Court	3	Court Administrator Court Clerk (2)
Police	98	Police Chief Police Captain (2) Police Lieutenant (4) Police Sergeant (6) Police Officer (66) Supervisory Dispatcher (3) Administrative Support Assistant Executive Secretary to Chief Dispatcher (9) Crime Analyst / Grant Writer Advanced Clerk Typist (3) Parking Controller
Fire	35	Fire Chief Assistant Fire Chief Battalion Chief (3) Paramedic Fire Captain (6) Paramedic Firefighter (24)

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Public Works	Administration & Engineering 8	Director of Public Works and Parks Senior Public Works Manager Project Manager II (2) Project Manager I (2) Executive Secretary to Department Director Advanced Clerk Typist
	Street Maintenance 12	Streets Superintendent Crew Leader (2) Heavy Equipment Operator (3) Equipment Operator (4) Labor/Light Equipment Operator (2)
	Park and Forestry Maintenance 18	Park Superintendent Forestry Supervisor Crew Leader (3) General Maintenance Worker (3) Heavy Equipment Operator Tree Trimmer (2) Equipment Operator (5) Labor/Light Equipment Operator (2)
	Golf 3	Golf Maintenance Superintendent Golf Manager Equipment Operator
	Fleet Maintenance 6	Fleet Manager Lead Mechanic Mechanic (4)
	Solid Waste Management 14	Sanitation Superintendent Crew Leader (2) Heavy Equipment Operator (10) Laborer
Community Development	CD Operation 19	Director of Community Development Deputy Director of Community Development Deputy Director of Economic & Community Development Senior Plans Examiner/Deputy Building Commissioner Planner (2) Multi-Discipline Inspector (5) Inspector II (3) Inspector I Executive Secretary to Department Director Advanced Clerk Typist (3)

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	Facilities Maintenance 9	Facilities Maintenance Worker Custodian (6) General Maintenance Worker (2)
	Recreation 4	Deputy Director of Recreation Recreation Supervisor II (2) Recreation Supervisor I
	Economics Development 1	Economic Development Manager

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RESOLUTION 2018 – 2

WHEREAS, it is incumbent upon the City Council of University City to do all it can to preserve the integrity of the election process and the conduct of City government, a goal embodied in the Municipal Code of University City, Section 110.040, which is attached to this resolution; and

WHEREAS, it is important that the residents of University City have faith that their elected officials are working solely for their benefit and for the benefit of the City of University City; and

WHEREAS, the members of the City Council want to encourage broad-based citizen participation in the financing of local elections; and

WHEREAS, University City voters should know who is making financial donations to candidates for City Council; and

WHEREAS, this City Council supports the writing and passage of an ordinance relating to the financing of local elections and a code of ethics for elected officials; and

WHEREAS, until such time as such an ordinance is written and approved by the City Council, the members of this Council agree to the following, which are in line with the size of our community and the range of socioeconomic levels within University City.

1.) All candidates for City Council must file reports of their campaign contributions and expenditures with the Missouri Ethics Commission, so that such reports are easily available and accessible on-line to all residents.
2.) No candidate for City Council shall accept financial contributions from organizations, businesses or individuals in excess of $500 per donor per campaign cycle.
3.) No candidate for City Council shall accept financial or in-kind donations to their campaign from any organization, business or individual that/who has a business or other financial relationship with the City of University City.
4.) For any and all votes that involve an organization, business, or individual that/who has contributed to a Councilmember's previous or current campaigns for City Council, that member will be required to recuse him/her self from such votes and pertinent arguments.

NOW THEREFORE BE IT RESOLVED, this resolution shall guide the actions of this Council until such time as the City Council approves an ordinance related to a code of ethics for elected officials and the financing of political campaigns for City Council of University City. This ordinance shall include the provisions noted above, and other provisions as deemed appropriate, and as may be found in the documents attached to this resolution from the cities of St. Louis, Albuquerque, San Diego, Oakland, Philadelphia, and the State of Michigan.

WHEREOF, we have hereunto set our hands and caused the Seal of the City of University City to be affixed this 12th day of February in the year Two Thousand and Eighteen.

(SEAL)

_____	_____
Mayor Shelley Welsch	Councilmember Terry Crow
_____	_____
Councilmember Rod Jennings	Councilmember Michael Glickert
_____	_____
Councilmember Paulette Carr	Councilmember Bwayne Smotherson
_____	_____
Councilmember Steve McMahon	ATTEST, LaRette Reese, City Clerk

ARTICLE I
City Council

Section 110.010. City Council Generally. [R.O. 2011 §2.02.010; Code 1950 §101.1; Prior Code §2-1]

The members of the City Council shall be elected, shall have the qualifications and powers and shall perform the duties prescribed by Article II of the Charter.

Section 110.020. Rules Governing Proceedings. [R.O. 2011 §2.02.020; Code 1950 §101.2; Prior Code §2-2]

The Council shall adopt rules governing the time of its meetings and its proceedings, which shall be kept on file with the City Clerk.

Section 110.030. City Clerk — Appointment, Term and Duties. [R.O. 2011 §2.02.030; Code 1950 §§101.3 — 101.4; Prior Code §2-3]

A. The Council shall elect a City Clerk who shall serve during the pleasure of the Council.

B. The City Clerk shall be the custodian of the seal and all deeds, contracts, ordinances and other official documents of the City. The City Clerk shall keep the journal of proceedings of the Council, authenticate by his/her signature all ordinances and resolutions, and perform such other duties as may be prescribed by the Council, the Charter, the provisions of this Code or any other ordinance.

Section 110.040. Disclosure of Conflicts of Interest. [R.O. 2011 §2.02.040; Ord. No. 6702 §§1 — 5, 2007; Ord. No. 6922 §§1 -- 5, 9-9-2013; Ord. No. 6997 §§1 — 5, 9-8-2015; Ord. No. 7045 § 1, 8-14-2017]

A. Declaration Of Policy. The proper operation of municipal government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the City.

B. Conflicts Of Interest. The Mayor or any member of the City Council who has a substantial personal or private interest as defined by Sections 105.450(10, 11) and 105.461.1, RSMo., in any measure, bill, order or ordinance proposed or pending before the City Council, shall, before he or she passes on the measure, bill, order or ordinance, file a written report of the nature of the interest with the City Clerk and such

statement shall be recorded in the record of proceedings of the City Council.

C. Disclosure Reports.

1. Each elected official, candidate for elective office, the City Manager, the Chief Purchasing Officer and the City Attorney (if employed full time) shall disclose in writing the following described transactions, if any such transactions were engaged in during the calendar year:

a. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars ($500.00), if any, that such person had with the City, other than compensation received as an employee or payment of any tax, fee or penalty due to the City, and other than transfers for no consideration to the City; and

b. The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars ($500.00), if any, that any business entity in which such person had a substantial interest, had with the City, other than payment of any tax, fee or penalty due to the City or transactions involving payment for providing utility service to the City, and other than transfers for no consideration to the City.

c. The City Manager and the Chief Purchasing Officer shall disclose in writing the following information:

(1) The name and address of each of the employers of such person from whom income of one thousand dollars ($1,000.00) or more was received during the year covered by the statement;

(2) The name and address of each sole proprietorship which he or she owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he or she was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the Secretary of State; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partners' units; and the name of any publicly traded corporation or limited partnership which is listed on a regulated stock exchange or automated quotation system

in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests; and

(3) The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

D. Filing Of Reports. Duplicate disclosure reports made pursuant to this ordinance; in the format approved by the Missouri Ethics Commission, shall be filed with the City Clerk and the Missouri Ethics Commission. The City Clerk shall maintain such disclosure reports available for public inspection and copying during normal business hours.

E. When Filed. The financial interest statements shall be filed at the following times, but no person is required to file more than one (1) financial interest statement in any calendar year:

1. Each candidate for elective office who is required to file a personal financial disclosure statement shall file the financial interest statement no later than fourteen (14) days after the close of the filing at which the candidate seeks nomination or election, and the statement shall be for the twelve (12) months prior to the closing date;

2. Each person appointed to office shall file the statement within thirty (30) days of such appointment or employment;

3. Every other person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the City Council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.

BOARD BILL NO. 53CSAA INTRODUCED BY ALDERMEN SCOTT OGILVIE AND ALDERMAN CHRIS CARTER, AND ALDERWOMEN CHRISTINE INGRASSIA, CARA SPENCER, MEGAN-ELLYIA GREEN, DONNA BARINGER, PRESIDENT LEWIS REED

An ordinance pertaining to campaign contribution limits; containing findings; containing definitions; campaign contribution limitation amounts; adjustments to limitation amounts; determination of maximum contribution; contributions from persons under fourteen; filing campaign finance disclosure reports; establishment of the Municipal Officials and Officers Ethics Commission; duties of the Municipal Officials and Officers Ethics Commission; violations; a penalty clause; and a severability clause.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION 1: Findings.

The Board of Aldermen for the City of St. Louis finds and declares as follows:

- That preserving integrity and openness in the political process is a matter of the highest public interest.
- It is the policy of the City to promote and encourage broad-based citizen involvement in the financing of election campaigns.
- That regulation of campaign contributions is required because of the public perception that the interests of large contributors may supersede the interests of the general public.
- That the State of Missouri does not at present specify a maximum limit on campaign contributions.

SECTION 2: Definitions.

With the following exceptions, terms shall be defined as in the Missouri Campaign Finance Disclosure Law, Chapter 130, Revised Statutes of Missouri:

A. "Base Amount" means monetary campaign contribution limitation amounts prescribed in Section 3 hereof.

B. "City Election" means any primary, general, or special election held to elect an individual to the following offices of St. Louis, Missouri: Mayor, President of the Board of Aldermen, Comptroller, Recorder of Deeds, Sheriff, Collector of Revenue, License Collector, Treasurer, member of the Board of Aldermen, Circuit Attorney, or member of the St. Louis Board of Education, or to retain or recall such official.

C. "Contribution Limit" means the monetary campaign contribution limitation amounts set forth in Section 3 as subsequently adjusted pursuant to Section 4.

SECTION 3. Campaign Contribution Limitation Amounts.

A. No person, entity, or committee, other than the candidate, shall make any contribution to a candidate committee which will cause the total amount contributed by such person, entity, or committee to exceed the contribution limit for that office.

B. No candidate, committee, entity, or person acting on behalf of a candidate or committee shall solicit or accept from any person, entity, or committee any

contribution which will cause the total amount contributed by such person in a City Election to exceed the contribution limit.

C. The contribution limits amounts for each City Election, as defined in Section 2 (B) are as follows:

a. To elect an individual to the office of Mayor, ten thousand dollars ($10,000.00).

b. To elect an individual to the office of President of the Board of Aldermen, ten thousand dollars ($10,000.00).

c. To elect an individual to the office of Comptroller, ten thousand dollars ($10,000.00).

d. To elect an individual to the office of Treasurer, ten thousand dollars ($10,000.00).

e. To elect an individual to the office of Collector of Revenue, ten thousand dollars ($10,000.00).

f. To elect an individual to the office of License Collector, ten thousand dollars ($10,000.00).

g. To elect an individual to the office of Sheriff, ten thousand dollars ($10,000.00).

h. To elect an individual to the office of Recorder of Deeds, ten thousand dollars ($10,000.00).

i. To elect an individual to the office of member of the Board of Aldermen, ten thousand dollars ($10,000.00).

j. To elect an individual to the office of Circuit Attorney, ten thousand dollars ($10,000.00).

k. To elect an individual to the office of member of the St. Louis Board of Education, ten thousand dollars ($10,000.00).

SECTION 4. Adjustments to Contribution Limits.

The base amounts set forth in Section 3 shall be increased on the first Tuesday after the first Monday in April in each odd numbered year in order to coincide with the regular municipal general election. The first adjustment shall be made on April 2, 2019, by multiplying the base year amount by the cumulative consumer price index change between January 1, 2016, and December 31, 2018, as defined in Section 104.010 RSMo, as subsequently amended, and rounded to the nearest one hundred dollar ($100.00) amount. An adjustment shall be made on the first Tuesday following the first Monday in April in each odd numbered year thereafter reflecting the increase in the price index for the previous two calendar years. The Clerk of the Board of Aldermen shall forward to the Board of Aldermen at the first legislative session of the Board of Aldermen following the April municipal election of the year in which an adjustment is made, the adjusted contribution limits and publish once, in a newspaper of general circulation within the City, during that April, the adjusted contribution limits.

SECTION 5. Determination of Maximum Contribution.

A. For purposes of computing the contribution limits for a city election, the aggregate amount of contributions made by or accepted from any person for such city election shall be computed by adding all contributions made by or accepted from, as the case may be, such person during the following period:

General Election Period: Beginning at 12:00 a.m. on the day after the last general or special election and ending at 11:59 p.m. on the day of the immediately following general or special election.

B. If a debt service committee is formed, contributions may be made to and received by such committee as long as the aggregate contribution received from or made by a person does not exceed the limitation amounts for the aggregating period in which the debt was incurred.

C. If a candidate changes the office sought during the primary election period, the limitation amounts of the new office sought shall apply to all contributions made to and received by such individual during the election period. All contributions over the limitations of the new office sought shall be returned to the contributor within ten (10) days of the change in the office sought.

D. Contributions made or received prior to the effective date of this ordinance shall not be considered when determining whether or not the limitation amounts have been reached.

SECTION 6. Contributions from Persons Fourteen and Under.

Contributions from persons fourteen years (14) of age or less shall be considered made by the parents or guardians of such person and shall be attributed toward any limitation amounts prescribed herein. Where the contributor is fourteen (14) years of age or less and has two custodial parents or guardians, fifty percent (50%) of the contribution shall be attributed to each parent or guardian. Where such contributor has one custodial parent or guardian, all such contributions shall be attributed to the custodial parent or guardian.

SECTION 7. Municipal Officials and Officers Ethics Commission

A. There is hereby created a Municipal Officials and Officers Ethics Commission comprised of five (5) members. The Commission shall be composed of the following members: Two (2) members shall be appointed by the Mayor. One (1) member each shall be appointed by (i) the President of the Board of Aldermen, (ii) the Comptroller, and (iii) the Chairperson of the Legislation Committee of the Board of Aldermen. One member shall be named by the Mayor as chair. No members of the Commission shall hold any other public office or be a candidate for any public office, or be an elected or appointed member of any local, state, or national committee of any political party.

B. No member of the municipal officials and officers ethics commission shall, during the member's service on the commission or within one year thereafter:

Permit the member's name to be used, or make contributions, in support of or in opposition to any candidate for city elected office or any city proposition; or participate in any way in any election campaign for any candidate for city elected office or any city proposition; except that a member shall retain the right to register and vote in any election, to express the member's opinion privately on political subjects or candidates and to participate in the activities of a civic, community, social, labor or professional organization.

C. The Mayor's two appointees shall each serve a first term ending on January 31, 2019. Subsequent terms of office shall be for a period of four years, ending January 31. The three remaining appointees shall serve a first term ending January 31, 2022. Subsequent terms of office for these appointees shall also be for a period of four years, ending January 31.

D. All appointees shall be confirmed by a majority vote of the Board of Aldermen.

SECTION 8. Staff and Records.

Ethics Compliance Officer. The commission shall appoint an Ethics Compliance Officer to perform the following duties:

- Provide the Municipal Officials Ethics Commission with an audited report of campaign finance disclosures, pursuant to Section 9 of this ordinance.
- Receive and promptly transmit to the members of the commission

complaints and responses filed with the commission;

- Investigate, marshal, and present to the commission the evidence bearing upon a complaint;
- Prepare draft advisory opinions for consideration of the commission about the requirements imposed by the ethics laws;
- Assist when requested in the training and education of officials and employees with respect to their ethical responsibilities;
- Recommend acceptance or rejection of complaint made to the commission;
- Request additional information from complainant as needed;
- Render informal, nonbinding opinions upon request; and
- Serve as an advisor on issues of ethics to the mayor and council members.

Counsel. The City Counselor shall serve as administrator of the provisions of this ordinance. The City Counselor or an assistant City Counselor will serve as legal counsel to the commission. The City Counselor may appoint special counsel under appropriate circumstances. In the absence of the appointment of an Ethics Compliance Officer, the City Counselor will serve in that role, with all powers and duties of the position, until a permanent Ethics Compliance Officer is named.

Access to staff. The commission and Ethics Compliance Officer may call upon the City Counselor or other appropriate official or employee to assist in an investigation.

Assistance. The Commission may call upon the City Counselor, the Board of Election Commissioners of the City of St. Louis, or any other appropriate public officer to assist them in their investigation. Contingent on the availability of funds, the Commission may utilize outside counsel or staff if it is reasonable and necessary to properly complete its work.

Certain records closed. When permitted by the Missouri law applicable to open meetings and records, and in recognition of the following factors, meetings and records of the Commission in connection with an investigation or advisory opinion shall be closed to the public: The information to be presented or to be discussed at the meeting or the records may involve persons other than the municipal official or officer who are not under investigation, and disclosure of such information may be harmful to such persons.

Review of closed records. Information closed under this provision shall be reviewed annually to determine if it may be opened to public inspection.

Final report an open record. If, after an investigation, the Commission makes a determination that a violation of the Charter or ordinance has occurred, a final report on the investigation shall always be an open record.

Removal of members. Commission members may be removed for cause, for ceasing to hold the qualifications to serve, refusal to serve, or malfeasance in office. Removal shall be by quo warranto.

SECTION 9. Jurisdiction, Powers, Duties, and Procedures of the Municipal Officials and Officers Ethics Commission

A. *Jurisdiction.* The commission shall have jurisdiction to investigate and address questions concerning alleged violations of: campaign finance regulations, ethics and financial disclosure regulations, regulations concerning conflicts of interest, and other local regulations pertaining to elected and appointed officials.

B. *Personnel action.* The commission shall have no jurisdiction to administer employee discipline or to take any job action, including the declaration of the forfeiture of a person's employment or office.

C. *Time limitations.* The commission shall not commence any investigation or other action to consider any alleged violation that occurred more than one year prior to the date of the complaint.

D. *Powers.* The Commission shall have the power:

- To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with ordinances pertaining to municipal ethics, disclosure, conflict of interest, and municipal campaign finance;
- To request from the Budget Director and City Counselor the assignment of staff necessary to carry out its duties;
- To review, index, maintain on file, and dispose of sworn complaints;

- To make notifications and conduct investigations, both on referral or complaint;
- To compel the production of sworn testimony, witnesses and evidence;
- To recommend cases for consideration of prosecution or other action by appropriate authorities and agencies;
- To request the City Counselor to provide an independent counsel to advise and represent the board, when appropriate or necessary to avoid a conflict of interest;
- To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities;
- To exercise such other powers and duties as may be established by ordinance.

E. *Authority.* The commission may render advisory opinions. The commission may authorize the Ethics Compliance Officer to issue advisory opinions in the name of the commission under rules established by the commission.

F. *Requesting advisory opinions.* Any official may request in writing an opinion from the commission on a matter that may impact the official. The commission shall timely consider all requests and upon the concurrence of at least three members of the commission and without the request of any third party, the commission may issue advisory opinions on any matter within its jurisdiction.

G. *Procedures:*

1. *Review of Disclosure Reports.* Within seven (7) business days of the filing of each full disclosure report required under Sections 130.041 and 130.046 of the Revised Statutes of Missouri by any committee supporting a candidate in a City Election, the Board of Election Commissioners of the City of St. Louis shall obtain a copy of each Campaign Disclosure Report filed by a candidate or committee pertaining to a city election and forward them to the Ethics Compliance Officer. Within fourteen (14) business days after each deadline for filing a full disclosure report required under Sections 130.041 and 130.046 of the Revised Statutes of Missouri by any committee supporting a candidate in a City Election, the Ethics Compliance Officer shall provide the Municipal Officials Ethics Commission with an audited report of campaign finance disclosures, making note of potential violations. The Municipal Officials Ethics Commission shall review the applicable campaign finance disclosure reports submitted pursuant to the Missouri Campaign Finance Disclosure Law within seven (7) business days of receipt of the audited report from the Ethics Compliance Officer. The Commission may vote to issue an inquiry regarding any potential violation of this ordinance.

2. *Complaints.* Any natural person may file a complaint

alleging any violation of this ordinance. Any complaint shall be in writing, shall state all facts known by the complainant which have given rise to the complaint, and shall be sworn to, under penalty of perjury, by the complainant.

3. *Time for Receiving Complaints.* No complaint against a candidate or a candidate's committee shall be accepted by the Commission and the Commission shall not issue an inquiry within fifteen (15) days prior to the primary or general election at which such candidate is running for office.

4. *Notice of Complaint or Inquiry.* Within four (4) business days of receipt of a complaint or the Commission's vote to issue an inquiry, the Commission shall supply a copy of the complaint or inquiry to the person named in the complaint. If it is an inquiry, then it shall state that the Commission is issuing an inquiry after its own review of the campaign finance disclosure reports. If it is a complaint, then it will state the nature of the alleged complaint while deleting any material identifying the name of the complainant.

5. *Response.* The respondent may respond in writing to the allegations of the complaint or inquiry within ten (10) business days of delivery of the complaint or inquiry to respondent. The municipal official,

candidate, or officer may provide the Commission with such information as the official deems appropriate to explain or justify the circumstances.

6. *Investigations.* Within thirty (30) business days of receipt of a response from the respondent to a complaint or inquiry, the Commission may, by an affirmative vote of at least three members, proceed to commence an investigation for the purpose of producing a final report and recommendations on the matter. Notice will be given to the respondent within four (4) business days of the result of a vote by the Commission to decide whether to commence an investigation.

7. *Hearings.* If an investigation commences, at the request of the municipal official, candidate, or officer, the Commission shall hold a hearing where the municipal official or officer can provide evidence and testimony and examine any other witnesses called to testify. The Commission shall have the power to examine witnesses under oath or affirmation and the power to subpoena all documents and persons necessary for their investigation.

8. *Disclosure Required.* The Commission shall disclose to the subject of the investigation any matter known to the Commission or its staff tending to negate guilt or mitigate the seriousness of the violation.

9. *No Ex Parte Communications*. No member of the

Commission shall have an ex parte communication with any person about a complaint that is before the Commission.

10. *Findings, Final Report and Recommendations.* Prior to the issuance of its final report and recommendations, the Commission shall provide an opportunity for the municipal official, candidate, or officer to respond to the report and recommendations, and such response shall be released with the final report and recommendations. When, either as a result of investigation of a complaint or an inquiry issued upon the Commission's own review of campaign finance disclosure reports, the Commission determines that there are reasonable grounds to believe that a violation of this ordinance has occurred, the Commission shall forward the complaint or inquiry and its final report and recommendations, with any response, to the person against whom the findings were made and to the City Counselor, who shall prosecute the violation upon his or her determination that probable cause exists. Before prosecuting the violation, the City Counselor shall confer with the Circuit Attorney to consider whether there is violation of state law. If the Circuit Attorney opts to prosecute the matter, then the City Counselor is not required to prosecute the matter in Municipal Court.

11. *Publication.* The Commission shall at quarterly intervals

publish findings of violations of this ordinance, which they have reasonable grounds to believe have occurred, in the City Journal.

SECTION 10. Violations.

It shall be a violation of this ordinance:

A. for any contributor to knowingly contribute to any candidate, committee, or person acting on behalf of a candidate or committee any amount exceeding the limitation amounts;

B. for any candidate, committee, or person acting on behalf of a candidate or committee to knowingly accept any contribution which exceeds the limitation amounts. An unauthorized contribution is knowingly accepted if it is not returned to the contributor within thirty (30) days of receipt of the unauthorized contribution;

C. for any committee treasurer to knowingly accept any contribution which exceeds the limitation amounts; a committee treasurer knowingly accepts an unauthorized contribution if it is not returned to the contributor within thirty (30) days of receipt of the unauthorized contribution;

D. for any candidate or committee treasurer to fail to return within thirty (30) days of receipt of the unauthorized contribution, a contribution which exceeds the limitation amounts, including interest or other premium earned by the contribution exceeding the authorized limitations and each

and every day or portion thereof during which any violation of this provision is committed or continued shall be a separate offense;

E. for any person to make a contribution in the name of another person, or to knowingly permit his or her name to be used to effect such a contribution, or to knowingly accept a contribution made by one person in the name of another person;

F. for any person to knowingly fail to report contributions, with the intent to mislead or deceive.

SECTION 11. Severability Clause.

