

ORDINANCE No. 12066 C. M. S.ORDINANCE AMENDING AND RESTATING ORDINANCE
NOS. 11607 C.M.S. AND 12045 C.M.S. ESTABLISHING A
LINKED BANKING SERVICES PROGRAM

WHEREAS, the 1989 Community Credit Needs Assessment commissioned by the City found "respondents from both diverse ethnic backgrounds and widely different sectors in small businesses, housing development, nonprofit service organizations, appraisers, brokerage--even lenders themselves--asserted that racial prejudice and racist practice severely restrict access to capital for minority businesses in the City's low income neighborhoods"; and

WHEREAS, the 1991 Community Credit Needs Assessment, commissioned by the City to update the findings of the 1989 community Credit Needs Assessment, found that the credit demand for affordable housing is approximately \$200 million annually; the credit demand for total long and short term debt for small businesses is at least approximately \$358 million; and, the credit demand for small minority-owned and women-owned businesses is approximately \$46 million annually; and

WHEREAS, a 1989 study by the Federal Reserve Bank of San Francisco affirmed many of the same credit needs and lender shortcomings cited in the 1989 study of community credit need and capital flow in Oakland; and

WHEREAS, the lack of community lending to the City's low income and minority communities significantly impairs the City's ability to meet its community development, neighborhood preservation and housing goals; and

WHEREAS, the City passed an ordinance establishing the Linked Banking Services program, Ordinance No. 11607, in July, 1993, in order to encourage community lending and further amended Section 2 of that Ordinance by Ordinance No. 12045 C.M.S. passed on March 24, 1998; and

WHEREAS, following a review of the linked banking services program, the City Council wishes to amend and restate these Ordinances; now, therefore

The Council of the City of Oakland does ordain as follows:

SECTION 1. The City of Oakland hereby establishes a Linked Banking Services Program. All City Banking Services shall be provided only by Eligible Depositories that meet the guidelines as set forth herein or as otherwise authorized in this Ordinance. In the event that a depository with which the City contracts for banking services fails to meet its Fair Share Goal, as defined in

Section 2.E. below, for the previous year, the depository may continue on contract with the City for the current year, provided that:

- A. The depository commits to meeting during the current year the balance of its unmet Fair Share Goal credit for the previous year plus an additional penalty equal to ten percent of its total Fair Share Goal for the year it failed to meet said Goal; and
- B. The depository submits a plan of how it intends to provide the unmet Fair Share Goal credit, the penalty, and the current year Fair Share Goal credit that is acceptable to the City Manager or his or her designee.

At the end of the current year, the City will not continue to contract with such a depository if it fails to achieve its previous year Fair Share Goal, including the penalty amount of community credit as described above, or if it fails to achieve its current year Fair Share Goal.

SECTION 2. Definitions. For purposes of this Ordinance, certain terms, phrases, words, and derivatives shall be construed as specified in this Section.

- A. "Community Credit Lending": lending within the City of Oakland, in the following areas:
 - 1. Affordable housing for persons at or below the area median income, as adjusted for household size, for the Oakland Primary Metropolitan Statistical Area, as defined by the U.S. Department of Housing and Urban Development, in any of the following categories: Single-family purchase, rehabilitation and new construction; multi-family purchase, rehabilitation and new construction; credit needed to build, acquire or rehabilitate housing for special needs populations such as the homeless, the elderly, single parents, physically or mentally disabled.
 - 2. "Local economic development credit needs", defined as:
 - a. lending for small businesses, defined as businesses with sales greater than Fifty Thousand Dollars (\$50,000) and less than Five Million Dollars (\$5,000,000), except for small manufacturing businesses which are defined as businesses with sales of less than Fifteen Million Dollars (\$15,000), addressed in any of the seven Community Development Districts;
 - b. lending to or grants made to nonprofit enterprises, other than universities and hospitals, addressed in Oakland; or
 - c. lending to commercial developers seeking credit for development projects within the seven Community Development Districts. For loans for the acquisition and substantial rehabilitation or the acquisition and new

construction (or for substantial rehabilitation or new construction alone) of such development projects, no more than Twenty Million Dollars (\$20 million) per development loan may be considered as meeting local economic development credit needs. For loans for the acquisition of such development projects without substantial rehabilitation or new construction, no more than Ten Million Dollars (\$10 million) per loan may be considered as meeting local economic development credit needs.

