CITY OF OAKLAND
Public Ethics Commission

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Alaric Degrafinried
Alex Paul
Ai Mori
Richard Unger
Vacancy (Mayoral)

Daniel D. Purnell, Executive Director

One Frank Ogawa Plaza, 4th Floor, Oakland, CA 94612 (510) 238-3593 Fax: (510) 238-3315

TO: Public Ethics Commission
FROM: Daniel Purnell
DATE: March 1, 2010

RE: ***FIRST SUPPLEMENTAL*** **Staff Report And Action To Be Taken Regarding A Proposal By City Councilmembers Ignacio De La Fuente And Rebecca Kaplan To Suspend The Limited Public Financing Program (O.M.C. Chapter 3.13) And Authorizing The Transfer Of $225,000 From The Election Campaign Fund To The Instant Run-Off Voting Outreach And Education Fund For The November 2010 Municipal Election And Allocating Said Funds To Three Organizations Serving The Latino, Asian And African-American Communities**

Since the preparation and filing of the initial staff report for this item, Commission staff has obtained and reviewed the City Council agenda report for Mr. De La Fuente's and Ms. Kaplan's proposal to transfer money budgeted for Oakland's Limited Public Financing Program and use it to provide voter education for the Ranked Choice Voting (aka Instant Run-off Voting) system during the November 2010 election. A copy of the City Council agenda report is attached. ***Attachment 1.***

The City Council agenda report quotes the City Clerk as advising the City Council that the total allocation of education costs has not yet been determined. Additional information is expected sometime during the week of February 22, 2010. The report indicates that the $225,000 will augment the County of Alameda's voter education program "by funding three community based organizations serving the Latino, Asian and African American communities." The report states that these organizations will be required to meet specific performance benchmarks, and to submit written weekly reports on their outreach efforts. (Commission staff notes that the report leaves blanks where specific numbers are intended to be provided.) The report also states that the organizations must meet certain qualifications to demonstrate they have the ability to provide the specified outreach activities.

The operative language effecting the transfer of funds -- expressed as a proposed amendment to the Limited Public Financing Act -- contains none of the above performance or qualification standards. The proposed amendments provide in relevant part:

> **3.13.210 Effect On Municipal Elections**
>
> Chapter 3.13 of this Code (Section 3.13.010 - 3.13.260 inclusive) shall have no effect for the 2010 municipal elections.
>
> **3.13.211 Transfer Of Funds To The Instant Run-Off Voting (IRV) Outreach And Education Funds**
>
> Notwithstanding any other ordinance, for the 2010 municipal elections, $225,000 from the election campaign fund shall be transferred to the instant run-off voting (IRV) outreach and education campaign fund for the November 2010 municipal election and said funds shall be allocated to three organizations serving the Latino, Asian and African American communities.

The City Council has used similar language in the past to transfer money from the Election Campaign Fund. However, Commission staff is concerned that the proposed amendments fail to 1) provide sufficient flexibility or discretion for the City Clerk to determine whether these funds will even be necessary to adequately fund voter outreach efforts; 2) establish minimum qualifications and performance standards for the three organizations; 3) provide a selection process (such as an RFP/RFQ process) to determine which organizations can meet the intended requirements; 4) establish a firm deadline by which work will commence; and 5) a provision by which any unallocated funds may be returned to the Election Campaign Fund in the event all or part of the money is not disbursed.

Notwithstanding the Commission's ultimate decision whether it wishes to express support or opposition to the proposal, the Commission may wish to express its desire that the proposed amendments be written in a manner that effects the intent of the authors and/or the Commission as to how and under what conditions the funds should be transferred or disbursed.

Respectfully submitted,

Daniel D. Purnell
Executive Director

NOTE: At its meeting on Thursday, February 25, 2010, the City Council's Rules Committee approved a request from City Councilmember Ignacio De La Fuente to postpone the City Council's consideration of his and Ms. Kaplan's proposal until the City Council meeting of March 16, 2010.