If any provision, clause, sentence, paragraph or word of this ordinance or the application thereof to any person, entity or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 12. Penalty.

Any person who violates the provisions of this chapter shall be subject to of a fine of not less than one hundred dollars ($100.00) per violation nor more than five hundred dollars ($500.00) per violation or a term of imprisonment not more than ninety (90) days per violation or both a fine and term of imprisonment per violation

SECTION 13. Effective Date

This Ordinance shall have an effective date of April 6, 2017.

Rules & Regulations
Of the
Board Of Ethics
&
Campaign Practices

For The
Code of Ethics
Of the
City Charter

Office of the City Clerk
P.O. Box 1293
Albuquerque, NM 87103

RULES AND REGULATIONS OF THE BOARD OF ETHICS AND CAMPAIGN PRACTICES RELATING TO THE ELECTION CODE OF THE CITY CHARTER

Section 1 Pursuant to the authority granted by the City Charter of the City of Albuquerque, the Board of Ethics and Campaign Practices (hereinafter referred to as the "Board") issues the following Rules and Regulations for its conduct, and for interpretation and enforcement of the Election Code (Article XIII) of the City Charter.

In the event that these Rules and Regulations are in conflict with the provisions of the Election Code of the City Charter, the provisions of the Election Code shall prevail.

Terms and words, which are used but not defined in these Rules and Regulations, shall have the same meaning as defined or used in the Election Code with the exception that an "Official" is any Candidate or the chair of a measure finance committee and "Candidate" shall mean any person who has (1) obtained a nominating petition from the City Clerk pursuant to Election Code 4 (c) 1. D; (2) filed an affidavit on a form approved by the City Clerk, stating that he or she is a candidate for either the office of Mayor or City Councilor or (3) filed a declaration of candidacy for elected office as required by law, whichever first occurs.

Section 2 WHERE TO FILE AND ADDRESS INQUIRIES; ORIENTATION.

A Questions concerning election matters are to be directed to the Office of the City Clerk. Questions concerning financial records and statements may be directed to the Office of the City Clerk or to the Campaign and Election Auditor, if retained.

B All campaign materials and all declarations, statements, forms and any other documents required by the Election Code or these Rules and Regulations to be filed with or submitted to the Board shall be filed in the Office of the City Clerk in accordance with the times specified in the Election Code or in these Rules and Regulations.

C It is the responsibility of the person filing or submitting such campaign materials or documents to request and receive from the Office of the City Clerk a signed receipt showing the date and time of filing or submission.

D All documents required by the Election Code or these Rules and Regulations to be filed with or submitted to the Board shall be complete in all respects. Documents submitted will be considered incomplete unless all of the enumerated information is provided. Incomplete submissions will not be considered to be timely filed unless the information is provided on a corrected submission filed prior to the times specified in the Election Code or these Rules and Regulations. Any documents requiring the address of a contributor shall be deemed to be incomplete if the contributor's residential street address is not provided.

E Before any City election with Candidates and subsequent to the filings of Declarations of Candidacies, the Board will hold an orientation for Candidates and their treasurers. Similarly, the Board may hold an orientation for Measure Finance Committees.

Section 3 CAMPAIGN FINANCING

A Contributions not reported due to amount must be recorded in order that cumulative contributions over the minimum amount for reporting can be reported.

B Anonymous contributions must be reported as such and cannot be used in the campaign. Pursuant to Election Code Section 4 (g), anonymous contributions shall not be considered contributions for purpose of the candidate's or Measure Finance Committee's campaign. Anonymous contributions may only be disposed of by giving the contribution to a charity certified as a tax-exempt organization under IRS Code 501 (c) (3) or to the City's general fund. Anonymous contributions shall be reported as to the dollar amount received under the contributions portion of the finance disclosure report. Under the expenditure portion of the finance disclosure report the same anonymous contribution shall be reported along with the name of the charity that received the anonymous contribution or a statement that the contribution was given to the City's general fund. Anonymous contributions do not include contributions received by a host pursuant to Section 4 (j) of the Election Code.

C **Campaign Contributions Other than Cash**

1 General Definition of Property and Services

"Property" and "services" are as defined by Section 2(g) of the Election Code, and further as follows:

In general, volunteered personal services provided without compensation by any individual who volunteers on behalf of a Candidate or a Measure Finance Committee are not contributions, except when the volunteered personal services are commercial or professional services. However, the payment by any person of compensation for the personal services of another person, if those services are then rendered without charge to a Candidate or Measure Finance Committee, will be considered a contribution and must be reported as such. The following examples, not meant to be exclusive, are provided to illustrate this section:

Example 1: Person X, a CPA, volunteers to be the campaign treasurer for a Candidate. The value of Person X's personal services is not a contribution because Section 4 of the Election Code requires a Candidate to have a treasurer who is not the Candidate. However, if Person X uses an employee of X's firm to perform those services and the employee is compensated either in addition to

or as a part of the employee's normal compensation, the value of the services is a contribution and must be reported as such.

Example 2: Person Y, a contractor, volunteers to assemble and post signs on behalf of a Candidate from materials provided by the Candidate. Several of Person Y's employees assist Person Y in assembling and posting the signs during work hours when the employees are not busy with their regular duties. The value of Person Y's services is not a campaign contribution, unless the services are commercial or professional services; however, the value of the employees' services is a contribution and must be reported as such.

Example 3: Person Z, an attorney, volunteers to provide legal services in representing the Candidate in a matter arising out of the campaign. The value of Person Z's personal services is a contribution and must be reported as such as Person Z is providing a professional service.

2 Determination of Fair Market Value

In general, any property contributed to or used by a Candidate or Measure Finance Committee for less than adequate and full consideration, unless specifically exempted by the Election Code, will be considered a contribution. Such contributions must be valued at fair market value, which is the value that such property or the use thereof is commonly offered to the general public if sold commercially or at the cash value a willing buyer would pay to a willing seller if not sold commercially. The burden of providing accurate information to the satisfaction of the Board is the sole responsibility of the Candidate or the Measure Finance Committee receiving the contribution. The following examples, not meant to be exclusive, are provided to illustrate this section:

Example 1: Landlord A provides campaign office space to Candidate X at the rate of $200.00 per month. Such space has been offered to the general public at the rate of $350.00 per month, but Landlord A has not been able to lease the space at that rate. Landlord A has made a contribution at the rate of $150.00 per month to Candidate X. If Landlord A allowed Candidate X to use the space at no cost, a contribution at the rate of $350.00 per month would have been made. For rental periods of less than one month, the contribution may be prorated over thirty days.

Example 2: Printer A provides campaign literature, including bumper stickers, signs, brochures and various other items, to all Candidates and Measure Finance Committees at a rate of twenty-five percent less than the rate charged to all of Printer A's regular customers. Printer A will be considered to have made a contribution equal to the amount of the discount. Similarly, if Printer A provides a discount to only one Candidate or Measure Finance Committee, a contribution will have been made equal to the amount of the discount.

D Office Space In the event that office space is utilized for the campaign, a Candidate for elective office or the chairperson of the Measure Finance Committee, whichever may be the case, shall cause to be filed with the Board, at the time that the campaign financing disclosure statements required by Section 4 of the Election Code are to be filed, a notarized statement from the person or business providing the office space, specifying the fair market value of the office space together with a statement of the actual cost, if any, of the office space to the Candidate or Measure Finance Committee.

The difference between the fair market value of the office space and the actual cost to the Candidate or the Measure Finance Committee shall be considered to be an in-kind contribution and shall be accounted for and reported as such.

Section 4. ADVERTISING

A Advertising

1 As part of each campaign financing disclosure statement, every Candidate for elective office and every chairperson of a Measure Finance Committee shall submit a detailed accounting of all advertising expenses, including but not limited to costs for print and broadcast media, billboards, all signage, bumper stickers, T-shirts, buttons, and other such campaign materials. Lump sum disbursements made to advertising or other agents must be reported in detail as those funds are expended or committed.

2 In the event that specialized advertising, such as signs on hot air balloons, motor vehicles, and other display spaces is utilized for the campaign, a Candidate for elective office or the chairperson of the Measure Finance Committee, whichever may be the case, shall account for and report the fair market value of the use of the balloon, motor vehicle, or other display space as an in-kind contribution.

B Signs A Candidate for elective office or the chairperson of the Measure Finance Committee, whichever may be the case, shall cause to be filed with the Board, at the time that the campaign financing disclosure statements required by Section 4 of the Election Code are to be filed, a statement setting forth the following:

1 The number, types and sizes of all signs purchased by the campaign, together with the costs of each. Signs built by volunteers shall be reported and the costs of materials shall be included in the report. For purposes of this section, signs shall include post-election signs, such as "thank you" signs.

2 The number, types and sizes of all signs received as contributions by the campaign, together with the fair market value of each. The report identifying signs shall specify the expenditures that pertain to the signs.

3 In the case of billboards, a notarized statement from the person or business providing the billboard specifying the fair market value of the sign together with a statement of the actual cost, if any, of the sign to the Candidate or Measure Finance Committee. The difference between the fair market value of the sign and the actual cost to the Candidate or the Measure Finance Committee shall be considered an in-kind contribution and shall be accounted for and reported as such.

C Campaign Materials

1 Each Candidate and each chairperson of each Measure Finance Committee shall ensure that all campaign materials specify the name of the sponsor who authorized the printing or distribution of such campaign material and the name and address of the establishment that printed or otherwise created the campaign materials; provided, that the name and address of the printing establishment is not required to be specified in a newspaper advertisement.

2 Each Candidate and each chairperson of each Measure Finance Committee shall promptly file with the Board a copy of each campaign material used in the campaign upon such material being printed or distributed.

Section 5 ADVISORY OPINIONS

A The Board shall issue advisory opinions to any Official pursuant to the following procedures.

1 The Subcommittee A subcommittee of the Board shall review advisory opinion requests from Officials. The subcommittee shall consist of the Chair and Vice Chair of the Board and a third member of the Board who shall be designated by the Chair on an ad hoc basis. The subcommittee shall make recommendations to the entire Board on each opinion request.

2 The Official shall file a request for advisory opinion with the City Clerk on a form approved by the City Clerk.

3 The subcommittee may require the Official requesting an opinion to provide additional information and to appear before the subcommittee to respond to questions related to the request.

4 The Board shall review all recommendations from the subcommittee. The Official requesting an opinion may attend such review hearing. The Board may require the Official requesting the opinion to answer questions or provide additional information or documentation at the review hearing. The Board may modify the recommended advisory opinion submitted by the subcommittee.

5 Each advisory opinion shall be issued only after a majority of the entire membership of the Board has voted in favor of the advisory opinion.

B Confidentiality, Public Hearings and Public Record

1 The request for an advisory opinion shall remain confidential and shall not be a public record until the request and recommendations of the subcommittee are heard by the Board.

2 The meetings of the subcommittee shall not be open to the public. The review hearing on advisory opinions by the Board shall be an open meeting.

3 All advisory opinions approved by the Board shall be filed with the City Clerk and shall be a public record. The City Clerk shall index the advisory opinions by subject matter and date.

C Advisory Opinion Requirements

1 The Official shall file a request for advisory opinion with the City Clerk on a form approved by the City Clerk.

2 The request for an opinion shall be about the conduct of the Official making the request, not that of some other person.

3 The request shall be only about prospective conduct, not past or present actions.

4 The request must be about a real or potential conflict the requesting Official is facing.

5 All material facts must be revealed in the request.

6 The Official who is issued an advisory opinion is the only one who may use the opinion as a defense.

7. The Board may include in the advisory opinion that the Official must take particular actions or refrain from certain conduct in order to be eligible to use the advisory opinion as a defense to any future complaint.

D Advisory Opinions as a Defense

1 An Official who receives an advisory opinion may rely on the opinion under the following conditions. If a complaint is filed against that Official based on the

same facts that are the basis for the opinion request, the Official may raise the advisory opinion as a defense in his response to the complaint or any portion of the complaint. The Board shall determine if the opinion was followed and whether the complaint is based on the same facts revealed in the opinion request. If both are found, the Board shall dismiss the complaint or that portion of the complaint that pertains to the advisory opinion.

2 In the event the Board finds that material facts were omitted by the Official in requesting the advisory opinion, that the Official did not follow the advisory opinion, or that the complaint involves material facts other than those that are the basis of the advisory opinion, the Board shall not dismiss the complaint solely on the basis of the advisory opinion, however the Official may use the advisory opinion as part of his defense.

3 Advisory opinions may be used by both Complainants and Respondents as precedence, but such opinions are not binding on the Board unless it is an opinion found by the Board to have issued to and followed by the Respondent pursuant to paragraph D 1 of this section.

Section 6 ENFORCEMENT

A Complaints and Violations

1 A complaint alleging a violation of the Election Code or these Rules and Regulations shall be made in writing by the filing of a notarized statement attesting to the truth of its contents on a form approved by the City Clerk. The complaint shall include documentation as to time, place, facts, and the names of any witnesses to the alleged violations. Complaints and answers to complaints shall be verified. The Board will not hear a complaint that is not verified. A Respondent's failure to timely file a verified answer may be construed by the Board, depending on the totality of the circumstance, as an admission of allegations. A sample form of verification is available at the Office of the City Clerk.

2 The complaint shall specify the provision or provisions of the Election Code or these Rules and Regulations alleged to have been violated and provide a clear and concise statement of what events took place that the complainant believes violated the provision or provisions of the Election Code or these Rules and Regulations cited in the complaint. No complaint shall be accepted for filing unless it is signed, notarized, and verified, and unless the documentation referred to above and the statement of the provision alleged to have been violated or reason for the complaint is presented at the same time the complaint is offered for filing. Complaints may be accompanied by verified affidavits pertaining to material elements of the complaint.

3 Limitations The Board will not set for hearing any complaint charging a campaign violation alleged to have occurred more than one hundred twenty [120] days prior to the date the complaint is filed unless the facts and documentation supporting the charges alleged in the complaint were not public knowledge or available for

public inspection within that time frame. But in no event shall the Board hear a complaint alleging campaign violations in which the alleged violation occurred more than one year in the past unless the complainant also alleges fraud or purposeful misrepresentation on the part of the Respondent to conceal the conduct that is the subject of the complaint.

.4 All complaints shall be filed with the Office of the City Clerk, who in turn will immediately deliver a copy of the complaint to each member of the Board and each Respondent. After reviewing the complaint at a preliminary hearing the Board shall either accept the complaint for hearing or reject the complaint and notify the complainant in writing of the rejection and the reasons therefore and the complainant's right to appeal.

B Summary Dismissals

Upon receipt of a Complaint by the City Clerk, the Clerk shall send a copy of the Complaint with all attachments to each member of the Board along with the names of the Board members who will be on the review committee established hereafter. Any Board member who requests that the Complaint be considered at a preliminary hearing shall so notify the Clerk within ten days of that Board member's receipt of the Complaint. If the Clerk receives such notice, the Clerk shall schedule a preliminary hearing and the summary procedure provided hereafter shall not apply to the Complaint. When no Board member requests that the Complaint be heard at a preliminary hearing, complaints filed pursuant to these Regulations shall be reviewed by a Review Committee that shall consist of the Chair and two other Board members designated by the Chair to determine whether the complaint states a violation of the Code of Ethics. Designation of the two board members shall be by alphabetical rotation by last name of the Board members. If a Board member is not available, the Chair may designate the next Board member on the alphabetical list. If the three Board members agree that no violation of the Code of Ethics is stated in the Complaint, the Complaint shall be dismissed without a preliminary hearing. The three board members shall not be required to meet to make their decision. The City Clerk shall compile the decisions of the three Board members and when all three agree on dismissal, the Clerk shall prepare an order of dismissal, which only the Chair shall be required to sign. The Complainant shall be entitled to appeal the decision by filing a notice of appeal with the City Clerk within ten calendar days after Complainant's receipt of the notice of dismissal. Upon receipt of a notice of appeal filed within the required time, the City Clerk shall schedule a preliminary hearing. The Respondent shall be given notice of all actions taken pursuant to this section. The City Clerk shall provide all Board members a copy of the complaint and the order of dismissal at the time of dismissal.

C Response For Preliminary Hearing

Respondents may file a statement with the Board explaining why the complaint fails to state a violation of the Election Code. Respondents shall be given twenty (20) calendar days notice of the preliminary hearing. The Respondent's statement shall be filed with the City Clerk ten (10) calendar days prior to the preliminary hearing. The City Clerk

shall provide the Complainants and Board members with the Respondent's statement three (3) City working days prior to the preliminary hearing.

D Preliminary Hearing

1 A preliminary hearing shall be held by the Board for the purpose of deciding whether to accept a complaint. The Board's decision shall be based on findings that the factual statements made in the complaint, taken as being true, establish that Respondent has violated the provision or provisions of the Election Code or these Rules and Regulations that are cited in the complaint.

2 Complainants and Respondents and their representatives shall, at the request of the Board, address the Board at the preliminary hearing. Such presentations shall be limited to discussion of whether the complaint contains sufficient factual allegations to support a finding that a violation of the Election Code occurred. No testimony shall be accepted and no argument about the accuracy of the facts alleged in the complaint shall be accepted at this hearing. The Board shall also consider the complaint, Respondent's response to the complaint made pursuant to section 6 B and any other documentation provided at the request of the Board.

3 Reasons for Dismissing a Complaint At a preliminary hearing, the Board may dismiss a complaint if any one of the following is found or for such other reason as may be determined by the Board.

a The Board has no jurisdiction over the subject matter specified in the complaint or over the Respondent.

b The time in which a complaint could be filed has run.

c The conduct alleged in the complaint, if true, would not constitute a violation of the Election Code.

d The complaint on its face is frivolous, groundless, or brought for the purpose of harassment.

e The subject of the complaint has become moot.

f The Respondent had obtained an advisory opinion concerning the identical facts alleged in the complaint and Respondent complied with the advisory opinion.

4 Appeal A complainant who is aggrieved by the Board's rejection of the complainant's complaint may file an appeal to the District Court. Such appeal shall be filed within five days of Complainant's receipt of the final order of the Board.

5 The Board shall promptly set hearing dates for complaints not rejected.

6 Persons required to testify before the Board shall be served with a subpoena issued by the City Clerk's office and signed by the Chairman of the Board or his designee. Complainants and Respondents shall request issuance of subpoenas through the City Clerk's office in a timely manner.

E Consent Order/Settlement Process

1 At any time after the filing of the complaint, the Respondent may offer to settle the complaint by admitting to the allegations in the complaint and requesting a settlement conference with the staff of the Board. Based on the settlement conference, the staff shall prepare a proposed settlement agreement that shall be submitted to the Board. The settlement agreement shall state the sections of the Election Code and/or these Rules and Regulations violated, the action taken or to be taken by the Respondent to correct the violation and proposed sanctions, if any, upon Respondent.

2 Upon receipt of a proposed settlement agreement, the Board shall meet to determine if it will accept the settlement agreement. Board acceptance of a settlement agreement shall be by a majority vote of those Board members in attendance. Upon acceptance, the Board shall issue a consent order that shall be provided to all parties. The review of the settlement agreement and vote on the consent order shall be conducted at a public hearing. Testimony shall not be allowed at such hearing nor shall argument of the parties be accepted. The Respondent shall attend the hearing to confirm his acceptance of remedial measures, if any, to be taken by Respondent and sanctions imposed. The consent order shall be a final order concluding the case. The settlement agreement approved by the Board and the consent order shall be public records. In the event a settlement agreement is rejected by the Board, such settlement agreement may not be used as evidence in any subsequent hearings.

F Investigations For the purposes of these Rules and Regulations, the term "allegations" means any formal charges filed with the Board and any other information raising a substantial question related to compliance with the Election Code which [-~~six~~-] [+four+] or more members of the Board vote to investigate.

1 Investigation of Allegations

a Formal Charges

(1) Formal charges are those charges or complaints brought before the Board pursuant to Section 7, Article XII, and City Charter and filed in accordance with these Rules and Regulations. Formal charges also include those charges brought by the Board on its own initiative.

(2) By an affirmative vote of at least [-~~six~~-] [+four+] members of the Board, the Board may determine to have an investigation of any formal charge prior to or during any hearing that the Board may hold relative to the formal charge.

(3) Decision on any such charges which the Board votes to investigate shall be held in abeyance pending investigation.

b Other information

(1) Any member of the Board may request that the Board authorize an investigation of any information regarding compliance with the Election Code coming to the attention of such member other than as a formal charge.

(2) Such an investigation shall be authorized only upon an affirmative vote of at least [-~~six~~-] [+four+] members of the Board.

c Scope of Investigation The scope of any investigation of allegations authorized by the Board shall be specifically defined by the Board prior to the investigation being undertaken.

2 Selections and Retention of Investigators

a If the Board determines, by an affirmative vote of at least four members of the Board, to investigate allegations concerning compliance with the Code of Ethics, the Board may utilize the Office of Internal Audit and Investigations, City staff assigned to the Board or temporarily employ or contract with investigators. In selecting and retaining investigators to investigate such allegations the Board is not bound by the procurement procedures of the City of Albuquerque, however, any such selection and retention shall be accomplished in accordance with the procedures in these Rules and Regulations. Investigation assignments to the Office of Internal Audit and Investigations and City staff assigned to the Board require no procurement procedure and may be accomplished by a vote of at least four members of the Board.

b If the Board has determined, by an affirmative vote of at least four members of the Board, to investigate allegations concerning compliance with the Election Code by using a private entity or individual, the Board shall select an investigator in accordance with the following procedure:

(1) If sufficient time is available, the Board shall seek written proposals by issuing a request for proposals. The request for proposals shall specify the services required, all terms and conditions applicable to providing the services, all evaluation factors, and instructions and information to proposers relative to the preparation and submission of proposals.

(2) If the Board determines that sufficient time is not available to issue a request for written proposals, the selection of an investigator shall be accomplished through such competition as is practicable under the circumstances.

(3) The selection of an investigator shall be determined by majority vote of those Board members in attendance.

(4) The selection of an investigator shall be documented, and any agreement with an investigator shall be reduced to writing and signed by the investigator and the Chairperson of the Board, attested by the City Clerk, and filed in the office of the City Clerk. An investigator selected by the Board shall be retained by the Board for whatever length of time the Board determines is necessary for the investigation of the allegations.

G **Answers** shall include a response to each allegation in the Complaint and shall be filed with the City Clerk by all Respondents within fifteen days after the Respondent receives notice from the City Clerk that the Board has accepted the complaint at a preliminiary hearing. Each Respondent shall send a copy of his/her answer to each Complainant by first class mail and file a certificate of mailing with the City Clerk certifying that such mailing occurred on or before the date the answer was filed with the City Clerk.

H **Hearings** in conducting hearings, all parties shall be afforded an opportunity for a full and fair hearing. In this regard, the Board shall follow these procedures:

1 Parties The party filing a complaint with the Board shall be referred to herein as the "Complainant" and the party responding to alleged violations of the Election Code or these Rules and Regulations shall be referred to herein as the "Respondent."