3. Seismic safety credit needs, particularly in the area of seismic retrofitting of "Potentially Hazardous Unreinforced Masonry Buildings" citywide, as identified by the City of Oakland.
 4. Other community needs defined as:
 - a. home equity lines of credit and home equity loans made on homes in the Community Development Districts;
 - b. sponsorship of or technical assistance provided for consumer banking and financial education and training; or
 - c. donations of equipment or other property to Oakland nonprofit organizations serving community development needs.
- B. "Community Credit Need": The estimated total credit need in the City of Oakland in areas of Community Credit Lending, as published annually by the City Manager or his or her designee.
- C. "City Banking Services": All banking services utilized by the City including the Port of Oakland operating fund, with the exception of investments made through investment banks and broker/dealers.
- D. "Eligible Depository": A "depository" under Government Code Section 53630, defined as a state or national bank, savings and loan association or federal association, or a state or federal credit union doing business in this state, which meets all of the following:
1. Meets its Fair Share Goal, as defined in paragraph E below, for the previous year with respect to Community Credit Lending;
 2. Commits in writing to a volume goal by loan products responsive to Oakland's published annual Community Credit Need assessment. It is understood that depositories may specialize in loan products where they have particular expertise, e.g. small business lending, construction lending, permanent residential lending, home purchase lending, rehabilitation lending, etc.

Nevertheless, no depository will be eligible to provide the City with Banking Services without a written commitment to meeting a fair share of the City's published Community Credit Need; and,

3. Complies with reporting requirements specified in Section 3 of this Ordinance.

E. "Fair Share Goal": A depository's fair share community lending annual dollar goal equal to Oakland's total annual published Community Credit Need multiplied by that depository's total deposits as a percent of all depository deposits in Oakland:

TCCN = Oakland's annual published total community credit need;

DOD = Depository's total deposits in Oakland;

TDOD = Total deposits of all Oakland depositories;

DFSG = Depository's Fair Share Goal;

DFSG = $\frac{DOD}{TDOD} \times TCCN$

In the event that a depository does not have any deposits in Oakland, the depository will be considered an Eligible Depository only upon approval by the City Manager.

In the event that a depository maintains an office in Oakland primarily serving the needs of businesses on a regional, statewide, or national level, the depository may be allowed to, but is not obligated to, deduct the dollar amount of deposits of non-Oakland businesses from the total level of deposits in Oakland for the purposes of calculating the depository's Fair Share Goal.

SECTION 3. Depositories providing the City with Banking Services must provide annually to the City such information as established from time to time by the City Manager or his or her designee in order to establish whether the depository has met the requirements of an Eligible Depository as defined in Section 2.D. In particular, depositories must provide annually information to establish whether they have provided sufficient levels of Community Credit Lending, as defined Section 2. A., to meet their Fair Share Goals. Depositories meeting the definition of a small bank contained in the federal Community Reinvestment Act may elect to submit information annually on one or more reporting areas to demonstrate that it has met its Fair Share Goal of providing community credit. All other depositories must provide information on all Community Credit Need reporting areas as established by the City Manager.

SECTION 4. A list of Eligible Depositories and those depositories doing business in Oakland that are not Eligible Depositories will be filed by the City Manager or his or her designee

with the City Clerk each year. This list will also be supplied to the appropriate federal and state regulatory agencies each year. A notice whether a depository meets its Fair Share Goal will be filed by the City in each depository's Community Reinvestment Act public comment file.

SECTION 5. Notwithstanding any other provisions in this Ordinance, the City Manager may waive the restrictions imposed by the Linked Banking Services Program if the City Manager makes any of the following findings:

- A. No depository is available which meets the definition of an Eligible Depository; or
- B. The City will incur more than \$100,000 per year in costs, such as lost interest opportunity and/or increased bank charges, as a consequence of the requirements of the Linked Banking Services Program, as determined by and reported by the City's Director of Finance. The City's Director of Finance shall report to the City Manager on interest earning differentials and relative bank charges otherwise available to the City, and other costs that may be incurred by the City as a consequence of the requirements of the Linked Banking Services Program.

In such event, the City Manager shall endeavor to select those depositories which best meet the following criteria:

- 1. those depositories that most nearly meet their Fair Share Goals and other requirements as defined in Section 2.D.; and
- 2. those depositories which are most capable of providing a level of service and/or investment return equal to that offered under the prevailing current market conditions.

SECTION 6. The Program will be subject to California Government Code Section 53630 et. seq. governing the local deposit of public funds. In particular, it is the intent of this Ordinance that the Program will be consistent with Section 53635 which specifies eligible investments for the deposit of public funds by local agencies. Nothing in this Ordinance shall be construed to supersede the provisions of Section 53630 et. seq., or covenants governing the deposit of loan proceeds or loan redemption funds.

SECTION 7. The requirements of this Program shall be incorporated into the City of Oakland Investment Policy adopted by the City Council and published by the Director of Finance.

SECTION 8. This Ordinance shall be effective immediately upon adoption.

SECTION 9. The City Manager is hereby authorized to issue rules and regulations for the Linked Banking Services Program consistent with this Ordinance.

SECTION 10. This Ordinance replaces and supersedes Ordinance Nos. 11607 C.M.S. and 12045 C.M.S. in their entirety.

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

July 14, 1998

CEDA FLOYD

City Clerk and Clerk of the Council

Per *C. J. ...* Deputy