NOTE: Commission Unger requested a review of funding for candidates under the limited public financing program. See chart at ***Attachment 2.***

ATTACHMENT 1

CITY OF OAKLAND
ONE FRANK OGAWA PLAZA • 2"" FLOOR • OAKLAND, C A L I F O R N I A 94612
Councilmember Ignacio De La Fuente (510) 238-7005
Councilmember Rebecca Kaplan FAX (510) 238-6129
TTY/TDD:(510) 839-6451

Re: AN ORDINANCE SUSPENDING FOR THE 2010 MUNICIPAL ELECTION THE CITY OF OAKLAND'S LIMITED PUBLIC FINANCING PROGRAM (CHAPTER 3.13 OF THE OAKLAND MUNICIPAL CODE) AND AUTHORIZING THE TRANSFER OF $225,000 FROM THE ELECTION CAMPAIGN FUND TO THE INSTANT RUN-OFF VOTING (IRV) OUTREACH AND EDUCATION CAMPAIGN FUND FOR THE NOVEMBER 2010 MUNICIPAL ELECTION AND ALLOCATING SAID FUNDS TO THREE ORGANIZATIONS SERVING THE LATINO, ASIAN, AND AFRICAN AMERICAN COMMUNITIES

Dear Members of the City Council:
In 1999, the City Council enacted the Limited Public Financing Act and created the Election Campaign Fund (Chapter 3.13 of the Oakland Municipal Code).
In July 2003 the City Council suspended Oakland's Limited Public Financing Program For the 2004 Elections due to the severe budget crisis during the 2003-2005 fiscal years.
In October 2008, the City Council authorized a one-time transfer of $226,000 from the Public Campaign Financing Program to help cover a $42 million budget deficit in fiscal year 08-09. The $226,000 was in excess ofthe total disbursements and costs needed to implement the Limited Public Financing Act for the 2008 primary and runoff municipal elections.

The requested transfer of $225,000 would suspend the Limited Public Financing Program for the 2010 municipal election in order to fund the City's RCV education and outreach plan, and will help ensure that Oakland's historically disenfranchised and underrepresented populations: low-income racial/ethnic minorities, immigrants, Limited English Proficient, monolingual or linguistically isolated individuals. Public Housing Residents, in neighborhoods ofthe city that have had historically lower voter participation are informed ofthe changes and understand how the new voting process will work, and have confidence that their vote will be counted.

BACKGROUND

In 2006, Oakland voters approved Measure O which amended the City charter to require the use of Ranked Choice Voting. Article XI ofthe charter was amended to include the following section:
Section 1105: Rank Choice Voting
(B) General Provision. Ranked choice voting elections for single winner city offices shall be conducted according to the procedures in this section. The city shall conduct a voter education campaign to familiarize voters with ranked choice voting. The use of ranked choice voting shall commence with the 2008 General Municipal Election. {Emphasis Added.)
On December 4, 2009, the Alameda County Registrar of Voters received a one-time administrative approval from California Secretary of State for use ofthe County's RCV voting system. This approval thus authorized the use of RCV in Oakland's 2010 municipal election. The State's administrative approval was subject to a number of conditions of approval, including the following, "Alameda County must meet or exceed the conditions described in the "Voter Education and Outreach Program for implementation o Ranked Choice Voting in Alameda County." See attachment A from Secretary of State's 12/4/09 conditional approval letter.

On January 5, 2010, the Oakland City Council authorized the execution of a Memorandum of Understanding (MOU) between the County of Alameda and the Cities of Oakland, Berkeley, and San Leandro regarding Ranked Choice Voting (RCV) / Instant Run-Off Voting (IRV) for implementation of RCV in the 2010 municipal elections. As ofthe printing of this report, the City has not yet received a final draft ofthe education and outreach plan that is being developed by Alameda County nor do we have an exact dollar figure of how much funding is available for that outreach and education plan. Per the City Clerk, "The total allocation of education costs have not been determined. Not all work estimates have been provided because not all work has been completed for education services. The costs are not only driven from the scope of mandates imposed by the Secretary of State, but also by the number of "special requests " the city makes. " A meeting between the Cities and the County is scheduled for February 19, 2010 and we anticipate that additional information will become available at that time and can thus be included next week as a supplemental to this report.