2 Notice

a The Board shall give at least fourteen (14) days written notice of the hearing to each party stating the time and place of the hearing.

b The notice of hearing shall contain a brief description of the matter to be heard so that all participants have an opportunity to prepare for the hearing.

c The Board shall require that the parties provide in advance a written statement of all issues to be addressed, a list of proposed witnesses, a brief statement of the nature of each witness's testimony, and copies of all documentary evidence to be introduced at least ten (10) days prior to the scheduled hearing. One copy of each item required pursuant to this paragraph shall be provided to the City Clerk to the attention of the Board, and one copy to each opposing party. Failure of a Complainant to

comply fully with this paragraph shall result in a dismissal of the complaint with or without prejudice at the Board's discretion in view of a totality of the circumstances. Failure of a Respondent to comply fully with this paragraph may result, based on a totality of the circumstances, in an admission of all alleged charges in the complaint. Parties objecting to authenticity of proposed exhibits must make an objection in writing to the Office of the City Clerk at least three (3) days prior to the scheduled hearing and shall provide a copy of the objection to opposing parties simultaneously. A party's failure to make a timely objection to the authenticity of opposing party's exhibits shall result in the admission of those exhibits.

3 Continuances · Requests for continuances shall be made, in writing, at least seven (7) days prior to the hearing, and shall be delivered to the Office of the City Clerk to the attention of the Board.

4 Evidence

a The Board shall afford all parties an opportunity to present oral or documentary evidence and argument on all issues involved, except that irrelevant, immaterial and unduly repetitious evidence shall be excluded. It is the policy of the Board that testimony and information presented during the hearing must have a direct and substantial bearing on the case at hand.

b Hearsay testimony shall be admissible subject to the other limitations on admissibility contained in these rules, provided that anonymous statements shall not be admissible.

c The Board shall base its decision on evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Each violation of the Election Code or these Rules and Regulations found by the Board shall be supported by at least some evidence that is admissible in a court of law.

5. Hearing Procedure

a · The Chairperson of the Board shall act as the presiding officer at the hearing unless he/she is unavailable or wishes to delegate this duty, in which case the Board members shall select a presiding officer. The presiding officer shall

(1) Determine the admissibility of evidence and testimony;

(2) Make rulings on procedural issues; and

(3) Be responsible for the Board's written ruling in each case.

(4) Issue an administration subpoena for the appearance of

a person at a hearing or for the production of documents, or both. When the Board has authorized an investigation, pertinent documents may be required to be produced to the investigator at other than a Board meeting.

(5) Request the City Attorney to apply for a Court order compelling compliance with an administrative subpoena or for a Court order requiring the giving of the testimony or production of documents.

(6) The presiding officer may impose reasonable limits on the number of witnesses to be heard and on the nature and length of the testimony or examination of persons appearing at such hearings.

(7) The presiding officer may set time limits for presentation of opening and closing statements.

(8) The presiding officer may prohibit repetitive testimony.

b Should an action of the presiding officer challenged by another Board member, and should the presiding officer disagree with the challenge, the issue will be decided by a majority vote of the Board members present.

c The Board may, but is not required to recognize any agreements on facts and issues between the parties and eliminate certain facts not in dispute in defining the issues to be heard.

d Prior decisions by the Board on the same issue will generally be followed and the parties are urged to refer to prior rulings on identical or similar issues. Prior decisions are available at the City Clerk's Office. The City Clerk shall index all Board case decisions by subject and date.

e The Board may request clarification by the Complainant of a complaint prior to any hearing, request that certain facts be examined initially in order to determine whether such facts exist as will support the allegations to be heard, or make any other rulings that are procedural, limiting, dispositive, or otherwise, which are in accordance with the law as applied to the facts at issue.

f Any party may be represented by representatives.

g The Board may dismiss a complaint after hearing evidence if it finds that the Respondent committed the violation due to an oversight, Respondent has come into compliance voluntarily and the Board determines that no sanction is required or when the Complainant does not appear at a hearing, but only if the Board determines that it would be unfair to the Respondent not to have the opportunity to examine the Complainant.

h In the absence of the Board's decision to proceed in a different manner, notice of which shall be given to the parties at least three (3) days in advance of the hearing, the sequence of the hearing shall be as follows: .

(1) Opening Statement of Issues The Complainant and then the Respondent will present statements of issues involved in the case and outline the case that will be presented.

(2) Complainant's Presentation of its Case The Complainant's case will first be presented to the Board. Witnesses for the Complainant will be called, sworn, and questioned on their involvement in or knowledge of the case. Following each witness's testimony, the Respondent will have the opportunity to question the witness. Board members will then have the opportunity to question the witness on matters related to his/her testimony. Follow-up questioning by the Complainant will be allowed at the discretion of the presiding officer. This procedure will be followed for each of the Complainant's respective witnesses.

(3) Presentation of Respondent's Case Respondent's presentation shall follow Complainant's and the same format as the presentation of Complainant's case shall apply.

(4) Rebuttal Testimony . Following presentation of the Respondent's position, the Complainant will be allowed to present rebuttal testimony at the discretion of the presiding officer. Such testimony shall be brief and specifically address the issues brought forth in the Respondent's presentation. No new issues shall be raised.

(5) Closing Statements At the conclusion of the case presentations and rebuttal testimony, the Complainant and Respondent will each make his/her closing statements. The closing statements should briefly review the issues presented and the desired outcome. The Complainant will then have the opportunity to make a final statement, which shall be limited to issues brought forth in the Respondent's closing statement.

(6) Decision Any decision or opinion of the Board, including findings of fact, which shall consist of a written statement of the facts relied on to support the decision of the Board, shall be given to each party by certified mail or personal service, and shall be filed in the Office of the City Clerk.

(7) Record The following records of the Board's proceedings shall be kept:

a A full record of the hearing by sound recording (which shall be retained for one year after the final decision is issued);

b All documents of other items considered and received as evidence; and

c Any decision or opinion of the Board.

I Fines

1 Pursuant to the Election Code, the Board may, after due hearing, impose on a Candidate or chairperson of a Measure Finance Committee a fine not to exceed the maximum set by state law, $500, for each violation of the Election Code or these Rules and Regulations or issue a public reprimand or do both.

2 Notwithstanding Subsection H 1 of this Section, fines are automatically imposed and public reprimands are issued for failure to file, late filing or incomplete filing of any report, statement or other document required by the Election Code or these Rules and Regulations. When a campaign finance report is incomplete, the candidate or the chairperson of the Measure Finance Committee shall be notified of the failure and shall have ten days from the date of notice to correct the failure. If the incomplete filing is not corrected within ten days, there shall be an automatic fine and public reprimand. If the failure is corrected within ten days and the Board determines from the face of the filings that any failure appears to have been inadvertent and made in good faith, the Board shall find that there has been no violation, using the procedures provided in Section 6 B of these Rules and Regulations.

3 For each of the six required Disclosure Statements of Campaign Financing, failure to file a required statement by its deadline for filing, the filing of an incomplete statement, and failure to provide copies and information regarding advertising and signs which is complete as required are each considered to be a separate violation of the Election Code and these Rules and Regulations.

4 Except as provided in Subsection (d) 5 of this Section, the automatic fine for each violation is $100. The total of the automatic fines for violations of the Election Code or these Rules and Regulations shall not exceed $500 for any required filing date.

5 The automatic fine for failure to appear before the Board at the mandatory meeting concerning campaign financial records scheduled between noon on the Friday immediately preceding the election and the day of the election is $500.

6 A supplemental fine of $300 per filing date may be levied for failure or refusal to file any required document after action, in the form of fine, reprimand or otherwise has been taken by the Board pursuant to any provisions of the Election Code or these Rules and Regulations.

7 Written notice of all fines shall be given to the Candidate or chairperson

of a Measure Finance Committee by the Office of the City Clerk.

8 All fines are due when levied and shall be paid to the City of Albuquerque by depositing the amount of any such fine in the Office of the City Clerk. Interest will be assessed at the maximum rate allowed by state law on any fine that is not paid by the thirty-first day following the date that the fine is imposed. For the purposes of this Section, the date of imposition of an automatic fine is the date of the violation.

9 The Board may alter an automatic fine for reasons it considers compelling.

10 Any automatic fine imposed pursuant to these Rules and Regulations without a hearing may be appealed to the Board by filing a written appeal in the Office of the City Clerk but not later than ten days after receipt of the notice of the imposition of the fine.

11 Limitation on Source of Funds to Pay Fines. A candidate, the chairperson of the Measure Finance Committee or any other obligated person subject to a fine pursuant to the Election Code and these Rules and Regulations shall not use contributions received by such candidate or the Measure Finance Committee to make payment of any fine assessed under the Election Code or these Rules and Regulations. Payment of fines may not be included as an expenditure for purposes of Election Code section 4 (f), the calculation of unexpended contributions.

J Communications After a complaint has been filed, none of the parties or their representatives may communicate on an ex parte basis with the Board or any Board member on any matter pertaining to the complaint. All communications pertaining to the complaint shall be sent to the office of the City Clerk.

K Board Initiated Charges Notwithstanding any other provision in this Section, the Board may, on its own initiative, initiate a charge or charges that a Candidate or the chairperson of a Measure Finance Committee or any other group has committed a violation of the Election Code or of these Rules and Regulations.

L Registration of Measure Finance Committees Pursuant to Section 6 of the Election Code, when knowledge is received of the formation and existence of any Measure Finance Committee, the Board shall furnish registration materials to the Measure Finance Committee. The Measure Finance Committee shall register within five days from its receipt of the notification. Section 6 of the Election Code shall be administered as follows. When knowledge is received by the City Clerk, any Board Member or any City Official about an unregistered Measure Finance Committee, such person shall notify the City Clerk who shall notify the chair of the Board. The City Clerk shall notify the Measure Finance Committee to register. Such notification shall be signed by the Chair of the Board. The Measure Finance Committee shall respond to the notification by registering with the

City Clerk or providing a written explanation of why it should not be required to register. The response or failure to respond shall be presented to the entire Board which shall determine whether a complaint should be initiated against the Measure Finance Committee for non-compliance with the Election Code. Notice shall be provided to the Measure Finance Committee ten days in advance of such Board meeting.

M Mandatory Meeting Concerning Campaign Financial Records

1 During the period between noon on the Friday immediately preceding the election and the day of the election, each Candidate or the Candidate's treasurer, and the chairperson or treasurer of each Measure Finance Committee, shall appear before the Board at a time and place designated by the Board (hereafter, the "Pre-Election Meeting"). At the designated time and place, the campaign financial records of each Candidate and each Measure Finance Committee shall be submitted to the Board for inspection and/or audit. Any charge of violation of the Election Code or these Rules and Regulations arising out of or pertaining to any financial disclosure statements or any other document required to be filed on or before the Friday immediately preceding the election shall be reviewed by the Board at the Pre-Election Meeting as though it were a preliminary hearing. The three day notice required by the City Charter for the Pre-Election Meeting shall constitute notice for any preliminary hearing on complaints based on such financial disclosure statements or other document required to be filed.

2 At the Pre-Election Meeting the Board and its auditor shall be entitled to ask each Candidate and Candidate's treasurer and the chairperson and treasurer of each Measure Finance Committee for clarification and additional documentation concerning all campaign financial disclosure statements or other documents required to be submitted to the Board. Each Candidate, treasurer and chairperson shall be prepared to discuss the contents, or omissions of any campaign information, material, report, statement or other document required to be filed prior to the Pre-Election Meeting. Such inquiry and the responses thereto shall not be considered a hearing on a complaint or as an answer or response to a complaint, provided however that the Board shall be entitled to bring charges based on the information or lack of information received at the Pre-Election Meeting.

3 In the event that any charge is brought by the Board against a Candidate or a Measure Finance Committee as a result of the Pre-Election Meeting such action shall be deemed to be acceptance of a complaint for hearing as though such determination had been made at a preliminary hearing. Written charges shall be mailed to the Candidate or chairperson of the Measure Finance Committee and the procedural rules of these Rules and Regulations shall apply thereafter.

Section 7 CAMPAIGN FINANCE REPORTING

A Campaign Materials "Campaign Materials" means any published, printed or broadly distributed campaign advertising or communications such as newspaper

advertisements, handbills, petitions, circulars, letters, radio or TV broadcasts, cable distributions, electronic or telephonic transmissions or similar written material used in a campaign by a candidate or a Measure Finance Committee. Campaign Materials include but are not limited to television, radio, telephone and Internet campaign communications as defined in Section 7 B 2 below.

B Reporting Campaign Materials and Disclosure Requirements

1 **Identification of Expenditure** The campaign materials submitted to the City Clerk shall include a report identifying the expenditure listed on the campaign finance report that pertains to the campaign material submitted.

2 Television, Radio, Telephone and Internet Campaign Communications. Whenever a candidate, candidate finance committee or Measure Finance Committee authorizes or otherwise causes to be made any communication by television, radio, and telephone or on the Internet, advocating the election or defeat of a clearly identified candidate or measure on the ballot, such communication shall be a "Campaign Communication". The text of such Internet communication and the printed transcription or audio recording of such radio or telephone communication shall be submitted to the City Clerk in the same campaign finance reporting period in which the expenditure or authorization for such Campaign Communication was made. A copy of the television communication shall be provided to the Board by videotape or digital videodisk. For purposes of this Regulation, Campaign Communication includes the solicitation of contributions for a candidate or Measure Finance Committee. Telephone communications include automated telephone calls including but not limited to "auto dial" devices and telephone communications made by telephone operators for each telephone communication made to more than twenty-five people.

C Disclosure Required for Television Radio, Internet and Telephone Campaign Communications. Each television, radio, telephone and Internet campaign communication shall clearly state the following: (1) if paid for and authorized by a candidate or a candidate finance committee or their agents, that the communication has been paid for by such candidate or candidate finance committee; (2) if paid for by other persons, including but not limited to a Measure Finance Committee, that the communication is paid for by such other person and authorized by such candidate or candidate finance committee, or (3) if the communication is not authorized by a candidate or the candidate finance committee or their agents, the name and permanent street address, or telephone number or World Wide Web address of the person or Measure Finance Committee who paid for the communication and state that the communication was not authorized by any candidate or candidate's committee.

1 Disclosure of Production Company The requirement of Election Code, City Charter Article XIII, Section 5, that the name and address of the establishment that created the campaign materials shall apply to all television, radio, telephone and

Internet Campaign Communications. "Establishment" shall mean any commercial entity, including but not limited to production companies and media consultants, whose normal activities include the development or creation of communication material of a similar nature to the campaign materials and campaign communications utilized by a candidate, candidate finance committee or their agents or a Measure Finance Committee.

2 Television Any Campaign Communication that is televised shall include the disclosures required by this Regulation, both verbally and in writing, both appearing at the end of the communication. The written statement shall be un-obscured in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement and shall be shown for a period of at least four seconds. The verbal disclaimers shall be spoken at a rate of speech no faster than slowest rate of speech in the remainder of the Campaign Communication.

3 Exclusion "Campaign Communication" does not include a communication (1) appearing in a news story, commentary, or editorial distributed through the facilities of any newspaper, magazine or broadcasting station unless such facilities are owned or controlled by any political party, political committee, or candidate or (2) which constitutes a candidate debate or forum or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum.

D Filing Campaign Materials - Timing and Method.

1 All Campaign Materials required to be submitted under these Regulations shall be delivered to the City Clerk's office, which shall retain the Campaign Materials on behalf of the Board. Larger printed campaign materials such as yard signs and billboards shall be submitted in the form of replicas of a reduced size not to exceed eighteen by twenty-four inches.

2 All Campaign Materials shall be filed within five calendar days of the first day such Campaign Material is broadcast, transmitted or otherwise distributed. Campaign Materials sent by mail or hand delivered shall be filed within five calendar days after the first day such Campaign Materials are deposited with the postal service or other delivery service or hand delivered.

E Reporting Contributions - Contractor of Candidate's Employer Pursuant to Election Code Section 4 (c) 1 G., in addition to other campaign disclosure requirements of the Election Code, a candidate shall designate in his or her disclosure reports those contributors who have contracts pursuant to which they receive funds from the employer of the candidate if the candidate was solely or partially responsible for the recommendation or award of the contract or for the administration of the contract. This information shall be included on a separate report on a form approved by the City Clerk.

F Reporting refunds and similar expenditures All contributions received must be reported. When part or all of a contribution is refunded to the contributor, the refund shall be listed under expenditures on the campaign finance report with a cross-reference by name of contributor and date of the campaign finance report that originally included the contribution being refunded. The same reporting requirements shall apply to contributions where payment is made to the candidate on an account with insufficient funds. Bad check charges paid by the Candidate or Measure Finance Committee shall be reported as an expenditure.

G Reporting Contributions- information Concerning Contributions Pursuant to Election Code 4 (c) 1 B, the following information shall be provided concerning contributors.

There are three categories of contributors:

(1) Individuals who are employed The information that is required is (a) name, (b) occupation, (c) name of employer, if employed and if self-employed, name of contributor's business (c) address of employer and if self-employed, address of contributor's business and (d) nature of the contributor's business or the nature of the contributor's employer's business. No residential address of individuals who are employed is required. If a self-employed individual contributor conducts his/her business from his/her home then the residential street address or a post office box shall be submitted as the address for the business.

(2) Individuals who are not employed. Individuals who do not have a business address because they are retired or unemployed must identified in the report as retired or unemployed. The residential street address of retired or unemployed individual contributors shall be reported. Post office box numbers are not allowed as a substitute for a residential street address.

(3) Contributors other than individuals The information that must be reported for contributors other than individuals is (a) the name the contributor, (b) the address of the contributor, (c) the type of business or the activities conducted by the contributor and (d) the owners and managers of the contributor. The address of the contributor may be a post office box. The activity of the contributor shall be specific as to the services or products sold or, if no services or products are sold, the nature of the activities of the contributor.

H The owners and managers of the contributor Contributors who are not individuals must list the names of their owners and managers.

(1) "Owner" shall mean the names of all the individuals or entities who have an equity interest in and who participate in policy making for the contributing entity and who possess the authority to or in fact did authorize the contribution. For entities controlled by a board of directors, board of trustees or the equivalent thereof, the chairman of such board may be listed as the "owner" in lieu of all others.

(2) "Manager" shall mean the individual or individuals who are vested with and who have the responsibility to direct and administer the affairs of the contributing entity and who have the authority to or in fact did approve or direct that the contribution be made. For entities operating both in and out of New Mexico, only the New Mexico manager(s) need be listed if he or she had the authority to approve or direct the contribution. Chief executive officers or the equivalent thereof may be listed in lieu of other managers if they had the authority to approve or direct that the contribution be made. If no manager authorized the contribution, then all owners who had the authority to authorize the contribution shall be listed.

I **Wholly Owned Subsidiary Contributors** If a contributor is a business that is a wholly owned subsidiary of another business, such other business entity shall be identified for purposes of determining the cumulative amount of the contributions to calculate whether the maximum contribution has been exceeded.

Section 8 MISCELLANEOUS.

A **Notice** Any notice required by the Election Code or these Rules and Regulations shall be given by certified mail, personal service or as provided below. For the purposes of providing notice to a Candidate or the chairperson of a Measure Finance Committee, written notice mailed or delivered to the address specified in a Candidate's Declaration of Candidacy or a Committee's registration statement shall be considered sufficient notice to the Candidate or Committee. Provided, that if a Candidate or chairperson has furnished a different address pursuant to Section 7 of the Election Code, notice mailed or delivered to such an address shall be considered sufficient notice.

B **Meetings** The Board shall comply with the provisions of the New Mexico Open Meetings Act relating to notice to the public of its meetings and meetings being open to the public. The length of notice given to the public of the Board's meetings shall be determined by annual resolution. Deliberations on cases, including the drafting of findings and conclusions, may be in closed or open sessions.

C **Records.** All records of the Board in the conduct of its business, including but not limited to minutes of meetings, recommendations to the City Council and Mayor, or records and statements in connection with any particular election, shall be under the custody of the Office of the City Clerk, and shall be maintained as required by the Election Code.

D **Amendments** The Board, by majority vote, may amend these Rules and Regulations pursuant and subject to the authority granted under Section 9 of the Election Code.

E **Effective Date and Filing** These Rules and Regulations, having been approved by the Board of Ethics and Campaign Practices on May 30, 2007, by a vote of five for, none against and two absent, shall be effective on the date entered below and shall be filed in the Office of the City Clerk.

ADOPTED THIS 30th DAY OF MAY 2007.

Robert P. Tinnin, Jr.
Chairman, Board of Ethics and Campaign Practices

Millie Santillanes, City Clerk

City of San Diego, CA

What is a contribution?

A "contribution" is any payment made for a political purpose and includes any payment, reimbursement, distribution, transfer, loan, advance, deposit, gift, forgiveness of a debt, or reduction of a debt. The definition is broad enough to cover anything of value given for political purposes to a person if something of equal value is not given in return. A contribution can be a monetary payment (e.g., cash, check, or credit card payment), or a non-monetary or "in-kind" payment (e.g., a donation of goods).

Are there limits to the amount I can contribute to a candidate?

Yes. You may not contribute more than $550 per election to a City Council candidate or $1,050 to a candidate for Mayor or City Attorney. These limits also apply to contributions made to the candidate's campaign committee. Note that if you are an organization, you may not make any contributions to a candidate or his/her campaign committee.

Are there time limits on when I can contribute to a candidate?

Yes. You may not make a contribution to a City candidate until one year prior to the date of the primary election. Note that this prohibition does not apply to a candidate donating his or her personal funds to the campaign.

Are there limits to the amount I can contribute to a ballot measure committee?

No. The City of San Diego does not impose any limitations on the amount of money you may contribute to a committee formed to support or oppose a ballot measure. The ability to contribute without restriction applies equally to individuals and to organizations.

May I contribute $550 to a Council candidate for the primary election and another $550 to the same candidate for the general election?

Yes. The $550 contribution limit applies to each election. For Council races, you may contribute a total of $1,100 per candidate over the two elections. For Citywide races, you may contribute a total of $2,100 per candidate over the two elections.

May I contribute to more than one candidate?

Yes. You may contribute up to the applicable limit for each candidate. For example, if there are four races for Council district offices, you could make a $550 contribution to a candidate in each of the four races.

May I contribute to different committees supporting the same candidate?

Yes. You may make unlimited contributions to any general purpose recipient committee or primarily formed recipient committee that makes independent expenditures to support or oppose a candidate in a City election.

I've already given $1,100 to a Council candidate to support her in the primary and general elections. How can I spend more money on this candidate's behalf?

As discussed above, you can contribute additional funds to a general purpose recipient committee or primarily formed recipient committee that is supporting Candidate A. In addition, you are not limited in the amount you spend independently. You may spend your own money to print and distribute flyers, purchase a political advertisement in the newspaper, or buy signs to post. Keep in mind, however, that if you make independent expenditures of more than $1,000 in a calendar year, you will be considered a political committee and will have to file documents reporting your expenditures.

What is the difference between a contribution and an independent expenditure?

A contribution is given to someone else to spend. For example, if a person gives $100 to a candidate, that person has made a contribution. The candidate may spend that $100 on advertising, flyers, billboards, or anything else he or she wants. Moreover, if a person spends $100 at the behest of a candidate or the candidate's committee, that payment is also a contribution. On the other hand, if a person spends money on advertising, flyers, etc. to support a candidate, but does so in a manner that is completely independent of the candidate, he or she has made an independent expenditure.

My company wishes to contribute to a candidate. Is it subject to the $550/$1,050 limit?

The City of San Diego does not allow business entities to make contributions to a candidate or to a candidate's campaign committee. Although your company cannot make a contribution to the

candidate, the owners and employees of your company can support the candidate with individual contributions. In addition, the company itself can make unlimited contributions to a general purpose recipient committee or primarily formed recipient committee that is making independent expenditures to support the candidate. Finally, your company can make its own independent expenditures, keeping in mind that if it spends $1,000 or more on such expenditures in a calendar year, it will become a political committee and be required to disclose the expenditures on a campaign statement.

My company is a sole proprietorship. May it make a contribution to a City candidate?

Yes. City candidates may accept contributions from sole proprietorships, which are treated as contributions from the individual operating the sole proprietorship, up to the $550/$1,050 per person limit. Contributions from all other types of business entities are prohibited.

I am a candidate. How much can I contribute to my own campaign?

There are no limits to the amount of your own money that you may contribute to your campaign. You are also not limited with regard to when you use your own money to support your candidacy. Keep in mind that although you may donate unlimited sums to your own campaign, personal loans to the campaign cannot exceed $100,000 at any one time.

Who can make loans to my campaign?

A friend or relative can loan money to your campaign, but such a loan would be considered a contribution and may not exceed $550 (Council district elections) or $1,050 (Citywide elections). If you obtain a loan for your campaign from a bank on terms available to members of the public, then the loan does not constitute a contribution. As indicated above, any loans you personally make to your campaign, including loans obtained from a bank, are limited to a total of $100,000 at any one time.

I still have questions. How do I get help?

The Ethics Commission is available to provide telephonic or written advice regarding these matters.

Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT*

Sections:

Article I. - Findings and Purpose
Article II. - Definitions
Article III. - Contribution Limitations
Article IV. - Expenditure Ceilings
Article V. - Independent Expenditures
Article VI. - Agency Responsibility
Article VII. - Enforcement
Article VIII. - Miscellaneous Provisions

Article I. - Findings and Purpose

3.12.010 - Title.
3.12.020 - Findings and declarations.
3.12.030 - Purpose of this Act.

3.12.010 - Title.

This chapter shall be known as the city of Oakland Campaign Reform Act, hereinafter "the Act."

(Ord. 12158 (part), 1999)

3.12.020 - Findings and declarations.

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

A. Monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates.

B. The rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration by 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 larger amounts of money. This fundraising distracts them from important public matters, encourages contributions, which may have a corrupting influence, and gives incumbents an overwhelming and patently unfair fundraising advantage over potential challengers.

F. The integrity of the governmental process, the competitiveness of campaigns and public confidence in local officials are all diminishing.

(Ord. 12158 (part), 1999)

3.12.030 - Purpose of this Act.

The purpose of this Act is to accomplish the following:

A. To ensure that all individuals and interest groups in our city have a fair and equal opportunity to participate in elective and governmental processes.

B. To reduce the influence of large contributors with a specific financial stake in matters under consideration by the city, and to counter the perception that decisions are influenced more by the size of contributions than by the best interests of the people of Oakland.

C. To limit overall expenditures in campaigns, thereby reducing the pressure on candidates to raise large campaign war chests for defensive purposes, beyond the amount necessary to communicate reasonably with voters.

D. To reduce the advantage of incumbents and thus encourage competition for elective office.

E. To allow candidates and 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.

(Ord. 12158 (part), 1999)

Article II. - Definitions

3.12.040 - Interpretation of this Act.

3.12.040 - Interpretation of this Act.

Unless the term is specifically defined in this Act or the contrary is stated or clearly appears from the context, the definitions set forth in Government Code Sections 81000 et seq., as they appear in 1998 shall govern the interpretation of this Act.

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

"City offices" for the purposes of this Act include: Mayor, City Attorney, City Auditor, City Councilmembers and School Board Directors.

"Election" means any election held in the City of Oakland for City office.

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

"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.

Qualified Campaign Expenditure.

1. "Qualified campaign expenditure" for candidates means and includes all of the following:

   a. 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.

   b. A nonmonetary contribution provided at the request of or with the approval of the candidate, officeholder or committee controlled by the candidate or officeholder.

2. "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.

"Redevelopment Agency" means the Oakland Redevelopment Agency.

(Ord. No. 12998, § 1, 3-2-2010; Ord. 12158 (part), 1999)

Article III. - Contribution Limitations

3.12.050 - Limitations on contributions from persons.
3.12.060 - Limitations on contributions from broad-based political committees.
3.12.070 - Return of contributions.
3.12.080 - Aggregation of payments.
3.12.090 - Loans.
3.12.100 - Family contributions.
3.12.110 - One campaign committee and one checking account per candidate for city office.

3.12.120 - Money received by city officials and candidates treated as contributions, income or gifts.
3.12.130 - Identification of contributor required.
3.12.140 - Contractors doing business with the city of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District prohibited from making contributions.
3.12.150 - Officeholder fund.
3.12.160 - Allowance for donation of office space.
3.12.170 - Legal expense funds.
3.12.180 - Volunteer services exemption.

3.12.050 - 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 one hundred dollars ($100.00) for each election except as stated in subsection B of this section.

B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, 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 five hundred dollars ($500.00) from any person for each election.

C. Any person who makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsections A.

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

E. Upon the effective date of the ordinance codified in this section, persons making independent expenditures supporting or opposing a candidate for city office shall separately account for contributions received and contributions or expenditures made for the purpose of influencing such elections for city office. Where a person has separately accounted for such contributions and expenditures for such elections for city office, contributors to that person may contribute more than the amount set forth in subsection A of this section, so long as no portion of the contribution in excess of the set forth amounts is used to influence elections for city office.

F. Candidates for city office shall not be held responsible for violations of this provision by any person.

G. Beginning January 1, 2001, the City Clerk shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The City Clerk shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000: Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999: Ord. 12158 (part), 1999)

3.12.060 - 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 two hundred fifty dollars ($250.00) for each election except as stated in subsection B of this section.

B. For candidates who adopt the expenditure ceilings as defined in Article IV of this Act, 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 one thousand dollars ($1,000.00) for each election.

C. Any broad-based political committee that makes independent expenditures supporting or opposing a candidate for city office shall not accept any contribution for the purpose of influencing elections for city office in excess of the amounts stated in subsection A of this section.

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

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

F. Candidates for city office shall not be held responsible for violations of this provision by any broad-based political committee.

G. Beginning January 1, 2001, the City Clerk shall once annually, on a calendar year basis, increase the contribution limitation amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the contribution limitation amounts shall not exceed the CPI increase, using 1999 as the index year. The adjustment shall be rounded to the nearest one hundred (100). The City Clerk shall publish the contribution limitation amounts no later than February 1st of each year.

(Ord. 12260 § 1 (part), 2000: Ord. 12207 § 2, 2000; Ord. 12197 (part), 1999: Ord. 12158 (part), 1999)

3.12.070 - Return of contributions.

A contribution shall not be considered received if it is not negotiated, deposited, or utilized, and in addition it is returned to the donor before the closing date of the campaign statement on which the contribution would otherwise be reported. In the case of a late contribution as defined in Government Code Section 82036, it shall not be deemed received if it is returned to the contributor within forty-eight (48) hours of receipt.

(Ord. 12158 (part), 1999)

3.12.080 - 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 or limited partnership in which the individual has more than a fifty (50) percent share, or an individual and any corporation in which the individual owns a controlling interest (more than fifty (50) percent), 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.

(Ord. 12158 (part), 1999)

3.12.090 - Loans.

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

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

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

(Ord. 12158 (part), 1999)

3.12.100 - 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 (18) 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).

(Ord. 12158 (part), 1999)

3.12.110 - 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.

(Ord. 12158 (part), 1999)

3.12.120 - 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.

(Ord. 12158 (part), 1999)

3.12.130 - Identification of contributor required.

No contribution of one hundred dollars ($100.00) 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.

(Ord. 12158 (part), 1999)

3.12.140 - Contractors doing business with the city of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District prohibited from making contributions.

A. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the city for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the city or for selling any land or building to the city or for purchasing any land or building from the city whenever the value of such transaction would require approval by the City Council shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such officeholder or candidate at any time between

commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

B. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Redevelopment Agency for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the Redevelopment Agency or for selling any land or building to the Redevelopment Agency or for purchasing any land or building from the Redevelopment Agency, whenever the value of such transaction would require approval by the Redevelopment Agency, shall make any contribution to the Mayor, a candidate for Mayor, a City Councilmember, a candidate for City Council, the City Attorney, a candidate for City Attorney, the City Auditor, a candidate for City Auditor, or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

C. No person who contracts or proposes to contract with or who amends or proposes to amend such a contract with the Oakland School District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the School District or for selling any land or building to the School District or for purchasing any land or building from the School District whenever the value of such transaction would require approval the School Board, shall make any contribution to a School Board member, candidate for School Board Directors or committee controlled by such officeholder or candidate at any time between commencement of negotiations and either one hundred eighty (180) days after the completion of, or the termination of, negotiations for such contract.

D. "Services" means and includes labor, professional services, consulting services, or a combination of services and materials, supplies, commodities and equipment which shall include public works projects.

E. For contributions to city officers other than School Board Directors, transactions that require approval by the City Council or Redevelopment Agency include but are not limited to:

1. Contracts for the procurement of services that are professional or consulting services exceeding fifteen thousand dollars ($15,000.00).

2. Contracts for the procurement of services exceeding fifty thousand dollars ($50,000.00), other than contracts for professional or consulting services.

3. Contracts for the furnishing of any materials, supplies, commodities or equipment exceeding fifty thousand dollars ($50,000.00).

4. Contracts for the sale of any building or land to or from the city or the Redevelopment Agency.

5. Amendments to contracts described in subsections (E)(1), (2), (3), and (4) of this section.

F. For contributions to School Board Directors, transactions that require approval by the School Board include but are not limited to:

1. Professional services and consulting contracts exceeding twenty-five thousand dollars ($25,000.00), including personal service agreements.

2. Contracts requiring School Board approval under Public Contract Code Section 20111.

3. Construction contracts exceeding twenty-five thousand dollars ($25,000.00) whether or not they are subject to the provisions of the Public Contract Code.

4. Contracts for the sale of any building or land to or from the School District.

5. Amendments to contracts described in subsections (F)(1), (2), (3), and (4) of this section.

G. "Commencement of negotiations" for city contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed city officer or employee or when any elected or appointed city officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

H. "Commencement of negotiations" for Redevelopment Agency contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed Redevelopment Agency officer or employee or when any elected or appointed Redevelopment Agency officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

I. "Commencement of negotiations" for Oakland School District contracts occurs when a contractor or contractor's agent formally submits a bid, proposal, qualifications or contract amendment to any elected or appointed School District officer or employee or when any elected or appointed School District officer or employee formally proposes submission of a bid, proposal, qualifications or contract amendment from a contractor or contractor's agent.

J. "Commencement of negotiations" does not include unsolicited receipt of proposal or contract information or documents related to them, requests to be placed on mailing lists or routine inquiries for information about a particular contract, request for proposal or any information or documents relating to them or attendance at an informational meeting.

K. "Completion of negotiations" occurs when the city, the Redevelopment Agency or the School District executes the contract or amendment.

L. "Termination of negotiations" occurs when the contract or amendment is not awarded to the contractor or when the contractor files a written withdrawal from the negotiations, which is accepted by an appointed or elected City officer, Redevelopment Agency officer, City employee or Redevelopment Agency employee or an appointed or elected School District officer or employee.

M. The Oakland City Manager shall be responsible for implementing procedures for City of Oakland and Redevelopment Agency contracts to ensure contractor compliance with the Oakland Campaign Reform Act. A proposed or current contractor must sign and date the following statement at the time the contractor formally submits a bid, proposal, qualifications or contract amendment:

> The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.
>
> I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.

Business Name _____

Date _____

Signature _____

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

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

> The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland Unified School District during specified time periods. Violators are subject to civil and criminal penalties.
>
> I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act, and certify that I/we have not knowingly, nor will I/we make contributions prohibited by the Act.
>
> Business Name _____
>
> Date _____
>
> Signature _____

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

O. A person who contracts with the City, the Redevelopment Agency or the School District for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the City, the Redevelopment Agency or the School District, or for selling any land or building to the City, the Redevelopment Agency or the School District or for purchasing any land or building from the Redevelopment Agency or the School District, whenever the value of such transaction would require approval by the City Council, the Redevelopment Agency or the School Board, and who violates subsection A of this section, shall be subject to the enforcement provisions of Article VII of this Act.

P. Elected city officeholders, candidates for city office and their controlled committees shall include a notice on all campaign fundraising materials equivalent to eight point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

> The Oakland Campaign Reform Act limits campaign contributions by all persons (OMC §§ 3.12.050 and 3.12.060) and prohibits contributions during specified time periods from contractors doing business with the City of Oakland, the Oakland Redevelopment Agency or the Oakland

Unified School District (OMC § 3.12.140, paragraphs A., B., and C.).

(Ord. 12158 (part), 1999)

3.12.150 - Officeholder fund.

A. Every elected city officeholder shall be permitted to establish one officeholder expense fund. All contributions deposited into the officeholder expense fund shall be deemed to be held in trust for expenses associated with holding the office currently held by the elected city officer. Contributions to the officeholder fund must be made by a separate check or other separate written instrument. Single contributions may not be divided between the officeholder fund and any other candidate committee. For District Councilmembers, City Auditor and School Board Directors total contributions to an officeholder fund shall not exceed twenty-five thousand dollars ($25,000.00) per year in office. For Councilmember-At-Large and City Attorney, total contributions to an officeholder fund shall not exceed thirty thousand dollars ($30,000.00) per year in office. For the office of the Mayor, total contributions to an officeholder fund shall not exceed fifty thousand dollars ($50,000.00) per year in office.

B. Expenditures from an officeholder fund may be made for any political, governmental or other lawful purpose, but may not be used for any of the purposes prohibited in subsection (C)(1) through (5) of this section. Such allowable expenditures shall include, but are not limited to the following categories:

1. Expenditures for fundraising (including solicitations by mail) for the officeholder expense fund;

2. Expenditures for office equipment, furnishings and office supplies;

3. Expenditures for office rent;

4. Expenditures for salaries of part-time or full-time staff employed by the officeholder for officeholder activities;

5. Expenditures for consulting, research, polling, photographic or similar services except for campaign expenditures for any city, county, regional, state or federal elective office;

6. Expenditures for conferences, meetings, receptions, and events attended in the performance of government duties by (1) the officeholder (2) a member of the officeholder's staff; or (3) such other person designated by the officeholder who is authorized to perform such government duties;

7. Expenditures for travel, including lodging, meals and other related disbursements, incurred in the performance of governmental duties by (1) the officeholder, (2) a member of the officeholder's staff, (3) such other person designated by the officeholder who is authorized to perform such government duties, or a member of such person's household accompanying the person on such travel;

8. Expenditures for meals and entertainment directly preceding, during or following a governmental or legislative activity;

9. Expenditures for donations to tax-exempt educational institutions or tax exempt charitable, civic or service organizations, including the purchase of tickets to charitable or civic events, where no substantial part of the proceeds will have a material financial effect on the elected officer, any member of his or her immediate family, or his or her committee treasurer;

10. Expenditures for memberships to civic, service or professional organizations, if such membership bears a reasonable relationship to a governmental, legislative or political purpose;

11. Expenditures for an educational course or educational seminar if the course or seminar maintains or improves skills which are employed by the officeholder or a member of the officeholder's staff in the performance of his or her governmental responsibilities;

12. Expenditures for advertisements in programs, books, testimonials, souvenir books, or other publications if the advertisement does not support or oppose the nominations or election of a candidate for city, county, regional, state or federal elective office;

13. Expenditures for mailing to persons within the city which provide information related to city-sponsored events, school district-sponsored events, an official's governmental duties or an official's position on a particular matter pending before the Council, Mayor, or School Board;

14. Expenditures for expressions of congratulations, appreciation or condolences sent to constituents, employees, governmental officials, or other persons with whom the officeholder communicates in his or her official capacity;

15. Expenditures for payment of tax liabilities incurred as a result of authorized officeholder expense fund transactions;

16. Expenditures for accounting, professional and administrative services provided to the officeholder fund;

17. Expenditures for ballot measures.

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

1. Expenditures in connection with a future election for any city, county, regional, state or federal elective office;

2. Expenditures for campaign consulting, research, polling, photographic or similar services for election to city, county, regional, state or federal elective office;

3. Membership in any athletic, social, fraternal, veteran or religious organization;

4. Supplemental compensation for employees for performance of an act which would be required or expected of the person in the regular course or hours of his or her duties as a city official or employee;

5. Any expenditure that would violate the provisions the California State Political Reform Act, including Government Code Sections 89506 and 89512 through 89519.

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

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

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

(Ord. 12158 (part), 1999)

3.12.160 - 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, City Attorney or City Auditor or in the case of School Board Directors, the donation is made to the Oakland Unified School District; and

2. The name, address, employer, and occupation of the donor, and the current market value of the donated office space, are provided to the 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 3.12.040 of this Act.

(Ord. 12158 (part), 1999)

3.12.170 - 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 officeholder'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. Contributions to the legal expense fund must be earmarked by the contributor for contribution to the fund at the time the contribution is made. All funds contributed to an officeholder or candidate for legal expense fund must be deposited into the officeholder's appropriate campaign bank account prior to being deposited into the legal expense fund. The legal expense fund may be in the form of a certificate of deposit, interest-bearing savings account, money market account, or similar account, which shall be established only for the legal expense fund.

B. Contributions received by or made to the legal expense fund shall not be subject to the contribution limitations of Article III of this Act.

C. Expenditures made from the legal expense fund shall not be subject to the voluntary expenditure ceilings of Article IV of this Act.

(Ord. 12158 (part), 1999)

3.12.180 - 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.

(Ord. 12158 (part), 1999)

Article IV. - Expenditure Ceilings

3.12.190 - Expenditure ceilings.
3.12.200 - Amount of expenditure ceilings.
3.12.210 - Reserved.
3.12.220 - Expenditure ceilings lifted.

3.12.190 - 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 3.12.050C and 3.12.060C 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 on a form approved for such purpose indicating acceptance of the expenditure ceiling. Said statement shall be filed no later than the time for filing for candidacy with the City Clerk. This statement will be made public.

(Ord. 12158 (part), 1999)

3.12.200 - Amount of expenditure ceilings.

A candidate for office of Mayor who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding seventy cents ($.70) per resident for each election in which the candidate is seeking elective office. A candidate for other citywide offices who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding fifty cents ($.50) per resident for each election in which the candidate is seeking office. A candidate for District City Councilmember who voluntarily agrees to expenditure ceilings shall not make qualified expenditures exceeding one dollar and fifty cents ($1.50) per resident in the electoral district for each election in which the candidate is seeking elective office. A candidate for School Board Director who voluntarily agrees to expenditure ceilings shall not make qualified campaign expenditures exceeding one dollar ($1.00) per resident for each election in the electoral district for each election for which the candidate is seeking office. Residency of each electoral district shall be determined by the latest decennial census population figures available for that district.

Beginning in 1999, the City Clerk shall once annually on a calendar year basis increase the expenditure ceiling amounts upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor, Bureau of Statistics, has increased. The increase of the expenditure ceiling amounts shall not exceed the CPI increase, using 1998 as the index year. The increase shall be rounded to the nearest thousand. The City Clerk shall publish the expenditure ceiling amounts no later than February 1st of each year.

(Ord. 12197 (part), 1999: Ord. 12158 (part), 1999)

3.12.210 - Reserved.

Editor's note— Ord. No. 12998, § 1, adopted March 2, 2010, repealed the former section 3.12.210 in its entirety, which pertained to time periods for expenditures, and derived from Ord. No. 12158, adopted 1999.

3.12.220 - Expenditure ceilings lifted.

If a candidate declines to accept expenditure ceilings and receives contributions or make qualified campaign expenditures equal to fifty (50) percent or more of the expenditure ceiling, or if an independent expenditure committee in the aggregate spends more than fifteen thousand dollars ($15,000.00) on a District City Council or School Board election or seventy thousand dollars ($70,000.00) in a City Attorney, Auditor, Councilmember-at-Large or Mayoral election, the applicable expenditure ceiling shall no longer be binding on any candidate running for the same office, and any candidate running for the same office who accepted expenditure ceilings shall be permitted to continue receiving contributions at the amounts set for such candidates in Sections 3.12.050C and 3.12.060C of this Act. The independent expenditure committee amounts of fifteen thousand dollars ($15,000.00) and seventy thousand dollars ($70,000.00) respectively, shall be increased in proportion to any increase of the voluntary expenditure ceiling amounts resulting from an increase in the CPI as provided by Section 3.12.180 of this chapter.

(Ord. 12158 (part), 1999)

Article V. - Independent Expenditures

3.12.230 - Independent expenditures for mass mailings, state mailings or other campaign materials.

3.12.230 - Independent expenditures for mass mailings, state 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 fourteen 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)

(Ord. 12158 (part), 1999)

Article VI. - Agency Responsibility

3.12.240 - Duties of the Public Ethics Commission.
3.12.250 - Duties of the City Clerk.

3.12.240 - Duties of the Public Ethics Commission.

The Public Ethics Commission shall:

A. Oversee compliance with the Act.

B. Propose necessary regulations in furtherance of this Act subject to City Council approval.

(Ord. 12158 (part), 1999)

3.12.250 - Duties of the City Clerk.

The City Clerk shall prescribe the necessary forms for filing the appropriate statements.

(Ord. 12158 (part), 1999)

Article VII. - Enforcement

3.12.260 - Public Ethics Commission as enforcing body.
3.12.270 - Criminal misdemeanor actions.
3.12.280 - Enforcement actions.
3.12.290 - Injunctive relief.
3.12.300 - Cost of litigation.
3.12.310 - Disqualification.

3.12.260 - Public Ethics Commission as enforcing body.

The Public Ethics Commission is the sole body for civil enforcement of this Act. In the event criminal violations of the Act come to the attention of the Public Ethics Commission, the commission shall promptly advise in writing the City Attorney and the appropriate prosecuting enforcement agency.

(Ord. 12158 (part), 1999)

3.12.270 - Criminal misdemeanor actions.

Any person who knowingly or willfully violates Articles III, IV, or V of this Act is guilty of a misdemeanor. Any person who knowingly or wilfully causes any other person to violate any provision of the Act, or who knowingly or wilfully 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 four years after the date on which the violation occurred.

(Ord. 12158 (part), 1999)

3.12.280 - Enforcement actions.

A. Any person who intentionally or negligently violates Articles III, IV or V of this Act is subject to enforcement proceedings before the Public Ethics Commission pursuant to the Public Ethics Commission General Rules of Procedure.

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

C. Any person alleging a violation of Articles III, IV or V of this Act shall first file with the Public Ethics Commission a written complaint on a form approved for such purpose. The complaint shall contain a statement of the grounds for believing a violation has occurred. The Commission shall respond within ninety (90) days after receipt of the complaint indicating whether there is probable cause to conduct a hearing and whether mediation will be undertaken.

D. If mediation is not undertaken, if any party refuses mediation, or if mediation is unsuccessful in resolving the issues raised in the complaint, the Commission may within ninety (90) days thereafter convene a hearing. The Commission has full authority to settle any action filed by or on behalf of the Commission in the interest of justice.

E. If the Commission determines a violation has occurred, the Commission is hereby authorized to administer appropriate penalties and fines not to exceed three times the amount of the unlawful contribution or expenditure.

F. No complaint alleging a violation of any provision of this Act shall be filed more than two years after the date the violation occurred.

(Ord. 12158 (part), 1999)

3.12.290 - Injunctive relief.

The Public Ethics Commission may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this Act.

(Ord. 12158 (part), 1999)

3.12.300 - Cost of litigation.

The court may award to a complainant or respondent who prevails in any action for injunctive relief, his or her costs of litigation, including reasonable attorney's fees.

(Ord. 12158 (part), 1999)

3.12.310 - Disqualification.

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

(Ord. 12158 (part), 1999)

Article VIII. - Miscellaneous Provisions

3.12.320 - Applicability of other laws.
3.12.330 - Severability.

3.12.320 - Applicability of other laws.

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

(Ord. 12158 (part), 1999)

3.12.330 - 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.

(Ord. 12158 (part), 1999)

Regulation No. 1 does not currently reflect a change to the campaign finance disclosure requirements that became effective on July 1, 2015.