The current draft of Alameda County's proposed education and outreach plan is included as Attachment B. Generally speaking, the current education and outreach plan contains four main components: Materials and Media Development, Public Distribution Plan, Communication with Targeted Groups, and Election Day Procedures. Proposed outreach and education activities include:

1. Easy-to-Read instrucfions for RCV to be incorporated in voting materials distributed to voters.
2. Tri-Fold Brochure
3. Special Postcard Mailer
4. Public Presentations
5. Public Service Announcements
6. Flash Media Presentation
7. Short Video on Ranked Choice Voting
8. Advertising and Editorial Outreach

The $225,000 being requested will augment the County's proposed outreach and education plan by funding three community based organizations serving the Latino, Asian, and African American communities. The three organizations shall be responsible for taking the developed message, materials, trainings and demonstrations into community forums, including presentations at community meetings, ESL Classes, adult literacy programs, citizenship classes, libraries, churches and other religious organizations. At a minimum, the selected organizations shall be required to meet the following benchmarks: To make a minimum of presentations; To reach a minimum of voters; To submit weekly reports to the office ofthe City Clerk with detailed information including: number of presentations made, groups presented to, number of voters reached, and quantities of materials distributed.

Organizations must provide proof of current working relationships with networks of grassroots, community based organizations, schools, labor organizations, service providers and/or faith based institutions that have direct contact with targeted communities, as well as work plans including best practices for voter mobilization efforts in low propensity voter communities. These practices include: face to face canvassing, phone banking with follow up, and utilizing trained canvassers drawn from the local community. Organizations should have the ability to implement education and outreach activities commencing in May 2010.

Respectfully submitted
Councilmember Ignacio De La Fuente

Councilmember Reb Kaplan

DRAFT CITY OF OAKLAND

ORDINANCE NO. C.M.S.

AN ORDINANCE SUSPENDING FOR THE 2010 MUNICIPAL ELECTION THE CITY OF OAKLAND'S LIMITED PUBLIC FINANCING PROGRAM (CHAPTER 3.13 OF THE OAKLAND MUNICIPAL CODE) AND I AUTHORIZING THE TRANSFER OF $225,000 FROM THE ELECTION CAMPAIGN FUND TO THE INSTANT RUN-OFF VOTING (IRV) OUTREACH i AND EDUCATION CAMPAIGN FUND FOR THE NOVEMBER 2010 MUNICIPAL ELECTION AND ALLOCATING SAID FUNDS TO THREE ORGANIZATIONS SERVING THE LATINO, ASIAN, AND AFRICAN AMERICAN COMMUNITIES

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WHEREAS, in 1999, the City Council enacted the Limited Public Financing Act and created the Election Campaign Fund (Chapter 3.13 ofthe Oakland Municipal Code); and

WHEREAS, On December 4, 2009, the Alameda County Registrar of Voters received a one-time administrative approval from Catifomia Secretary of State for use ofthe County's RCV voting system; and

WHEREAS, On January 5, 2010, the Oakland City Council authorized the execution of a Memorandum of Understanding (MOU) between the County of Alameda and the Cities of Oakland, Berkeley, and San Leandro regarding Ranked Choice Voting (RCV) / Instant Run-Off Voting (IRV) for implementation of RCV in the 2010 municipal elections; and

WHEREAS, the Secretary of State's administrative approval was subject to a number of conditions of approval, including the following, "Alameda County must meet or exceed the conditions described in the "Voter Education and Outreach Program for implementation of Ranked Choice Voting in Alameda County"; and

WHEREAS, successful implementation of an instant Run-Off voting system is contingent upon extensive voter outreach and education; and

WHEREAS, article XI, section 1105 (B) ofthe Oakland City Charter states, "The City shall conduct a voter education campaign to familiarize voters with ranked choice voting" now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this ordinance.

SECTION 2. The Oakland Municipal Code is hereby amended as set forth below, additions are indicated by underscoring and deletions are indicated by strike through type; portions of ordinances not cited or not shown in underscoring or strike-through type are not changed;

3.13.050 Election campaign fund.

There is established an account within a special revenue fund ofthe city to be known as the "election campaign fund."

3.13.060 Appropriation of funds.

A. The City Council shall appropriate to the elecfion campaign fund, under the city's current two-year budget cycle, an amount sufficient to fund all candidates eligible to receive limited matching funds for the following city offices; District City Councilmembers and School Board Director. Notwithstanding this or any other provision of law, this Act shall not apply to the elected office of School Board Director until the first election after the Oakland Unified School District regains all of its rights, duties and powers upon the complerion ofthe conditions set forth in 2003 Cal. Stats., Chapter 14, Section 5(e).