For the reporting requirements that currently apply, please see the description attached at the end of the Regulation.

PHILADELPHIA BOARD OF ETHICS
REGULATION NO. 1
CAMPAIGN FINANCE

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SUBPART A. SCOPE; DEFINITIONS

1.0 Scope. The requirements and prohibitions of Philadelphia's campaign finance law supplement the requirements and prohibitions imposed by the Pennsylvania Election Code (25 P.S. §3241, *et seq.*). This Regulation, promulgated by the Board pursuant to its authority under Sections 4-1100 and 8-407 of the Philadelphia Home Rule Charter and Chapter 20-600 of the Philadelphia Code, interprets Philadelphia's campaign finance law found at Philadelphia Code Chapter 20-1000.

1.1 Definitions. As used herein, the following words and phrases shall have the meanings indicated.

a. Accounting period. The period from January 1of the year following the previous election that was held for the City elective office a candidate is seeking through 5:00pm of the day before he or she became a candidate.

b. Agent. An individual who acts at the direction of or is authorized to act on behalf of a candidate, a chair or treasurer of a political committee, or a political committee.

c. Board. The body of members of the Board of Ethics appointed pursuant to Section 3-806 of the Home Rule Charter.

d. Candidate. An individual who (i) files nomination papers or petitions for City elective office, or (ii) publicly announces his or her candidacy for City elective office, including a former candidate who receives post-candidacy contributions or makes post-candidacy expenditures.

e. Candidate's campaign. A candidate, the candidate's candidate political committee (or litigation fund committee), or an agent of any of the foregoing.

f. City elective office. The offices of Mayor, District Attorney, City Controller, Sheriff, City Commissioner, or City Council.

g. Candidate political committee. The one political committee used by a candidate to receive all contributions and make all expenditures as required by Section 20-1003 of the Philadelphia Code.

h. Contribution.

i. Any money, gifts, forgiveness of debts, or loans incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate;

ii. Any thing having a monetary value incurred or received by a candidate or his or her agent for use in advocating or influencing the election of the candidate, which includes any in-kind contribution, as defined at Paragraph 1.1(o); or

iii. Any post-candidacy contribution, as defined at Paragraph 1.1(s).

i. Contributor. A person or political committee who makes a contribution to a candidate, litigation fund committee, or political committee.

j. Covered election. Any primary, general or special election for City elective office.

k. **Excess post-candidacy contribution.** The portion of a post-candidacy contribution that, had it been contributed for the purpose of retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office, would have been in excess of the contribution limitations set forth in Subpart B.

l. **Excess pre-candidacy contribution.** The portion of a pre-candidacy contribution to a political committee that, had it been made to a candidate for City elective office, would have been in excess of the contribution limitations set forth in Subpart B.

m. **Expenditure.** The payment, distribution, loan, or advancement of money or things having a monetary value by a candidate, political committee, or other person for the purpose of influencing the outcome of a covered election, including, but not limited to, any expenditure to obtain, defend, or challenge a candidate's place on the ballot, including payments to workers to circulate nominating petitions.

n. **Independent expenditure.** An expenditure that is not made in coordination with any candidate, candidate political committee, or agent thereof. For guidance on what constitutes coordination, see Subpart H.

o. **In-kind contribution.**

   i. The provision of any goods or services directly to a candidate's campaign without charge or at a charge that is less than the usual and normal charge for such goods or services; or

   ii. The payment or agreement to pay a third party to provide goods or services that assist in advocating or influencing the election of a candidate, if the goods and services are in fact provided.

   The term "in-kind contribution" does not include volunteer labor as described in Paragraph 1.11(g).

p. **Litigation fund committee.** The committee established by a candidate to receive contributions and make expenditures solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of a candidate's election campaign or participation in an election, as described in Subpart G.

q. **Person.** An individual, a political committee, or a partnership, sole proprietorship, or other form of business or nonprofit organization.

r. **Political committee.** Any committee, club, association, political party, or other group of persons, including the candidate political committee of a candidate for office in a covered election, which receives contributions or makes expenditures for the purpose of influencing the outcome of a covered election.

s. **Post-candidacy contribution.** Money, gifts, forgiveness of debts, loans, or things having a monetary value, received by a former candidate or his/her agent for use in retiring debt that was incurred to influence the outcome of a covered election, or for the purpose of defraying the cost of transition or inauguration of a candidate elected to City elective office.

t. **Post-candidacy expenditure.** An expenditure made by a candidate, former candidate, or candidate political committee to defray the candidate's cost of transition or inauguration to City elective office or to retire debt that the candidate incurred to (i) influence the outcome of a covered election; or (ii) cover transition or inauguration expenses.

u. **Pre-candidacy contribution.** A contribution made to a political committee that: (i) has been transferred to, or otherwise becomes available for expenditure by, a candidate for City elective office; and (ii) was made before such candidate became a candidate.

v. **Pre-payment.** A payment made during the accounting period for any thing used or to be used by a candidate's campaign, including but not limited to: printed or produced campaign materials, such as sample ballots, shirts, signs, flyers, brochures, websites, photographs, audio or video recordings; advertising time or space; office space; or services or labor.

w. **SPEC account.** A segregated pre/post-candidacy excess contribution account, as described in Subpart I.

x. **Sample ballot.** A ballot distributed by a political committee that lists more than one candidate in a specific covered election and recommends that voters vote for the listed candidates.

SUBPART B. CONTRIBUTION LIMITS

1.2 Limits on contributions from individuals.

a. An individual shall not make total contributions per calendar year of more than $2,900 to a candidate for City elective office, including contributions made through one or more political committees.

b. An individual shall not make total contributions per calendar year of more than $2,900, including contributions made through one or more political committees, to a litigation fund committee established as described in Subpart G by a candidate for City elective office.

c. An individual shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than $2,900 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

1.3 Limits on contributions from political committees, partnerships, sole proprietorships, or other forms of business organization.

a. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than $11,500 to a candidate for City elective office, including contributions made through one or more political committees.

b. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total contributions per calendar year of more than $11,500, including contributions made through one or more political committees, to a candidate's litigation fund committee.

c. A political committee, partnership, sole proprietorship, or other form of business organization shall not make total post-candidacy contributions to a former candidate, including contributions made through one or more political committees, of more than $11,500 between the general election and the end of that calendar year (or, in the case of candidates who do not win nomination, between the primary election and the end of that calendar year), and in each calendar year that follows the year of the general election.

d. In order to qualify for the $11,500 contribution limit described in Paragraph 1.3, the finances of a sole proprietorship or partnership must be distinct and segregated from the personal finances of its proprietor or partners.

1.4 Contributions made through one or more political committees.

a. For the purposes of this Subpart, a contribution is made through a political committee when:

   i. A person or political committee makes a contribution to a political committee and directs, suggests, or requests, whether in a direct, indirect, express, or implied manner, that the recipient political committee use all or part of the contributed money to make an expenditure to a specific candidate. A determination that such a direction, suggestion, or request was made shall be based upon all the relevant facts and circumstances; or

   ii. The contributing person or political committee has provided the majority of the contributions received by the recipient political committee, whether directly or indirectly, in the twelve months prior to the recipient political committee's expenditure to the candidate, unless the recipient political committee can demonstrate, based on a reasonable accounting method, that money from the contributing person or political committee was not used to make the expenditure to the candidate.

b. For the purpose of the contribution limits, a contribution made through a political committee is from both the original contributing person or political committee and the recipient political committee through which the contribution is made. The entire amount of the contribution made through a political committee shall count toward the contribution limits of the original contributing person or political committee, and the entire amount shall also count toward the recipient political committee's contribution limits.

1.5 During a non-election year:

a. Candidates for Mayor shall receive no more than $250,000 in total contributions from political committees;

b. Candidates for District Attorney and Controller shall receive no more than $100,000 in total contributions from political committees; and

c. Candidates for City Council, Sheriff, and City Commissioner shall receive no more than $75,000 in total contributions from political committees.

1.6 Doubling of Contribution Limits.

a. If a candidate for City elective office contributes more than $250,000 of his or her personal resources to his or her candidate political committee, the contribution limits for all candidates for that office shall be doubled for that year and each subsequent year up to and including the year in which the covered election occurs, except as provided in Paragraph 1.6(b).

b. The limits for post-candidacy contributions (Paragraphs 1.2(c) and 1.3(c)) and the limits for contributions to litigation fund committees (Paragraphs 1.2(b) and 1.3(b)) do not double if a candidate contributes more than $250,000 to his or her candidate political committee.

c. A contribution that exceeds the contribution limits at the time it is accepted by a candidate exceeds the contribution limits described in this Subpart even if the contribution limits subsequently double and the contribution is less than the doubled limits.

d. If a candidate political committee returns, repays, or refunds to a candidate any money the candidate had contributed from his or her personal resources, the returned amount shall not count toward the $250,000 contribution amount required to trigger doubling of the limits.

e. Once the contribution limits double, they remain doubled even if:

   i. The candidate whose contributions from his or her personal resources triggered the doubling ceases to be a candidate; or

   ii. After the limits have doubled, a candidate political committee returns, repays, or refunds to the candidate a portion of the money contributed from the candidate's personal resources.

f. If a candidate contributes more than $250,000 of his or her personal resources to his or her candidate political committee, as set forth in Paragraph 1.6, within two business days he or she shall notify the Board of this fact by postal mail or email sent to the attention of the Board's Executive Director.

1.7 Candidates, candidate political committees, and litigation fund committees shall not accept any contribution that exceeds the limits set forth in this Subpart.

1.8 A pre-candidacy contribution made in the same calendar year that an individual becomes a candidate shall count toward the contribution limits set forth in this Subpart.

1.9 Candidates and contributors shall include the value of in-kind contributions when determining the total amount of contributions made or accepted in a calendar year.

1.10 If a person or political committee makes an expenditure to a political committee in order that a candidate's name be placed on a sample ballot, the amount of the expenditure from that person or political committee is a contribution to the candidate and shall count toward the contribution limits set forth in this Subpart, so long as the expenditure is not an independent expenditure.

1.11 Transactions that do not count toward the contribution limits. The following are not subject to the contribution limits set forth in this Subpart:

a. Contributions from a candidate's personal resources to the candidate's candidate political committee or to the candidate's litigation fund committee;

b. Contributions from a candidate's candidate political committee to the candidate's litigation fund committee;

c. A political committee's costs to print or distribute a sample ballot where a candidate, person, or another political committee has paid the usual and normal charge to that political committee to have the candidate placed on a sample ballot distributed by that political committee;

d. A political committee's costs to print or distribute sample ballots that are distributed in a candidate's ward pursuant to Paragraph 1.32;

e. Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication, including any Internet periodical publication;

f. Incidental expenditures made by persons other than candidates' campaigns that are related to internet activity (such as the cost of hardware, software, or internet access) that advocates or influences the election of a candidate; or

g. Volunteer labor provided to a candidate or political committee.

   i. Volunteer labor is work an individual provides without compensation from any entity or person for the benefit of a candidate. It may, among other things, include:

      (1) Legal or accounting work;

      (2) Entertainment such as a performance by a musical group or DJ; and

      (3) Campaign work such as canvassing, working at a phone bank, or election-day get-out-the-vote activities.

   ii. Volunteer labor does not include the donation to a candidate of:

      (1) Equipment, such as computers, copiers, or printers;

      (2) Resources, such as postage; or

      (3) Materials, such as stationery or campaign literature.

   iii. An individual engaged in volunteer labor may make incidental use of resources without such use being a contribution from the owner of the resource to the candidate for the purposes of the contribution limits. Incidental use does not include the use of resources to reproduce campaign material for public distribution.

SUBPART C. DATE OF ACCEPTANCE OF CONTRIBUTIONS WITH RESPECT TO THE CONTRIBUTION LIMITS

1.12 Except as provided in Paragraphs 1.13, 1.14, and 1.15 the date of acceptance of a contribution is the date that the contribution comes into the possession of a candidate's campaign. A candidate's campaign shall not designate as the date a contribution is accepted any date other than the date of acceptance as identified in this Subpart.

1.13 If a contribution is delivered to a mailbox, the date that the contribution is accepted is the date on which the candidate's campaign finds the contribution in the mailbox.

1.14 If a contribution is made by credit card through a website, the date that the contribution is accepted is the date on which the contributor submits his or her credit card information on the website.

1.15 In kind contributions.

a. If a person makes an in-kind contribution by providing goods or services directly to a candidate's campaign, the date of acceptance of that contribution is the date that the candidate's campaign receives the goods or services.

b. If a person makes an in-kind contribution by paying or agreeing to pay a third party to provide goods or services that assist in advocating or influencing the election of a candidate, the date of acceptance of that contribution is the date of the agreement to pay, if the goods and services are in fact provided.

SUBPART D. ATTRIBUTING CONTRIBUTIONS MADE BY CHECK FOR THE PURPOSE OF THE CONTRIBUTION LIMITS

1.16 A contribution made by a check that reflects a joint checking account of two or more individuals shall be attributed to the joint account holder who signs the check. If more than one account holder signs a contribution check, the contribution shall be apportioned evenly between the signers. If an individual other than an account holder signs a contribution check, the contribution shall be attributed evenly among the joint account holders.

1. 17 A contribution made by a check drawn on the account of a political committee is a contribution from that political committee.

1. 18 A contribution made by check drawn on the account of a partnership, sole proprietorship, or other form of business organization is a contribution from the partnership, sole proprietorship, or other form of business organization, unless other facts demonstrate that the contribution is from the signer of the check.

SUBPART E. CAMPAIGN FINANCE DISCLOSURES

1. 19 Disclosures required of candidates and candidate political committees.

a. Any time a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the candidate shall file electronically with the Board a copy of that report or statement.

b. Any time the candidate political committee of a candidate for City elective office is required to file a campaign finance report or statement with the City Commissioners as required by the Pennsylvania Election Code, the committee shall file electronically with the Board a copy of that report or statement.

Example: Candidate A is running for City office and has authorized Friends of A as her candidate political committee. Friends of A files a cycle 2 (pre-primary) campaign finance report with the City Commissioners. In addition, Candidate A personally files a campaign finance statement with the City Commissioners.

Friends of A must electronically file with the Board a copy of the cycle 2 campaign finance report it filed with the City Commissioners.

Candidate A must electronically file with the Board a copy of the cycle 2 campaign finance statement she personally filed with the City Commissioners.

1. 20 Post-candidacy disclosures

a. Former candidates and candidate political committees shall file electronically with the Board reports of post-candidacy contributions and expenditures.

i. Such reports shall be identical in form and content to, and filed on the same schedule as, campaign finance reports required to be filed by municipal candidates and candidate political committees with the City Commissioners pursuant to the Pennsylvania Election Code.

ii. A former candidate or a candidate political committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the former candidate or candidate political committee files with the City Commissioners, so long as such reports disclose all post-candidacy contributions received and expenditures made by the former candidate or candidate political committee.

Example: Candidate A is successful in the November general election, but her candidate political committee, Friends of A, incurred $20,000 in debt in the course of the campaign. In December, former Candidate A raises $10,000 in post-candidacy contributions which her committee uses to pay off some of the campaign debt. In January of the year following the general election, Friends of A files a cycle 7 campaign finance report with the City Commissioners. The cycle 7 report discloses the post-candidacy contributions and the expenditure to pay down the campaign debt.

Friends of A can satisfy the post-candidacy disclosure requirements of Paragraph 1.20 by electronically filing with the Board a copy of the cycle 7 campaign finance report it filed with the City Commissioners.

1. 21 Disclosures required of political committees and persons.

a. Any time a political committee or person is required to file a campaign finance report with the City Commissioners or the Secretary of State, as required by the Pennsylvania Election Code, the committee or person shall file electronically a copy of that report with the Board if the report filed with the City Commissioners or Secretary of State discloses, or should disclose, any expenditures made or debt incurred to influence the outcome of a covered election, including expenditures to a candidate for City elective office.

Example: Pennsylvanians for a Better Pennsylvania is a political committee registered with the Department of State. The committee files a cycle 2 (pre-primary) campaign finance report with the Department of State disclosing numerous expenditures to candidates for state office and one expenditure to a candidate for City office.

Pennsylvanians for a Better Pennsylvania must electronically file with the Board a copy of the cycle 2 campaign finance report it filed with the Department of State.

b. Political committees shall file electronically with the Board reports of all post-candidacy contributions made by the political committee to any former candidate.

i. Such reports shall be identical in form and content to, and filed on the same schedule as, campaign finance disclosure reports required to be filed by political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.

ii. A political committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports the political committee files with the Secretary of State or the City Commissioners, so long as such reports disclose all post-candidacy contributions made by the political committee.

1. 22 Disclosures required of litigation fund committees.

a. A litigation fund committee established as described in Subpart G shall file electronically with the Board reports of contributions and expenditures.

b. Such disclosure reports shall be identical in form and content to, and filed on the same schedule as, campaign finance reports required to be filed by municipal candidate political committees with the City Commissioners or Secretary of State pursuant to the Pennsylvania Election Code.

c. If a litigation fund committee is established as a political committee pursuant to the Pennsylvania Election Code, the litigation fund committee may satisfy the requirements of this Paragraph by filing electronically with the Board copies of campaign finance reports it files with the Secretary of State or the City Commissioners, so long as such reports disclose all contributions received and expenditures made by the litigation fund committee.

1. 23 Method of filing campaign finance reports and statements. Any campaign finance report or statement required by this Subpart shall be electronically filed with the Board through the Department of Records and must be submitted in a format approved by the Department of Records. Information on how to electronically file a report or statement is available at the office of the Department of Records in City Hall Room 156 and at:

http://www.phila.gov/records/CampaignFinance/CampaignFinance.html

1. 24 Sworn statement required for campaign finance disclosures.

a. Any time a candidate political committee, political committee, or litigation fund committee electronically files a campaign finance report or statement with the Board, the individual who files the report or statement on behalf of the committee shall submit a signed statement in which he or she swears or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge. The individual who signs the statement and the committee shall be jointly and severally subject to civil penalties if the report or statement contains any material misstatements or omissions.

b. Any time a candidate electronically files a campaign finance report or statement with the Board, the candidate shall submit a signed statement in which he or she swears or affirms that the information set forth in the report or statement is true, correct, and complete to the best of his or her knowledge. The candidate shall be subject to civil penalties if the report or statement contains any material misstatements or omissions.

c. Any sworn statement required by this Paragraph shall be submitted on a form available from the Department of Records. The form may be submitted in person at the office of the Department of Records in City Hall Room 156 or via email or fax as indicated on the form.

SUBPART F. USE OF POLITICAL COMMITTEES AND CHECKING ACCOUNTS BY CANDIDATES

1. 25 A candidate for City elective office shall have no more than one political committee and one checking account for the City office being sought, into which all contributions and post-candidacy contributions for such office shall be made, and out of which all expenditures for that office shall be made, including post-candidacy expenditures. If a candidate is running for more than one City elective office simultaneously, he or she shall maintain a separate candidate political committee and checking account for each office being sought.

1. 26 If a candidate maintains other political or non-political accounts for which contributions are solicited, such funds collected in those accounts shall not be used for the purpose of influencing the outcome of a covered election or to make post-candidacy expenditures.

1. 27 A candidate may transfer funds between his or her candidate political committee checking account and a single savings account so long as:

a. The candidate establishes the savings account at the same bank that has his or her checking account;

b. The candidate deposits all contributions into his or her checking account before transferring such funds to the savings account;

c. The candidate does not make any expenditures or withdrawals directly from the savings account, but first transfers funds to the checking account in order to make expenditures or withdrawals; and

d. Within three business days of the establishment of the savings account, the candidate shall notify the Board by postal mail or email sent to the attention of the Board's Executive Director that he or she has established a savings account.

1. 28 Requirement to provide information to the Board about a candidate political committee.

a. A candidate who has a candidate political committee when he or she becomes a candidate shall, within three business days of becoming a candidate, notify the Board of the following information:

   i. The committee's name and street address (other than a P.O. box);

   ii. The name of the bank where the committee's checking account is established; and

   iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the committee.

b. If a candidate does not have a candidate political committee when he or she becomes a candidate, he or she shall notify the Board of this fact within three business days of becoming a candidate and shall provide the Board with his or her street address (other than a P.O. box), telephone number, and email address.

c. If a candidate establishes a candidate political committee after he or she has become a candidate, he or she shall notify the Board of the information set forth in Paragraph 1.28(a) within three business days of the formation of the committee.

d. A candidate may satisfy the requirements of Paragraph 1.28 by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners as long as the information described in Paragraph 1.28(a)(i)-(iii) is included.

e. If the information required by Paragraph 1.28 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

f. Information required by Paragraph 1.28 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1. 29 Exercising control over another political committee. A candidate has a political committee, for the purposes of this Subpart, if he or she exercises control over the political committee. The following are factors relevant to determining whether a candidate exercises control over a political committee other than his or her candidate political committee:

a. The candidate is the treasurer or chair of the other political committee;

b. The candidate established or registered the other political committee;

c. The candidate is an authorized user or signer on the other political committee's bank account;

d. The treasurer or chair of the other political committee is an employee of the candidate;

e. The other political committee has the same treasurer or chair as the candidate political committee; or

f. The political committee's registered address is the same as the registered address of the candidate political committee or the residence or business of the candidate or the candidate political committee's treasurer or chair.

The presence of one or more of the factors enumerated above does not mandate a finding that a candidate exercises control over a given committee if the candidate does not in fact exercise control over that committee. Likewise, the absence of most or all of the factors enumerated above does not mandate a finding that a candidate does not exercise control over a given committee if the candidate does in fact exercise control over that committee.

1. 30 Exercising control over another political committee's expenditures. A candidate also has a political committee, for the purposes of this Subpart, if the candidate or the candidate's agent exercises control over a specific expenditure made by that political committee. The following are factors relevant to determining whether a candidate or the candidate's agent exercises control over a specific expenditure made by a political committee:

a. The candidate, candidate political committee, or the candidate's agent provides the money to cover the specific expenditure;

b. The candidate, candidate political committee, or the candidate's agent selects the recipient of the expenditure; or

c. The candidate, candidate political committee, or the candidate's agent decides or directs that the expenditure be made.

1. 31 This Subpart does not prohibit a candidate from maintaining a litigation fund committee as described in Subpart G.

1. 32 This Subpart does not prohibit a candidate from making expenditures through up to one political committee in addition to his or her candidate political committee for the printing and distribution of sample ballots that are distributed in the candidate's ward. However, all contributions to the candidate for the City elective office being sought shall be made into the candidate's candidate political committee.

1. 33 This Subpart does not prohibit a candidate from paying a political committee to conduct or organize get-out-the-vote activities (such as canvassing and the distribution of campaign literature or sample ballots) as long as:

a. The recipient political committee offers similar services to other candidates; and

b. The candidate does not exercise control over the political committee as defined in Paragraph 1.29.

1. 34 This Subpart does not prohibit a candidate from making a contribution within the contribution limits to his or her candidate political committee from any other political committee controlled by the candidate, as defined in Paragraph 1.30, other than the candidate's litigation fund committee.

SUBPART G. LITIGATION FUND COMMITTEES

1. 35 Litigation fund committee requirements.

a. In addition to a candidate political committee, a candidate for City elective office may establish a litigation fund committee with a single separate checking account to solicit and receive contributions and make expenditures for the purposes described in Paragraph 1.35(d).

b. The name of a litigation fund committee shall include the term "Litigation Fund."

c. A litigation fund committee shall have a treasurer who shall be responsible for keeping records of contributions and expenditures as described in Paragraph 1.22.

d. A candidate shall make expenditures from a litigation fund committee solely to pay professional fees and related costs incurred in defense of a civil, criminal, or administrative proceeding arising directly out of the conduct of the candidate's election campaign or participation in a covered election, such as a nomination petition challenge, a recount proceeding, or a Board investigation.

e. A candidate shall not make expenditures from a litigation fund committee to pay any judgment, settlement, fine, sanction, or other type of penalty arising out of any civil, criminal, or administrative proceeding.

f. A candidate may make expenditures from his or her candidate political committee for the purposes described in Paragraph 1.35(d).

1. 36 Requirement to provide information to the Board about a litigation fund committee.

a. Within three business days of the formation of a litigation fund committee, a candidate shall notify the Board of the following information:

i. The litigation fund committee's name and street address (other than a P.O. box);

ii. The name of the bank where the litigation fund committee's checking account is established; and

iii. The name, telephone number, email address, and street address (other than a P.O. box) of the treasurer of the litigation fund committee.

If the litigation fund committee has been registered as a political committee, a candidate may satisfy the requirements of this Paragraph by providing the Board with a copy of the Political Committee Registration Statement he or she filed with the City Commissioners or Secretary of State as long as the information described in (i)-(iii) above is included.

b. If the information required by Paragraph 1.36 changes, the candidate shall notify the Board of the updated information within three business days of the change occurring.

c. Information required by Paragraph 1.36 shall be sent to the attention of the Board's Executive Director by postal mail or email.

1. 37 Termination of a litigation fund committee.

a. A litigation fund committee shall be terminated no later than six months after the date of the general election for the office which the candidate sought, except as provided in Paragraph 1.37(b).

b. If six months after the date of the general election any matters are pending for which litigation fund committee funds may be expended, then a litigation fund committee shall be terminated within six months after the conclusion of all such matters, including any appeals.

c. Before a litigation fund committee is terminated, the litigation fund committee's checking account shall be closed, and any remaining funds shall be returned to contributors according to one of the methods below:

i. On a "last in, first out" accounting basis;

ii. On a "first in, first out" accounting basis;

iii. On a pro-rata accounting basis; or

iv. On such other equitable basis as may be approved by a majority vote of the Board upon application in writing by a candidate or treasurer of a litigation fund committee by postal mail or email sent to the attention of the Board's Executive Director at least 40 days prior to the termination deadline.

d. The Board may grant an extension for terminating a litigation fund committee upon application at least 40 days prior to the termination deadline to the Board's Executive Director in writing that demonstrates good cause for an extension.

SUBPART H. COORDINATED EXPENDITURES

1. 38 When a person or political committee makes an expenditure that is coordinated with a candidate's campaign and is made to advocate or influence the election of the candidate, the expenditure is an in-kind contribution from the person or committee to the candidate and is subject to the contribution limits set forth in Subpart B.

1. 39 An expenditure is coordinated with a candidate's campaign if:

a. The expenditure is made in cooperation, consultation or concert with the candidate's campaign;

b. The expenditure is made at the request or suggestion of the candidate's campaign;

c. A person suggests making an expenditure and the candidate's campaign assents to the suggestion;

d. The person making the expenditure communicates with the candidate's campaign concerning the expenditure before making the expenditure;

e. The candidate's campaign has solicited funds for or directed funds to the person making the expenditure, but only if the solicitation occurred within the 12 months before the election that the expenditure seeks to influence; or

f. The person making the expenditure uses information obtained from the candidate's campaign to design, prepare, or pay for the specific expenditure at issue, unless the person has obtained that information from a public source or from a communication the candidate made to the general public. This subparagraph does not apply to the republication of campaign communications or materials, which is covered by Paragraph 1.40.

Example for 1.39(f): Philadelphians for Philadelphia PAC establishes a telephone bank to get out the vote for primary voters for Candidate A. Candidate A's campaign gives Philadelphians for Philadelphia a list of telephone numbers of people that contributed to Candidate A's campaign. Philadelphians for Philadelphia organizes the phone bank without any other input from Candidate A and spends $11,500 to set up the phone bank and telephones individuals provided on the list from Candidate A. The $11,500 spent by Philadelphians for Philadelphia is a coordinated expenditure with Candidate A because the PAC used information obtained from Candidate A's campaign for the phone bank. As such, Philadelphians for Philadelphia has made an $11,500 in-kind contribution to Candidate A.

1.40 Republication of campaign communications or materials. For the purposes of the contribution limits, an expenditure made to reproduce, republish, or disseminate a campaign communication (including audio recordings or video footage) or campaign material (such as photographs, flyers, signs, or brochures) prepared by a candidate's campaign:

a. Shall be considered an in-kind contribution made by the person making the expenditure.

b. Shall be considered an in-kind contribution received by the candidate if the person making the expenditure obtains the communication or materials directly from the candidate's campaign or from another source with the consent of the candidate's campaign.

   A campaign communication or campaign material is obtained with the candidate's consent if the candidate provides it to a third party for the purpose of enabling another person to obtain the communication or material from that third party and subsequently republish some or all of it.

   Example for 1.40(a) and (b): Three weeks before election day, candidate A's campaign uploads five minutes of b-roll video footage to her YouTube channel. The political committee Pennsylvanians for a Better Pennsylvania downloads the b-roll footage and uses it to create a television advertisement. The committee spends $100,000 to run the advertisement on three television stations during the week before election day.

   Candidate A posted the b-roll footage for the purpose of enabling another person to obtain it. Pennsylvanians for a Better Pennsylvania obtained a campaign communication created by Candidate A's campaign with the consent of the candidate's campaign. As such, the committee's expenditure of $100,000 was coordinated with Candidate A's campaign and is both an excess in-kind contribution made by the committee ~~to~~ and an excess in-kind contribution received by Candidate A.

c. Shall not be considered an in-kind contribution if:

   i. The communication or material is incorporated into a communication that advocates the defeat of the candidate that prepared the material;

   ii. The item republished is a photograph obtained from a public source; or

   iii. The person's expenditures for republication of a candidate's communications or materials are less than $100 in the aggregate per reporting period;

1. 41 An expenditure will not be considered a coordinated expenditure merely because:

a. The person making the expenditure interviews the candidate;

b. The person making the expenditure has endorsed the candidate;

c. The person making the expenditure and the candidate's campaign have an agent in common;

d. The person making the expenditure has obtained from the candidate a biography of the candidate or a position paper, press release, or similar material about the candidate; or

e. The person making the expenditure has invited the candidate to make an appearance before the person's members, employees, or shareholders.

SUBPART I. EXCESS PRE-CANDIDACY CONTRIBUTIONS; EXCESS POST-CANDIDACY CONTRIBUTIONS

Note: The requirements in this Subpart regarding excess pre-candidacy contributions are relevant only if a political committee that is authorized to receive contributions on behalf of an individual who subsequently becomes a candidate for City office receives contributions prior to that individual becoming a candidate in excess of the limits set forth in Subpart B.

1.42 The provisions of this Subpart regarding excess pre-candidacy contributions apply only to contributions received during the accounting period.

Example: On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. The accounting period for Candidate A is January 1, 2012 through November 30, 2014. The last Mayoral election was held in 2011 so January 1, 2012 would be the first day of the year following that election.

1. 43 Prohibited Expenditures. A candidate or candidate political committee shall not:

a. Spend any excess pre-candidacy contributions for the purpose of influencing the outcome of a covered election in which he or she is a candidate.

b. Spend any excess pre-candidacy contributions or post-candidacy contributions for the purposes of:

i. Transition or inauguration expenses; or

ii. Retiring debt that was incurred to (i) influence the outcome of an already completed covered election in which he or she was a candidate; or (ii) cover transition or inauguration expenses related to an already completed covered election.

c. Transfer excess pre-candidacy contributions to the candidate's litigation fund committee established as described in Subpart G.

1.44 Exclusion of excess pre-candidacy contributions upon becoming a candidate

a. Within ten days after becoming a candidate, a candidate shall exclude all excess pre-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

   i. Transferring excess pre-candidacy contributions to a segregated pre/post-candidacy excess contribution account; or

   ii. Returning excess pre-candidacy contributions to the contributors who made those contributions.

b. Calculation of amount to be excluded. A candidate shall determine the amount to be excluded by using one of the following calculation methods:

   i. **Dollar for dollar calculation**. Using this calculation method, a candidate shall exclude an amount equal to the total amount of excess pre-candidacy contributions his or her candidate political committee received during the accounting period.

   Example: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude $200 from its checking account.

   ii. **Accounting-based calculation**. Using this calculation method, a candidate does not have to exclude any excess pre-candidacy contributions that he or she demonstrates, using a reasonable accounting method, were actually spent before becoming a candidate, provided that:

   (1) Before accounting for the expenditure of any excess pre-candidacy contributions, an accounting must be made for the expenditure of the balance of the committee account as it existed on the day before the start of the accounting period; and

   (2) Pre-payments that were made by the candidate's political committee shall not constitute expenditures of excess pre-candidacy contributions using this accounting method.

c. If the amount that the candidate must exclude from the checking account of his or her candidate political committee exceeds the amount of cash the committee has on hand, the candidate must use incoming contributions to cover the amount that must be excluded.

1.45 Pre-candidacy segregation. A candidate does not have to exclude any excess pre-candidacy contributions that, upon receipt, he or she had transferred to a segregated pre-candidacy excess contribution account ("SPEC account"), provided that, if he or she used any funds in a SPEC account for pre-payments, the candidate must exclude from his or her candidate committee account an amount equal to those pre-payments. Funds transferred into a SPEC account that were not used for pre-payments need not be included in accounting for the exclusion of excess pre-candidacy contributions under either calculation method described in Paragraph 1.44.

Example 1: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On November 2, 2014, Candidate A transfers $200 from the checking account of the candidate political committee to a SPEC account. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. Friends of Candidate A has already segregated Person B and Person C's excess contributions and therefore does not need to exclude any other money from its checking account.

Example 2: On November 1, 2014, Friends of Candidate A receives a contribution of $3,000 from Person B ($2,900 within limits, $100 excess) and a contribution of $3,000 from Person C (same). On November 2, 2014, Candidate A transfers $200 from the checking account of the candidate political committee to a SPEC account. On November 30, 2014, Candidate A spends $200 from the SPEC account on fliers to be used in the upcoming election. On December 1, 2014, Candidate A declares her candidacy for the May 2015 Mayoral primary election. By December 11, 2014, Friends of Candidate A must exclude $200 from its checking account. While Candidate A segregated Person B and Person C's $200 in excess contributions, she spent $200 from the SPEC account on pre-payment expenditures during the accounting period and must therefore exclude an amount equal to those pre-payments from the Friends of Candidate A checking account.

1. 46 A candidate shall exclude all excess post-candidacy contributions from his or her candidate political committee checking account by one of the following methods:

a. Transferring excess post-candidacy contributions to a SPEC account within ten days of receiving the contributions; or

b. Returning excess post-candidacy contributions to the contributors who made those contributions within ten days of receiving the contributions.

1. 47 A candidate or a candidate political committee shall not use money held in a SPEC account to influence the outcome of a covered election in which the candidate participates or to make post-candidacy expenditures.

1. 48 Within seven days of establishing a SPEC account, a candidate shall notify the Board of the name of the bank at which the account was established by postal mail or email sent to the attention of the Board's Executive Director.

SUBPART J. RETIRING DEBT

1. 49 Except as provided in Paragraph 1.50, forgiveness of debt incurred to influence the outcome of a covered election or to cover transition or inauguration expenses is a contribution from the creditor to the candidate or former candidate and is subject to the contribution limits set forth in Subpart B.

1. 50 If a debt owed by a former candidate is not collectible as defined below, a creditor may forgive the debt without such forgiveness being subject to the contribution limits set forth in Subpart B. A debt is not collectible if all of the following are true:

a. The creditor billed the candidate for its services in the ordinary course of its business and the terms of the transaction were commercially reasonable;

b. The debt has been outstanding for at least 24 months;

c. The candidate political committee does not have sufficient cash on hand to pay the creditor;

d. Forgiveness of the debt is not prohibited by any other relevant law; and

e. The creditor notifies the Board by postal mail or email sent to the attention of the Board's Executive Director of its intent to forgive the debt and demonstrates that all the conditions set forth in this Paragraph have been satisfied.

If the creditor has provided all the necessary information, the Executive Director shall present the request to the Board at a public meeting. The Board shall either approve or disapprove the proposed debt forgiveness. The Executive Director shall inform the creditor in writing whether or not the Board has approved the forgiveness of debt. The forgiveness of debt is subject to the post-candidacy reporting requirements set forth in Subpart E.

SUBPART K. PENALTIES

1. 51 Acceptance of an excess contribution. A candidate, candidate political committee, or litigation fund committee that accepts a contribution in excess of the limits described in Subpart B shall be subject to a civil penalty of three times the amount by which the accepted contribution exceeded the limit, or $2,000, whichever is less.

1. 52 Making an excess contribution. A contributor who makes a contribution in excess of the limits described in Subpart B shall be subject to a civil penalty of three times the amount by which the contribution exceeded the limit, or $2,000, whichever is less.

1. 53 Safe harbor if an excess contribution is returned within 15 days. No civil penalty shall be imposed on a contributor or recipient of an excess contribution if the candidate who accepted the excess contribution within fifteen days after receiving the contribution:

a. Returns the excess amount to the contributor; and

b. Notifies the Board of the following information by postal mail or email sent to the attention of the Board's Executive Director: the amount of the excess, the identities of the contributor and the candidate, the date of receipt, and the date of return.

1. 54 Failure to file campaign finance disclosures.

a. A civil penalty of $250 shall be imposed for failure to file a campaign finance or litigation fund committee report as described in Subpart E.

b. Each day the report is not filed shall be considered a separate offense for which an additional separate civil penalty of $250 may be imposed. The total civil penalties that may be imposed for failure to file a particular report shall not exceed $2,000 for the first thirty days the report is not filed, plus $1,000 for each additional thirty-day period or part thereof the report is not filed.

1. 55 Other violations of the campaign finance law. All other violations of the campaign finance law, including the making of material misstatements or omissions in a campaign finance report filed with the Board, are subject to a civil penalty of $1,000, which may be increased or decreased depending on the presence of mitigating and aggravating factors as described in this Paragraph:

a. Mitigating factors. The civil penalty of $1,000 shall be reduced by $500 if one of the following mitigating factors is present and shall be reduced by $750 if more than one of the following mitigating factors is present:

i. Good faith effort to comply. The violator is found to have made a good faith effort to comply with the law.

ii. Prompt corrective action. The violator is found to have taken prompt corrective action where corrective action was possible to remedy the violation.

iii. Prompt self-reporting. The violator is found to have reported promptly the violation to the Board of Ethics.

b. Aggravating factors. The civil penalty of $1,000 shall be increased by $1,000 for each of the following aggravating factors that is present, provided that the total civil penalty that may be imposed for one violation shall not exceed $2,000:

i. Intent. The violator is found to have acted knowingly. An act is done knowingly if done voluntarily and intentionally and not because of mistake or accident or other innocent reason.

ii. Repeat violation. The violator previously has been found by the Board of Ethics in an administrative adjudication or by a court of competent jurisdiction to have violated the same provision.

iii. Obstruction of investigation. The violator is found to have obstructed the investigation of the Board of Ethics into the same violation.

Approved for public comment by the Board December 18, 2006
Effective January 17, 2007
Amendment approved by Board August 21, 2007
Effective September 21, 2007

Proposed amendments approved for public comment by Board on July 21, 2010 to expand the Regulation to address the requirements, other than electronic filing, of the City's campaign finance law, Philadelphia Code Chapter 20-1000, as that law was amended in June 2010. The amendments to Regulation No. 1 completely strike and replace the original text of the regulation and delete the original exhibit.
Public hearing held September 8, 2010
Adopted by Board with modifications September 15, 2010
Effective September 27, 2010

Proposed amendments approved for public comment by Board May 11, 2011 to, among other things, reflect the April 2011 amendment to Philadelphia Code § 20-1002(2).
Public hearing held June 15, 2011
Adopted by Board July 20, 2011
Effective August 11, 2011

Proposed amendments approved for public comment by Board on January 18, 2012 to reflect the City Finance Director's certification of January 2012 adjustments to the maximum annual contribution limits.
Effective March 2, 2012

Proposed amendments approved for public comment by Board on December 19, 2012
Public hearing held January 23, 2013
Adopted by Board with modifications February 20, 2013
Effective March 8, 2013

Proposed amendments approved for public comment by Board on July 16, 2014
Public hearing held September 17, 2014
Adopted by Board with modifications October 15, 2014
Effective October 31, 2014

CITY OF PHILADELPHIA
BOARD OF ETHICS

PHILADELPHIA'S CAMPAIGN FINANCE LAW: NEW REPORTING REQUIREMENTS

Philadelphia's Campaign Finance Law was recently amended to increase public disclosure of money spent to influence City elections. The changes became effective on July 1, 2015. Philadelphia's Campaign Finance Law covers elections for the offices of Mayor, District Attorney, City Controller, City Council, City Commissioner, and Sheriff. The Board of Ethics is responsible of administering, enforcing, and providing guidance on the City's Campaign Finance Law.

WHAT'S NEW AS OF JULY 1, 2015

- The authorized candidate committees of candidates for City office must now file reports on the sixth Tuesday pre-primary (cycle 1) and the sixth Tuesday pre-election (cycle 4).
- Political committees must now file reports on the sixth Tuesday pre-primary (cycle 1) and the sixth Tuesday pre-election (cycle 4) if they make any expenditures to influence a City election during those reporting periods.
- Expenditures to influence a City election include expenditures for electioneering communications, which are any broadcast, cable, radio, print, Internet, or satellite communications (a) that promotes, attacks, supports, or opposes a candidate, or (b) that, within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election.
- Any political committee (but not a candidate committee), not-for-profit entity, or other person that spends or promises to pay, in the aggregate, $5,000 or more for one or more electioneering communications that are published or to be published within fifty (50) days of a covered election must file a full campaign finance report with the Board. Such reports are due at the following times:
    - On the sixth Tuesday before a covered election;
    - On the fourth Tuesday before a covered election;
    - On the second Friday before a covered election; and
    - On the Tuesday immediately before a covered election.

  These reports must include all transactions that occurred in the prior eight months through 24 hours before the report is due unless the person has more recently filed a report with the Board, in which case the person need only include transactions that occurred since that report.

All campaign finance reports filed with the Board of Ethics must be filed electronically.

If you have questions about Philadelphia's Campaign Finance Law, please contact the Board of Ethics at 215-686-9450 or visit our website at http://www.phila.gov/ethicsboard.

Filing a campaign finance report with the Board of Ethics does not satisfy the requirement under the Pennsylvania Election Code to file reports with the City Commissioners or the Department of State. For questions about the Pa. Election Code, please call either the City Commissioners at **215-686-3469** or the Dept. of State at **717-787-1512**.

CITY OF PHILADELPHIA
BOARD OF ETHICS

PHILADELPHIA'S CAMPAIGN FINANCE REPORTING DEADLINES: NOVEMBER 3, 2015 ELECTION

	Name of Report	Complete As Of	Deadline
Cycle 4	Sixth Tuesday Pre-Election	September 14, 2015	Sept. 22, 2015
Cycle 401	Fourth Tuesday Pre-Election	October 4, 2015	October 6, 2015
Cycle 5	Second Friday Pre-Election	October 19, 2015	October 23, 2015
Cycle 11	**24 hour reporting**	**Start Oct. 20, 2015**	**End Nov. 3, 2015**
Cycle 501	Final Tuesday Pre-Election	October 25, 2015	October 27, 2015
Cycle 6	Thirty Day Post- Election	November 23, 2015	December 3, 2015

Philadelphia's Campaign Finance Law covers elections for Mayor, District Attorney, City Controller, City Council, City Commissioner, and Sheriff and requires that those who participate in City elections file campaign finance reports that are in addition to what they may have to file under the Pennsylvania Election Code. The Board of Ethics is responsible of administering, enforcing, and providing guidance on the law.

ALL CAMPAIGN FINANCE REPORTS FILED WITH THE BOARD OF ETHICS MUST BE FILED ELECTRONICALLY.

Candidate committees must file reports for cycles 4, 5, & 6.
During the 24 hour reporting period, **Candidate committees** that receive contributions or pledges of $500 or more must file reports disclosing those contributions or pledges within 24 hours of receipt.

Candidates must file reports for cycles 5 & 6.

Political committees must file reports for cycles 4, 5, & 6 if, during the cycle, the committee makes an expenditure to influence a City election. An expenditure to influence a City election includes: 1) a direct contribution to a candidate for City office, 2) an expenditure that is coordinated with a candidate for City office (and is therefore an in-kind contribution to the candidate); and 3) an expenditure for an electioneering communication, which is any broadcast, cable, radio, print, Internet, or satellite communication (a) that promotes, attacks, supports, or opposes a candidate, or (b) that, within 50 days of a covered election, names, refers to, includes, or depicts a candidate in that covered election. **Political committees** are only required to file for cycles 401 & 501 if, during the cycle, they spend or promise to pay, in the aggregate, $5,000 or more for electioneering communications that are published or to be published within 50 days of a covered election.

Not-for-profit entities, individuals and **other persons** must file reports for reporting cycles 4, 401, 5, or 501 if they spend or promise to pay, in the aggregate, $5,000 or more for electioneering communications that are published or to be published within 50 days of a covered election.

During the 24 hour reporting period, **Political committees or other persons** that make independent expenditures of $500 or more to influence a City election (or incur debts for such expenditures) must file reports disclosing those independent expenditures within 24 hours.

If you have questions about the Philadelphia's campaign finance law please contact the Board of Ethics at 215-686-9450 or visit our website at http://www.phila.gov/ethicsboard.

Filing a campaign finance report with the Board of Ethics does not satisfy the requirement under the Pennsylvania Election Code to file reports with the City Commissioners or the Department of State. For questions about the Pa. Election Code, please call either the City Commissioners at **215-686-3469** or the Dept. of State at **717-787-1512**.

MODEL ETHICS ORDINANCE

For Local Units of Government

Attorney General Mike Cox

M - 1- 96

INTRODUCTION

While Michigan has several statutes governing the various aspects of ethics in government at both the state and local levels, local governmental entities may, by ordinance, establish and enforce ethics regulations for local public officials and public employees to the extent provided by law and/or charter.

The power to adopt ordinances is a governmental function conferred by the Legislature upon local governmental units for the governance of their local affairs. OAG, 2003-2004, No 7150, p 107, 108 (March 1, 2004). Included in a local government's ordinance authority is the power to enforce ordinances, generally by fines not to exceed $500.00 or penalties of up to 90 days in jail. Examples of the Legislature having authorized local governmental units to adopt and enforce ordinances are contained in sections 3(k) and 4i of the Home Rule City Act, MCL 117.3(k) and MCL 117.4i; Chap VI, sections 1 through 14 of the General Law Village Act, MCL 66.1 - MCL 66.14; section 24(b) of the Home Rule Village Act, MCL 78.24(b), section 21(5) of the Charter Township Act, MCL 42.21(5); sections 1 through 7 of the Township Ordinances Act, MCL 41.181 – MCL 41.187; and MCL 46.11(j) for counties.

A well drafted ethics ordinance should provide clarity to public officials and employees as to behavior necessary to instill trust and faith in government on the part of the public.

> [E]thics in government is not merely the absence of corruption but the presence of trust . . . . Ethics laws and enforcement efforts aimed solely at deterring corruption fail to apprehend that simple truth. Indeed, they foster the notion, unjustified in fact, that public officials are inherently dishonest. Such a policy not only fails to achieve its narrow goal of combating corruption but also destroys trust in municipal officials and thus ultimately undermines both the perception and reality of integrity in government. The purpose of ethics laws lies not in the promulgation of rules nor in the amassing of information nor even in the punishment of wrongdoers, but rather in the creation of a more ethical government, in perception and in fact . . . .
>
> In the end, the touchstone of integrity in government . . . reside[s] in the willingness of good citizens to serve in state and local government. Laws and agencies that chill that willingness to serve do far more harm than good. When, however, good citizens clamor to join the ranks of state and local officials, the ethical health of the state and local communities run strong.