B. The Public Ethics Commission shall provide in the form and at the time directed by the Mayor and City Manager a written estimate ofthe amount necessary to be appropriated for any two-year budget cycle according to the provisions of this Act for all

eligible candidates. The amount of funds to be allocated to the election campaign fund shall be based on a consideration of anticipated campaign activity, anticipated administrative costs, and existing unspent funds within the account. The amount of funds to be allocated to the election campaign fund shall not exceed four hundred sixty thousand dollars ($460,000.00) for any two-year budget cycle, except that the allocation may exceed four hundred sixty thousand dollars ($460,000.00) to reflect changes in the consumer price index. The Public Ethics Commission may limit the allocation of funds for any primary election to assure that sufficient funds remain available for the general election.

C. The election campaign fund shall be established as an interest bearing account. Unspent funds in the election campaign fiand at the end of a two-year budget cycle shall remain in the fund and accrue for disbursement to candidates eligible for matching funds in fijture elections and for administrative costs pursuant to subsection D of this section. In no event shall addifional allocations to the ftind be made to cause the available balance in the fund to exceed five hundred thousand dollars ($500,000.00), to include allocations made to the Public Ethics Commission pursuant to subsecfion D of this section.

D. Up to 7.5 percent ofthe amount allocated to the election campaign fund pursuant to Subsections A and B of this section may be utilized, by the Public Ethics Commission to cover the anticipated cost of administering the provisions of this Act. The Public Ethics Commission shall make a sufficient proportion of such funds available to the City Auditor to conduct comphance reviews as provided in Section 3.13.100.

3.13.210 Effect on Municipal Elections
Chapter 3.13 of this Code (Sections 3.13.010—3.13.260 inclusive) shall have no effect for the 2010 municipal elections.

3.13.211 Transfer of Funds to the Instant Run Off Voting (IRV) Outreach and Education Funds
Notwithstanding any other ordinance, for the 2010 municipal elections. $225.000 fi'om the election campaign fund shall be transferred to the instant run-off voting (IRV) outreach and education campaign fund for the November 2010 municipal election and said funds shall be allocated to three organizations serving the Latino. Asian, and African American communities.

SECTION 3. Severability. If any article, section, subsection sentence, clause or phrase of this ordinance or exhibit is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, [, 2010
PASSED BY THE FOLLOWING VOTE:
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, REID, QUAN, AND PRESIDENT BRUNNER
NOESABSENTABSTENTION-
ATTEST:
LaTonda Simmons
City Clerk and Clerk ofthe Council
ofthe City of Oakland, Califomia

ATTACHMENT 2 -- History Of Matching Fund Distributions

2001 -- Special Election District 6

Candidate	Total Public Matching Funds Rec'd	Percent Of Matching Funds Available
Moses Mayne Jr. CC-D6	$13,500.00 (max. amount)	100%
Carole Ward Allen CC-D6	$12,707.00	94%
Toni Cook CC-D6	$6,193.00	46%

2002 -- Citywide Election

Candidate	Matching funds received	% of eligible funds
Wilson Riles Mayor	$37,515.00	77%
David Stein CC- D4	$14,700.00	100%
Melanie Sweeney-Griffith CC-D4	$5,994.00	40%
Nedir Bey CC-D4	$14,178.00	96%
Jean Quan CC-D4	$14,700.00	100%
Desley Brooks CC-D6	$12,769.00	90%
Gary Yee SB-D4	$9,750.00	100%
Susanne Lea SB-D4	$8,445.00	85%

2005 -- Special Election District 2 (Only $50,000 Allocated to Election Campaign Fund)

Candidate	Total Public Matching Funds Rec'd	Percent Of Matching Funds Available
Aimee Allison	$5,139	100%
Paul Garrison	$5,139	100%
Justin Horner	$5,139	100%
Peggy Moore	$4,991	97%
David Kakishiba	$5,139	100%
Todd Plate	$2,800	54%

2006 Citywide Election

Candidate	Matching Funds Received	Percent Of Matching Funds Available
Aimee Allison CC-D2	$23,058	78%

2008 -- Citywide Election

Candidate	Total Public Matching Funds Rec'd	Percent Of Matching Funds Available
Clifford Gilmore, D1	$ 5,261	28%
Nancy Nadel, D3	$15,643	82%
Sean Sullivan, D3	$ 9,839	52%