Mark Davies, *1987 Ethics in Government Act: Financial Disclosure Provisions for Municipal Officials and Proposals for Reform*, 11 PACE L. Rev. 243, 266-267 (1991).

An ethics ordinance may be aspirational and/or punitive. An aspirational ordinance provides guidance to public officials and employees as to expected and prohibited conduct. An ethics ordinance that is also punitive provides civil and/or criminal penalties for violations of the

ethics ordinance. In drafting an ethics ordinance, consideration must also be given to collective bargaining agreements.

This office has developed this model ordinance as a means of assisting local officials in drafting an ethics ordinance for their local unit of government. While the adoption of such an ordinance is not required by state law, the information contained on this site is designed for local officials seeking to adopt an ethics ordinance. The various chapters and standards of conduct in this model ordinance are offered as suggestions and options for the governing body of a local unit to consider when drafting its own ethics ordinance. The governing body of each governmental unit should seek the advice of its legal counsel when drafting its ethics ordinance.

CHAPTER ONE - PURPOSE AND DEFINITIONS:

Section 1 - 1. Purpose. The purpose of this ordinance is to set forth standards of conduct for the officers and employees of the [type of unit]. The ordinance also provides references to certain state statutes that regulate the conduct of officers and employees of local government. The ordinance provides for an Ethics Ombudsperson to assist the [name of unit's governing body] in the administration of this ordinance. A Board of Ethics is established to hear complaints against officers and employees of the [type of unit] and, when there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, to refer those complaints for prosecution and/or a disciplinary hearing by the appointing authority. The ordinance provides for penalties for violations of this ordinance.

Commentary. If a unit chooses not to provide for an Ethics Ombudsperson or for a Board of Ethics, this section should be adjusted accordingly. If an Ethics Ombudsperson is not provided for, there would be no separate chapter establishing that office. If the Board of Ethics is not established, there should be in its place another Chapter entitled "Filing and Disposition of Complaints."

Section 1 - 2. Definitions.

"Employee" means a person employed by the [type of unit], whether on a full-time or part-time basis.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, travel, lodging, and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

"Government contract" means a contract in which the [type of unit] acquires goods or services, or both, from another person or entity, but the term does not include a contract pursuant to which a person serves as an employee or appointed officer of the [type of unit].

"Governmental decision" means a determination, action, vote, or disposition upon a motion, proposal, recommendation, resolution, ordinance, or measure on which a vote by the

members of a legislative or governing body of a public entity is required and by which a public entity formulates or effectuates public policy.

"Immediate family" means a person and a person's spouse and the person's children and step-children, by blood or adoption, who reside with that person.

"Officer or Official" means a person who holds office, by election or appointment within the [type of unit] regardless of whether the officer is compensated for service in his or her official capacity.

"Official action" means a decision, recommendation, approval, disapproval or other action or failure to act which involves the use of discretionary authority.

"Prohibited source" means any person or entity who:
(1) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;
(2) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
(3) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or
(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

CHAPTER TWO – STANDARDS OF CONDUCT

Section 2 – 1. Gift Ban. Except as permitted by this ordinance, no officer or employee of the [type of unit] shall intentionally solicit or accept any gift from any prohibited source or which is otherwise prohibited by law or ordinance.

Section 2 – 2. Exceptions. Section 2 – 1 is not applicable to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer or employee pays the fair market value.

(3) Any contribution that is lawfully made under the Campaign Finance Laws of the State of Michigan.

(4) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father,

mother, grandfather, or grandmother of an individual's spouse and the individual's fiancé or fiancée.

(5) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees.

(6) Food or refreshments not exceeding $[amount to be determined by unit's governing body] per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared, or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(7) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(8) Intra-governmental and inter-governmental gifts. For the purpose of this ordinance, "intra-governmental gift" means any gift given to an officer or employee from another officer or employee of [type of unit], and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(9) Bequests, inheritances, and other transfers at death.

(10) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than $[amount to be determined by unit's governing body].

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

Commentary. The dollar amount limitations permitted in Section 2 – 2 should be determined by each local unit based upon the standards of each municipality and the cost of such items in the area. For example, the State of Illinois places limits of $75 and $100 in subsections (6) and (10) respectively. However, a rural area of northern Michigan is not likely to be subject to a cost of living similar to that in Chicago or Detroit and the limits should reflect the local standards.

Section 2 – 3. Disposition of gifts. An officer or employee does not violate this ordinance if he or she promptly takes reasonable action to return a gift from a prohibited source.

Section 2 – 4. Confidential Information. A public officer or employee shall not divulge to an unauthorized person, confidential information acquired in the course of employment in advance of the time prescribed by [name of governing body of local unit] or the [name of specific officer] for its authorized release to the public.

See: Freedom of Information Act (FOIA), 1976 PA 442, MCL 15.231 *et seq.* - Suppression of or refusal to provide public records of the [type of unit] is governed by the FOIA, the Records Retention Schedule of the local unit as approved by the State Archivist, and MCL 750.491 (Public records; removal, mutilation or destruction; penalty).

Section 2 – 5. Personal Opinion. An officer or employee shall not represent his or her personal opinion as that of the [type of unit].

Section 2 – 6. Public Resources. An officer or employee shall use personnel resources, property, and funds under the officer's or employee's official care and control judiciously and solely in accordance with prescribed constitutional, statutory, and regulatory procedures and not for personal gain or benefit.

Section 2 – 7. Personal Profit. A public officer or employee shall not engage in a business transaction in which the public officer or employee may profit from his or her official position or authority or benefit financially from confidential information which the public officer or employee has obtained or may obtain by reason of that position or authority. Instruction which is not done during regularly scheduled working hours except for annual leave or vacation time shall not be considered a business transaction pursuant to this subsection if the instructor does not have any direct dealing with or influence on the employing or contracting facility associated with his or her course of employment with this [type of unit].

Section 2 – 8. Incompatibility and Conflicts of Interest. Except as otherwise provided in Const 1963, statute, or in Section 2 - 10, an officer or employee shall not engage in or accept employment or render services for a private or public interest when that employment or service is incompatible or in conflict with the discharge of the officer or employee's official duties or when that employment may tend to impair his or her independence of judgment or action in the performance of official duties. The simultaneous holding of more than one public position under certain circumstances is contrary to the requirements of the Incompatible Public Offices Act, MCL 15.181 *et seq*. However, the simultaneous holding of certain public positions is specifically authorized by the Michigan Constitution of 1963 or state statute.

See: Incompatible Public Offices Act, 1978 PA 566, MCL 15.181 *et seq.*

See: Const 1963, Article 7, Section 28. Local officials are specifically authorized to serve on the governing bodies of intergovernmental entities.

Section 2 – 9. Personal and financial interests. Except as provided in Section 2 – 10, an officer or employee shall not participate in the negotiation or execution of contracts, making of loans, granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation or supervision relating to a business entity in which the officer or employee has a financial or personal interest.

See: Conflict of Interest Act, 1968 PA 317, MCL 15.321 *et seq.* This Act governs the solicitation by and participation in government contracts by officers and employees of the [type of unit] and preempts all local regulations of such conduct. However, the Conflict of Interest Act does not apply to contracts between the [type of unit] and its officers and employees which are based on the [type of unit]'s powers to appoint officers and hire employees.

See: State Ethics Act, 1973 PA 196, MCL 15.341 *et seq*. Section 2 of this Act, MCL 15.342, set forth the standards listed in Sections 2 - 4 to 2 - 9 of this ordinance. However, no sanctions are imposed for violation of these standards by officers and employees of local units of government. Hence, the need for this ordinance to impose sanctions for the violation of these standards of conduct.

Section 2 – 10. State Conflict of Interest Act, Validity of Contracts, and Voting on, Making, or Participating in Governmental Decisions.

(1) This ordinance shall not in any manner vary or change the requirements of 1968 PA 317, being sections 15.321 to 15.330 of the Michigan Compiled Laws which governs the solicitation by and participation in government contracts by officers and employees of the [type of unit] and preempts all local regulation of such conduct.

(2) This ordinance is intended as a code of ethics for the [type of unit]'s officers and employees. A contract in respect to which a public officer or employee acts in violation of this ordinance, shall not be considered to be void or voidable unless the contract is a violation of a statute which specifically provides for the remedy.

(3) Subject to subsection (4), sections 2 - 8 and 2 - 9 shall not apply and an officer shall be permitted to vote on, make, or participate in making a governmental decision if all of the following occur:

(a) The requisite quorum necessary for official action on the governmental decision by the [name of unit's governing body] to which the officer has been elected or appointed is not available because the participation of the officer in the official action would otherwise violate sections 2 - 8 and 2 - 9.

(b) The officer is not paid for working more than 25 hours per week for [type of unit].

(c) The officer promptly discloses any personal, contractual, financial, business, or employment interest he or she may have in the governmental decision

and the disclosure is made part of the public record of the official action on the governmental decision.

(4) If a governmental decision involves the awarding of a contract, Sections 2 - 8 and 2 - 9 shall not apply and a public officer shall be permitted to vote on, make, or participate in making the governmental decision if all of the following occur:

(a) All of the conditions of subsection (3) are fulfilled.

(b) The public officer will directly benefit from the contract in an amount less than $250.00 or less than 5% of the public cost of the contract, whichever is less.

(c) The public officer files a sworn affidavit containing the information described in subdivision (b) with the [name of unit's governing body] making the governmental decision.

(d) The affidavit required by subsection (c) is made a part of the public record of the official action on the governmental decision.

Section 2 – 11. Political Activities of Public Employee or Public Officer.

(1) Employees of local units of government running for office, political campaigning by employees, and limitations on officers and employees seeking support from other employees for those campaigning for public office and for or against ballot proposals are regulated by the Political Activities by Public Employees Act, MCL 15.401 *et seq*. Complaints may be filed with the Michigan Department of Energy, Labor and Economic Growth. MCL 15.406. Violation of the provisions of this Act by employees and appointed officers are subject to appropriate disciplinary action, up to and including termination by the appointing authority. Violations of the ordinance are also subject to the sanctions listed in Chapter Five.

(2) Michigan Campaign Finance Act, MCL 169.201 *et seq*. Complaints regarding compliance with this Act may be filed with the Michigan Department of State.

See: Political Activities by Public Employees Act, 1976 PA 169, MCL 15.401 *et seq.*

See: Michigan Campaign Finance Act, MCL 169.201 *et seq.*

Section 2 – 12. Anti-nepotism. Unless the [name of governing body] shall by a two-thirds (2/3) vote, which shall be recorded as part of its official proceedings, determine that the best interests of the [type of unit] shall be served and the individual considered by such a vote

has met the qualifications for appointive office or employment, the following relatives of any elected or appointed officer are disqualified from holding any appointed office or employment during the term for which said elected or appointed officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouse of any of them. This Section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the [type of unit] at the time of the election or appointment of said officer to elective [type of unit] office.

Section 2 – 13. Representation Before Governmental Body.

An official or employee of the [type of unit] shall not represent any other person in any matter that the person has before the [type of unit] when the officer or employee appoints or otherwise supervises the board, commission, officer or employee responsible for handling the matter.

Section 2 - 14. Transactional Disclosure. Whenever an officer or employee is required to recuse himself or herself under Chapter Two of this ordinance, he or she:

(a) shall immediately refrain from participating further in the matter,

(b) shall promptly inform his or her superior, if any, and

(c) shall promptly file with the Board of Ethics, if any, and clerk of the [type of unit] a signed Affidavit of Disclosure disclosing the reason for recusal. The clerk shall send copies of the Affidavit of Disclosure to all of the members of the governing body of the [type of local unit] and the Affidavit shall be attached to the minutes of its next meeting.

See: Model Affidavit of Disclosure – Transactional Form

Section 2 - 15. Annual Disclosure Statement.

The following elected and appointed officers and employees shall file an annual disclosure statement: [list should include members of the unit's governing body, other elected and appointed officers and employees, such as the directors and deputy directors of administrative departments, members of the zoning board of appeals and planning commission, and those who regularly exercise significant discretion over the solicitation, negotiation, approval, awarding, amendment, performance, or renewal of government contracts].

The annual disclosure statement shall disclose the following financial interest of the officer or employee or his or her immediate family in any company, business, or entity that has contracted with the [type of unit] or which has sought licensure or approvals from the [type of unit] in the two calendar years prior to the filing of the statement:

(a) Any interest as a partner, member, employee or contractor in or for a co-partnership or other unincorporated association;

(b) Any interest as a beneficiary or trustee in a trust;

(c) Any interest as a director, officer, employee or contractor in or for a corporation; and

(d) Legal or beneficial ownership of [percentage to be determined by the unit's governing body] % or more of the total outstanding stock of a corporation.

The annual disclosure statement shall include a summary listing each business transaction with the [type of unit] involving a financial interest described in this section of the [type of unit] officer or employee and/or the immediate family of the officer or employee during the two prior calendar years.

If there is no reportable financial interest or transaction applicable to the officer or employee and/or the immediate family of the officer or employee, the annual disclosure statement shall contain a certification to that effect.

See: Model Affidavit of Disclosure – Annual Form

Commentary. It is understood that many local units of government do not have the need, the resources or the expertise to maintain an Ethics Board or Ethics Ombudsperson. However, for those local units who wish to create these vehicles for implementing an ethics ordinance, Chapter Three and Chapter Four (Alternative 1) offer these options.

CHAPTER THREE – ETHICS OMBUDSPERSON

Section 3 – 1. The [chief executive officer or other designated officer if the local unit does not have a chief executive officer], with the advice and consent of the [governing body] shall designate an Ethics Ombudsperson (EO) for the [type of unit].

Section 3 – 2. The EO may recommend to the [type of unit's governing body] that an advisory opinion be sought from the attorney for the [type of unit] regarding any requirement of this ordinance and its application to the officers and employees of the [type of unit].

Section 3 – 3. The EO shall promptly advise the governing body of the [type of local unit] of any problems encountered in the implementation of the ordinance and as to any recommendations that he or she may have for improvement of the ordinance. The EO shall perform such other duties as may be assigned by the [governing body].

CHAPTER FOUR (ALTERNATIVE 1) - BOARD OF ETHICS

Section 4 – 1. There is hereby created a board to be known as the Board of Ethics of the [type of local unit]. The Board shall be comprised of three members appointed by the [chief executive officer or other designated officer if the local unit does not have a chief executive officer] with the advice and consent of the [type of local unit's] governing body. No person shall be appointed as a member of the Board who is related, either by blood or by marriage up to the degree of first cousin, to any elected officer of the [type of unit]. [For entities in which officers are elected on a partisan basis, insert the following: No more than two members of the Board shall belong to the same political party at the time such appointments are made. Party affiliation shall be determined by affidavit of the person appointed.] Members shall serve without compensation.

Section 4 – 2. At the first meeting of the Board, the initial appointees shall draw lots to determine their initial terms of 3, 2, and 1 year(s), respectively. Thereafter, all board members shall be appointed to 3-year terms by the [chief executive officer or other designated officer if the local unit does not have a chief executive officer] with the advice and consent of the [name of unit's governing body]. Board members may be reappointed to serve subsequent terms.

At the first meeting of the Board and thereafter at the discretion of the Board, the board members shall choose a chairperson from their number. Meetings shall be held at the call of the chairperson or any 2 board members. A quorum shall consist of two Board members, and official action by the Board shall require the affirmative vote of two Board members.

The business of the Board, including its hearings, shall be conducted at a public meeting held in compliance with the Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.*

Section 4 – 3. The [name of unit's governing body], may remove a Board member in case of incompetency, neglect of duty or malfeasance in office after service on the Board member by certified mail, return receipt requested, of a copy of the written charges against the Board member and after providing an opportunity to be heard in person or by counsel upon not less than 10 days' notice. Mid-term vacancies shall be filled for the balance of the term in the same manner as original appointments.

Section 4 – 4. The Board shall have the following powers and duties:

(1) To promulgate procedures and rules governing the performance of its duties and the exercise of its powers.

(2) Upon receipt of a signed, notarized, written complaint against an officer or employee, to investigate, conduct hearings and deliberations, issue referrals for disciplinary hearings and refer violations of Chapter Two of this Ordinance or state or federal criminal statutes to the attention of the appropriate attorney with a request for the filing of the appropriate criminal prosecution or civil infraction enforcement. The Board shall, however, act only upon the receipt of a written complaint alleging a violation of this ordinance and not upon its own initiative.

(3) To receive information from the public pertaining to its investigations and to seek additional information and documents from officers and employees of the [type of unit].

(4) To request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the [type of local unit] to cooperate with the Board during the course of its investigations. Failure or refusal to cooperate with requests by the Board shall constitute grounds for discipline or discharge of appointed officers and employees of the [type of local unit].

(5) The powers and duties of the Board are limited to matters clearly within the purview of this ordinance.

See: Model Ethics Complaint Form

Section 4 – 5. (a) Complaints alleging a violation of this ordinance shall be filed with the Clerk of the [type of local unit]. The Clerk or member of the Clerk's staff shall attend the Board meetings and act as secretary for the Board.

(b) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the Board hearing to determine the sufficiency of the complaint and to establish whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the Board.

(c) The Board shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance, to determine whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance based on the evidence presented by the complainant and any additional evidence provided to the Board at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the Board, the Board shall issue notice to the complainant and the respondent of the Board's ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance.

If the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance and the Board finds that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, then the Clerk shall notify in writing the attorney designated by the [type of local unit's governing body] and shall transmit to the attorney the

complaint and all additional documents in the custody of the Board concerning the alleged violation, with the Board's request for the filing of appropriate criminal or civil proceedings. The Clerk shall also provide these documents to the respondent's appointing authority within the [type of unit] with the Board's request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreement, civil service commission rules or employment regulations of the [type of local unit].

(d) Sections 2b - 2e of the State Ethics Act, MCL 15.341 *et seq*, set forth protections for officers and employees who act as whistleblowers regarding the conduct of the [type of unit's] officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 *et seq*.

(e) Any person who files a complaint alleging a violation of this ordinance knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth may be subject to a fine of up to $500 as well as the reasonable costs incurred by the [type of local unit] in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint.

(f) A complaint must be filed with the Clerk within [number of years to be determined by the unit's governing body] years of the date the offense is alleged to have occurred.

CHAPTER FOUR (ALTERNATIVE 2) – FILING AND DISPOSITION OF COMPLAINTS (For use when the ordinance does not provide for a Board of Ethics)

Section 4 – 1. As deemed appropriate in its discretion, the [name of unit's governing body] shall:

(1) Upon receipt of a signed, notarized, written complaint against an officer or employee, investigate, conduct hearings and deliberations, conduct or issue referrals for disciplinary hearings and refer violations of Chapter Two of this ordinance or state or federal criminal statutes to the attention of the appropriate attorney with a request for the filing of the appropriate criminal prosecution or civil infraction enforcement.

(2) Receive information from the public pertaining to its investigations and seek additional information and documents from officers and employees of the [type of unit].

(3) Request the attendance of witnesses and the production of books and papers pertinent to an investigation. It is the obligation of all officers and employees of the [type of local unit] to cooperate with the [name of unit's governing body] during the course of its investigations. Failure or refusal to cooperate with requests by the [name of unit's governing body] shall constitute grounds for discipline or discharge of appointed officers and employees of the [type of local unit].

See: Model Ethics Complaint Form

Section 4 – 2. (a) Complaints alleging a violation of this ordinance shall be filed with the Clerk of the [type of local unit].

(b) Within 3 business days after the receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice to the respondent that a complaint has been filed against him or her together with a copy of the complaint. Within 3 business days after receipt by the Clerk of a complaint, the Clerk shall send by certified mail, return receipt requested, a notice of confirmation of receipt of the complaint together with a copy of the complaint to the complainant. The notices sent to the respondent and the complainant shall also advise them of the date, time, and place of the [name of unit's governing body] hearing to determine the sufficiency of the complaint and to establish whether probable cause exists that the respondent named in the complaint violated Chapter Two of this ordinance. The Clerk shall also concurrently send copies of the foregoing complaint and notices to the members of the [name of unit's governing body].

(c) The [name of unit's governing body] shall conduct a hearing to review the sufficiency of the complaint and, if the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance, to determine whether there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance based on the evidence presented by the complainant and any additional evidence provided to the [name of unit's governing body] at the hearing pursuant to its investigatory powers. The complainant and respondent may be represented by counsel at the hearing. Within a reasonable period of time after the completion of the hearing which may be conducted in one or more sessions at the discretion of the [name of unit's governing body], the [name of unit's governing body] shall issue notice to the complainant and the respondent of the [name of unit's governing body]'s ruling on the sufficiency of the complaint and, if necessary, as to whether they find that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance.

If the complaint is deemed sufficient to allege a violation of Chapter Two of this ordinance and the [name of unit's governing body] finds that there is a reasonable basis to believe that the respondent has violated Chapter Two of this ordinance, then the Clerk shall notify in writing the attorney designated by the [type of local unit's governing body] and shall transmit to the attorney the complaint and all additional documents in the custody of the [name of unit's governing body] concerning the alleged violation, with the [name of unit's governing body]'s request for the filing of appropriate criminal or civil proceedings. The Clerk shall also provide these documents to the respondent's appointing authority within the [type of unit] with the [name of unit's governing body]'s request for the commencement of appropriate disciplinary action consistent with any applicable collective bargaining agreement, civil service commission rules or employment regulations of the [type of local unit].

(d) Sections 2b - 2e of the State Ethics Act, MCL 15.341 *et seq*, set forth protections for officers and employees who act as whistleblowers regarding the conduct of the [type of unit's] officers and employees. Additional whistleblower protections are set forth in the Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 *et seq.*

(e) Any person who files a complaint alleging a violation of this ordinance knowing that material information provided therein is not true or that information provided therein was made in reckless disregard for the truth may be subject to a fine of up to $500 as well as the reasonable costs incurred by the [type of local unit] in investigating the complaint and the reasonable costs incurred by the Respondent in responding to the complaint..

(f) A complaint must be filed with the Clerk within [number of years to be determined by the unit's governing body] years of the date the offense is alleged to have occurred.

CHAPTER FIVE – SANCTIONS

Section 5 – 1. Sanctions shall not be construed to diminish or impair the rights of an officer or employee under any collective bargaining agreement, nor the [type of local unit's] obligation to comply with such collective bargaining agreements.

Section 5 – 2. State statutes cited in this ordinance contain criminal penalties and civil remedies that apply, as provided in those statutes, to the conduct regulated by those statutes.

Section 5 – 3. A violation of this ordinance may be punished as a civil infraction by a fine of up to $ [amount to be set by the local unit's governing body].... OR.... A violation of this ordinance may be punished as misdemeanor by a fine of up to $500 and/or 90 days in jail.

Commentary. A specific ordinance violation may be either a civil infraction or a misdemeanor, but not both.

Section 5 – 4. In addition to any other penalty, whether criminal or civil, an employee or officer who intentionally violates this ordinance may be subject to disciplinary action including censure, reprimand, removal, dismissal or discharge.

Commentary. If the Charter of a Home Rule City or Home Rule Village provides for removal of an elected officer by the governing body of the city or village, the officer may be so removed. Michigan cases recognizing the removal power of city councils pursuant to applicable provisions of a city charter include McComb v City Council of Lansing, 264 Mich 609 (1933), Wilson v City Council of Highland Park, 284 Mich 96 (1938), and City of Grand Rapids v Harper, 32 Mich App 324 (1971). In Hawkins v Common Council of the City of Grand Rapids, 192 Mich 276, 285-286 (1916), the Michigan Supreme Court rejected the argument that the power to remove elected city officers rested exclusively with the Governor, upholding the authority of the city council to remove the City's elected treasurer under the provisions of the city charter. However, absent such a provision in a city or village charter, removal of elected officers of local units of government is accomplished only by the Governor. MCL 168.383 (village); MCL 168.369 (township); MCL 168.327 (city); and MCL 168.268 and MCL 168.207 (county).

Section 5 – 5. In addition, the common law offense of misconduct in office (misfeasance, malfeasance and nonfeasance) constitutes a felony as provided in the Michigan Penal Code, MCL 750.505 and willful neglect of duty constitutes a misdemeanor as provided in MCL 750.478.

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: 7000 Block of Kingsbury Blvd.
Residential Permit Parking Area

AGENDA SECTION: New Business

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The Traffic Commission reviewed a petition to create a Residential Permit Parking Area in the 7000 Block of Kingsbury Boulevard., between Big Bend Blvd and Williams Ave.

According to the Municipal Code Section 355.030 Residential Parking Permit Plan, parking on public streets within residential neighborhoods may be restricted to the residents along not more than three (3) blocks of a street if the street is within two (2) blocks of Washington University or another municipality's boundary and if the problems caused by non-resident parking on the block are chronic and well documented.

The petition submitted by property owners at 7012 Kingsbury Boulevard documents the parking problems on both sides of the 7000 block of Kingsbury Blvd, and requests to restrict parking for residents on the both sides of the block.

The signatures in the petition exceeded the minimum requirement. The petition was signed by 78% of the affected households. Restricted hours are not to exceed twelve (12) hours daily. Proposed hours are from 8 am to 8 pm, Monday through Friday.

The Traffic Commission reviewed this request at their January 10, 2018 meeting and recommended approval of this petition to alleviate a reoccurring parking problem existing in this residential arterial road within University City by the City Council.

RECOMMENDATION:
The City Manager recommends approval of the request, based on the parking issues documented and submitted to the City through the petition attached, and compliance with the requirements outlined on the University City Municipal Code section 355.030; thus amending the Traffic Code Schedule III-D Residential Permit Parking Areas to add both sides of Kingsbury Boulevard., between Big Bend Blvd and Williams Ave.

ATTACHMENTS:

- Bill amending Schedule III-D Residential Permit Parking Areas
- Staff Report
- Petition submitted affected property owners of the 7200 block of Lindell Boulevard

INTRODUCED BY: DATE: February 12, 2018

BILL NO: 9350 **ORDINANCE NO.**

AN ORDINANCE AMENDING SCHEDULE III OF THE TRAFFIC CODE, TO REVISE TRAFFIC REGULATION AS PROVIDED HEREIN.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Schedule III of the Traffic Code, of the University City Municipal Code is amended as provided herein. Language to be added to the Code is represented as highlighted. This Ordinance contemplates no revisions to the Code other than those so designated; any language or provisions from the Code omitted from this Ordinance is represented by an ellipsis and remains in full force and effect.

Section 2. Schedule III of the University City Municipal Code is hereby amended to add both sides of Kingsbury Boulevard from Big Bend Boulevard to Williams Avenue where the City has designated as a Residential Permit Parking Area, to be edited to the Traffic Code as the "Schedule" – Schedule III, as follows:

Traffic Schedules

Schedule III: Parking Restrictions

Table III-D Residential Permit Parking Areas

The following areas are "Residential Permit Parking Areas" and are regulated as set forth in section 355.030 of this Code:

Street	Block	Scope
Kingsbury	7000	Both Sides

* * *

Section 3. This ordinance shall not be construed so as to relieve any person, firm or corporation from any penalty heretofore incurred by the violation of the sections revised by this amendment nor bar the prosecution for any such violation.

Section 4. Any person, firm or corporation violating any of the provisions of this ordinance shall be punished in accordance with the provisions of the University City Municipal Code.

Section 5. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED THIS_____day of_____2018

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

Department of Public Works and Parks
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

STAFF REPORT

MEETING DATE:	January 10, 2018
APPLICANT:	Gail and Robert Milder – 7012 Kingsbury Boulevard
Location:	7000 Kingsbury Boulevard - Between Big Bend Boulevard and Williams Avenue
Request:	Residential Parking Permit request
Attachments:	Traffic Request Form

Existing Conditions:

Kingsbury Blvd form Big Bend Blvd to Williams Ave.

At the December 13, 2017 Traffic Commission meeting, a motion was passed to request a petition for the Residential Parking Permit.

Implement a Residential Parking Permit System in the 7000 block of Kingsbury l Blvd between Big Bend Blvd and Williams Ave on both sides of the street (per the Traffic Commission recommendation from December 2017).

Residential parking only from 8 a.m. to 8 p.m., every day of the week. This restriction matches the hours and days of adjacent streets.

The petition submitted included signatures from 21 property owners, out of 27 properties in the requested area. This constitutes 77.7% of property owners in agreement.

Conclusion/Recommendation:

City Staff recommends that the Traffic Commission approve the petition as presented

system.

M - 2 - 5

Department of Public Works and Parks
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

TRAFFIC REQUEST FORM

LOCATION OF REQUEST:
7000 block of Kingsbury Blvd.

STATE THE NATURE OF YOUR REQUEST:
We request that the city institute Residential Permit Parking on the 7000 block of Kingsbury Blvd from 8 am - 8 pm, Monday through Friday. The city has already instituted Residential Permit Parking on weekdays to protect the 7000 blocks of Westmoreland, Maryland, Lindell, Forsyth, Northmoor, Pershing, and Waterman. Consequently, university students and faculty and Metrolink commuters are using the 7000 block of Kingsbury for all-day parking, much to the inconvenience of local residents. We request the same protection already provided by the city to other streets in close proximity to the University and the MetroLink stop.

WHAT ACTION ARE YOU REQUESTING THAT THE CITY TAKE CONCERNING YOUR REQUEST? We request that the city post signs on the 7000 block of Kingsbury stating No Parking [the No Parking symbol] 7000 block of Kingsbury Blvd., 8 am to 8 pm Monday - Friday except by Residential Permit. The signs would be similar to those currently posted on the 7000 blocks of Westmoreland, Maryland, Lindell, Forsyth, and Northmoor, though with somehat different restricted hours. Residents of the 7000 block of Kingsbury would receive (free of charge) parking stickers for their vehicles and a small number of parking tags to provide to guests and/or vehicles providing services to their property.

WHAT IMPACT WOULD THE ACTION HAVE ON ANY ADJACENT RESIDENTS OR STREETS? None that we can foresee

NOTE: THIS PETITION SHOULD BE SIGNED BY AT LEAST SEVENTY-FIVE (75%) PERCENT OF THE PROPERTY OWNERS ADJACENT TO THE BLOCK OF THE PUBLIC STREET INVOLVED.

NAME: Gail and Robert Milder
ADDRESS: 7012 Kingsbury Blvd.
PHONE (HOME): 314-725-0829 PHONE (WORK):
Email: gail.milder@sbcglobal.net
Date: December 21, 2017

Please return the completed form to the Public Works and Parks Department, 3rd floor of City Hall, attention Errol Tate, Public Works Liaison of the Traffic Commission, via email at etate@ucitymo.org.

Or, by mail/fax: Traffic Commission
C/O Public Works Department
6801 Delmar Blvd. 3rd Floor
University City, MO 63130
(314) 505-8560
(314) 862-0694 (fax)

Neighborhood to the World
University City

Department of Public Works and Parks
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

PETITION FOR STREET CLOSURE

Block: 7000 Name of Street: Kingsbury
Hours restricted: Monday - Friday 8am - 8pm

NAME (PRINTED)	SIGNATURE	ADDRESS
CLARK SCHULTZ		7016 KINGSBURY
Stacey Murphy		7016 Kingsbury
ROBERT MILDER		7012 Kingsbury
Gail Milder		7012 Kingsbury
Susan Davis McCarter	SUSAN DAVIS-MCCARTER	7064 KINGSBURY
ROBERT McCARTER	Robert McCarter	7064 Kingsbury
Debbie Kemp	Debbie Kemp	7028 Kingsbury
Pam Forster	Pam Forster	7020 Kingsbury
Duane Turpin		7057 Kingsbury
Meg Turpin		7057 Kingsbury
VICTORIA GONZALEZ	Victoria Gonzalez	7044 KINGSBURY BLVD
STEVE WERKOW		7044 KINGSBURY BLVD
Sidney J. Reedy	Sidney J. Reedy	7037 Kingsbury
Rodolfo Manuel II		7024 Kingsbury
BRUCE FORSTER		7020 Kingsbury
Cindy Berger	Cindy Berger	7069 Kingsbury
JESSICA MILLNER		7009 KINGSBURY

Neighborhood to the World

University City

Department of Public Works and Parks
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

PETITION FOR STREET CLOSURE

Block: 7000 Name of Street: Kingsbury Blvd.

Hours restricted: Monday - Friday 8am - 8pm

NAME (PRINTED)	SIGNATURE	ADDRESS
WARD SHAW	Ward Shaw	7001 Kingsbury Blvd, U-City
Michael Stein	Michael Stein	7066 Kingsbury Blvd
Barbara Stulac	Barbara B Stulac	7032 Kingsbury
Greg Van Shawen		7040 Kingsbury
Shawn Goulet	Shawn a Goulet	7036 Kingsbury Blvd
Jill Cumming	Jill Cumming	7004
X Wendy Geraty	Wendy Geraty	7135 Kingsbury Blvd
MARC TOURVILLE	Marc A. Tourville	7017 KINGSBURY BLVD
Brigitte Kelly	Brk Kelly	7008 Kingsbury Blvd

Neighborhood to the World
University City

Department of Public Works and Parks
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

PETITION FOR STREET CLOSURE

Block: 7000 Name of Street: Kingsbury Blvd

Hours restricted: Monday - Friday 8am - 8pm

NAME (PRINTED)	SIGNATURE	ADDRESS
GEORGE DURKO		7029 KINGSBURY
George Nicholas		7000 Kingsbury

7000 block of Kingsbury Blvd: Signatures as of 1-3-18

7000	George Nicholas
7001	Ward Shaw & Melissa Maddox
7004	Jill Cumming
7008	Brigitte Kelly
7009	Jessica & Andrew Millner
7012	Gail & Robert Milder
7016	Stacey Murphy & Clark Schultz
7017	Marc Tourville
7020	Bruce & Pam Forster
7024	Rodolfo Manuelli
7028	James & Debra Kemp
7029	George & Nicole Durko
7032	George & Barbara Stulac
7036	Shawn & Chris Goulet
7037	Sidney & Judith Reedy
7040	Renee & Gregory Van Stavern
7044	Steve Welker & Vicki Gonzalez
7057	Frederick & Margaret Turpin
7064	Robert McCarter & Susan Davis-McCarter
7066	Michael & Sara Stein
7069	Cindy & Dan Berger

Council Agenda Item Cover

MEETING DATE: February 12, 2018

AGENDA ITEM TITLE: Text Amendments to Section 400.2010.B.2 of the University City Zoning Code relating to location of parking areas

AGENDA SECTION: New Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : No

BACKGROUND REVIEW: The zoning code requires that off-street parking be provided on the same zoning lot as occupied by the use or building to which it is appurtenant. If there are practical difficulties in satisfying this requirement and/or if the public safety and convenience would be adequately served by another location, the Zoning Code permits an alternate location to be used subject to certain conditions.

A text amendment is being proposed to create another option for allowing parking requirements to be met "off-site". In considering this matter, Plan Commission reviewed five options drafted by the City Attorney in consultation with the City Manager and staff. By a vote of 5-1, Plan Commission recommended approval of an option that would allow off-site parking if "…***the off-site parking spaces are in a parking structure having at least 100 parking spaces and a conditional use permit for the off-site parking area is approved by the City Council under the procedure in Article XI, Conditional Uses***."

Staff recommends this text amendment, with one change: "…***the off-site parking spaces are in a parking structure having at least ~~100~~ 200 parking spaces and a conditional use permit for the off-site parking area is approved by the City Council under the procedure in Article XI, Conditional Uses***." The attached draft ordinance reflects the staff recommendation.

This agenda item requires a public hearing at the City Council level and passage of an ordinance. The first reading should take place on February 12, 2018. The public hearing, and second and third readings and passage of the ordinance could occur at the subsequent February 26, 2018.

Attachments:
1: Transmittal Letter from Plan Commission
2: Draft Ordinance

RECOMMENDATION: The City Manager recommends approval of this text amendment.

Plan Commission
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

February 6, 2018

Ms. LaRette Reese
City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Zoning Text Amendment – Section 400.2010 Parking Areas

Dear Ms. Reese,

At its regular meeting on January 31, 2018 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, the Plan Commission considered the above referenced zoning text amendment.

By a vote of 5 to 1, the Plan Commission recommended approval of the request as per the attached document.

Sincerely,

Cirri Moran, Chairperson
University City Plan Commission

DRAFT TEXT AMENDMENT RECOMMENDED BY PLAN COMMISSION
(CHANGES APPEAR IN BOLD ITALICS)

Section 400.2010 **Location of Parking Areas.**

A. All required off-street parking shall be provided on the same zoning lot occupied by the use or building to which it is appurtenant, except as provided for below.

B. In the event that there exist practical difficulties in satisfying the requirement for parking spaces and/or if the public safety and convenience would be adequately served by another location, the Zoning Administrator may authorize an alternate location, subject to the following conditions:

1. If parking is to be located elsewhere than on the lot on which the principal use is located, then the "off-site" property to be utilized for parking shall be in the same possession (either by deed, or by easement, or long-term lease which has a term equal to or exceeding the projected life or term of lease of the facility) as the owner of the principal use. In addition, the owner of property used for off-site parking shall be bound by covenants filed in the office of the St. Louis County Recorder of Deeds, requiring such owner, successors, assigns to maintain the required number of off-street parking spaces during the existence of such principal use utilizing the property for parking.

2. Such off-site parking areas shall be located not more than one-thousand (1,000) feet from the nearest primary entrance to the principal building being served, provided the lot, for which off-site parking is to be provided, is located in a zoning district that permits a parking lot or structure as a principal use, or ***the off-site parking spaces are in a parking structure having at least 100 parking spaces and a conditional use permit for the off-site parking area is approved by the City Council under the procedure in Article XI, Conditional Uses***. In addition, such off-site parking areas shall not be located so as to cause persons to cross an arterial street to get from said parking area to the principal use which it serves unless such off-site parking area is located within five-hundred (500) feet of a signalized intersection. For purposes of this paragraph, arterial streets consist of Delmar, Olive, and Hanley. Such off-site parking areas shall not be located so as to cause persons to cross I-170 to get from said parking area to the principal use which it serves.

C. Cross-access between off-street parking areas on adjacent properties shall be subject to review and approval by the Department of Community Development. Execution of a cross-access easement shall be as approved by the Department of Community Development.

INTRODUCED BY: _____ DATE: _____

BILL NO.: 9351 **ORDINANCE NO.: _____**

AN ORDINANCE AMENDING CHAPTER 400, ARTICLE VII, SECTION 400.2010 OF THE UNIVERSITY CITY MUNICIPAL CODE, RELATING TO THE ZONING CODE, OFF-STREET PARKING AND LOADING REQUIREMENTS, LOCATION OF PARKING AREAS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Chapter 400, Article VII, Section 400.2010 of the University City Municipal Code, relating to the Zoning Code, off-street parking and loading requirements, location of parking areas, is hereby amended by repealing Section 400.2010 and enacting in lieu thereof a new Section 400.2010, which shall read as follows, with the new language highlighted:

Section 400.2010. Location of Parking Areas.

A. All required off-street parking shall be provided on the same zoning lot occupied by the use or building to which it is appurtenant, except as provided for below.

B. In the event that there exist practical difficulties in satisfying the requirement for parking spaces and/or if the public safety and convenience would be adequately served by another location, the Zoning Administrator may authorize an alternate location, subject to the following conditions:

1. If parking is to be located elsewhere than on the lot on which the principal use is located, then the "off-site" property to be utilized for parking shall be in the same possession (either by deed, or by easement, or long-term lease which has a term equal to or exceeding the projected life or term of lease of the facility) as the owner of the principal use. In addition, the owner of property used for off-site parking shall be bound by covenants filed in the office of the St. Louis County Recorder of Deeds, requiring such owner, successors, assigns to maintain the required number of off-street parking spaces during the existence of such principal use utilizing the property for parking.

2. Such off-site parking areas shall be located not more than one-thousand (1,000) feet from the nearest primary entrance to the principal building being served, provided the lot, for which off-site parking is to be provided, is located in a zoning district that permits a parking lot or structure as a principal use **or the off-site parking spaces are in a parking structure having at least two hundred (200) parking spaces and a conditional use permit for the off-site parking area is approved by the City Council under the procedure in Article XI, Conditional Uses**. In addition, such off-site parking areas shall not be located so as to cause persons to cross an arterial street to get from said parking area to the principal use which it serves unless such off-site parking area is located within five-hundred (500) feet of a signalized intersection. For purposes of this paragraph, arterial streets consist of Delmar, Olive, and Hanley. Such off-site parking areas shall not be located so as to cause persons to cross I-170 to get from said parking area to the principal use which it serves.

C. Cross-access between off-street parking areas on adjacent properties shall be subject to review and approval by the Department of Community Development. Execution of a cross-access easement shall be as approved by the Department of Community Development.

Section 2. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED and ADOPTED this _____ day of February, 2018.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

Storm Water Task Force
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 505-8560, Fax: (314) 862-0694

CITY OF UNIVERSITY CITY MINUTES OF THE STORM WATER TASK FORCE JANUARY 2, 2018

1. Call to Order
The third regular meeting of the Stormwater Task Force was called to order at 6:30 PM by Co-Chair John Tieman on Tuesday, January 2, 2018. The meeting site was the Heman Park Community Center on Pennsylvania Ave.

2. Attendance-Roll Call
The following members were present: Garry Aronberg, Tim Cusick, Mark Holly, Eric Karch, Irv Logan, Angelika Mueller, Bobette Patton, John Tieman, Eric Stein, Linda Sharpe-Taylor.

Also in attendance were the following City officials: Bwayne Smotherson (City Councilmember), Chris Kalter (Project Manager, Public Works Department), Mark Zaiontz (Code Enforcement).

3. Agenda
The agenda below was accepted without objection:

1. Call to order and Roll call
2. Approval of minutes from previous meeting
3. Report
   a. Survey Subcommittee
   b. Master Plan Review Subcommittee
4. Unfinished business
   a. Mission and vision statements
5. New Business
   a. Maps
6. Adjournment.

4. Minutes
Messrs. Holly and Karch moved and seconded, respectively, that the minutes as shown in the DropBox and distributed at this meeting be accepted. By voice vote the minutes were accepted.

5. Survey Subcommittee Report
For the Survey Subcommittee, Mr. Holly summarized the meeting attended by Messrs. Holly, Tieman, and Aronberg. The wording was modified to include suggestions made at the last Storm Water Task Force meeting: frequency of storm water complaints, specificity of house and yard impact, to whom complaint has been made. The latest version is the December 20 version in the Dropbox and attached to these minutes. The survey is to be distributed in an upcoming issue of the Roars and through Survey Monkey. The Roars version can be returned by mail.

Chairman Tieman asked for comments. There were no comments. So Chairman Tieman asked that the survey be forwarded to City Staff for publication in Roars and in Survey Monkey.

6. Neighboring Community Subcommittee
Messrs. Cusick and Aronberg and Ms. Patton meet and had later had verbal input from Angelika Mueller and Eric Karch to identify features of storm water programs of neighboring communities.

Most frequent problems considered by neighboring communities were overflow of creeks, basement flooding from overflowing creeks, basement backups from sewers, yard ponding. Most communities follow least MSD Rules and Regulations. Some communities have more stringent water quality standards than MSD. Some communities require that even small new developments have no increase in runoff.

Currently, MSD funding small. Other communities such as Ladue, Town & Country, St. Peters have half-cent sales tax for parks and stormwater. Ladue and St. Peters (and U. City) have also won some Section 319 N3 - 1

grants. Most communities collect much less than the identified storm water needs. University City has sales tax that collects about $600,000 to be split between parks and storm water. MSD is going to ask the public to fund stormwater through an impervious surface tax.

MSD had designed ponding and bank erosion mitigation projects in U. City but MSD currently has no floodplain buyouts, but MSD may participate with U. City and USACE with buyouts that are currently being studied.

Ladue as a matter of policy does not participate in floodplain buyouts. But such a policy is not a likely an appropriate in U. City.

Discussion from floor centered around the following concepts:

- U. City likely to need to adopt priorities and ordinances that are much different from upstream communities and less densely populated communities.
- We should explore a decrease of runoff from upstream communities.

7. Mission and Vision

The discussion of mission and vision was tabled until after we have more data to clarified problems and solutions.

8. Maps

Samples of Flood Insurance Rate Maps were distributed and Messrs. Karsh and Aronberg discussed their symbols and use.

9. New Business

9.1. Systematically Track Storm Water Issues of Task Force

Mr. Cusick moved that the Task Force start accumulating a list of issues to be studied in detail as a basis for recommendations to the Council. Issues are to be added to the list by motion and be listed in the meeting agenda. Subcommittees are to be assigned to research and lead discussions of those issues. Following discussion, the motion passed.

9.2. Storm Water Issues of the Task Force

Several items were added to the *Issue List* by motion by Linda Sharpe-Taylor followed by discussion and accepted by consensus. The issues added are:

- Early warning of floods;
- Identify larger storm water sources;
- Identify agencies that can assist us in developing storm water solutions and funding.

10. Next Meeting

Our next meeting will be the first Tuesday in February, February 6, 2018, at 6:30 PM in the Community Center on Pennsylvania Ave in Heman Park.

11. Adjournment

By consensus the meeting was adjourned at approximately 8:00 PM.

Minutes were prepared by Garry Aronberg.

C:\Users\Garry\Dropbox\UCity Stormwater Taskforce\Minutes\20171206SWtaskForceMinDRAFT.docx

We, the **University City Storm Water Task Force**, want and need your input. Our challenge is to better understand the extent and nature of storm water drainage issues in our community. Below is a brief survey to get us started. Your input is essential to understanding where and what type of storm water issue(s) you may have. You may communicate your survey input by doing one of the following:

- Complete the survey below, fold then tape shut, add a stamp, and return via US postal mail.
- Complete the survey online by going to www. … (Doodle Survey Link) ….
- Call (314) 505-8560 to complete the survey by phone.

Name _____ (*provide name and a way to contact you*)

Address _____ Email _____ Phone_____

Survey Questions

			Frequency *(check square)*		
			More than once a year	Once a year	Every few years
Do excessive puddles or standing water develop on/or near your property after storms?	**YES**	**NO**			
IN your yard, do flash flooding or intense high-speed gushes of water, occur after a rainstorm?	**YES**	**NO**			
After a storm, does your basement flood?	**YES**	**NO**			
Is soil washed away, causing erosion in your yard after a storm?	**YES**	**NO**			
Does water rise and overflow onto or nearby your property from a river or stream after a storm?	**YES**	**NO**			
Near your house, is the soil or ground around a creek bank washed away or eroded after a storm?	**YES**	**NO**			
Do excessive puddles or standing water develop in the street(s) near your property after a storm?	**YES**	**NO**			
Do nearby streets flood after a storm?	**YES**	**NO**			
If water has entered your home, please circle the best description of the circumstance: A. Leaks in the walls or floor. B. Windows or window wells. C. Doors D. Basement floor drain	**A**	**B**	**C**	**D**	
Have you ever reported storm water problems to (circle any that apply): A. Metropolitan St. Louis Sewer District (MSD) B. St. Louis County C. University City D. Your Insurance Company E. Other (specify) _____	**A**	**B**	**C**	**D**	**E**

TAPE

Fold Line

----*STAMP*

Chris Kalter
6801 Delmar Blvd
University City, MO 63130

TAPE

TAPE

Chris Kalter
Project Manager
6801 Delmar Blvd
University City, MO 63130

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