

CITY OF OAKLAND

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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Michele Byrd, Director,
HCDD
Katano Kasaine, Treasurer,
Treasury Bureau

SUBJECT: Linked Banking Services Ordinance
Amendment

DATE: April 28, 2016

City Administrator Approval

Date:

5/12/16

RECOMMENDATION

Staff Recommends That The City Council Adopt An Ordinance Amending Ordinance No. 12066 C.M.S. Establishing The Linked Banking Services Program To Add Reporting Requirements, And Codifying The Linked Banking Services Ordinance Into The Oakland Municipal Code.

EXECUTIVE SUMMARY

The purpose of the proposed amendments to the Linked Banking Services Ordinance is to seek further information from current and prospective providers of City banking services on their community lending practices, including their small business loans, foreclosures, loan modification practices, and payday lending activity, particularly in low income and minority neighborhoods in Oakland. The amendments seek to obtain such information by census tract, broken down by race/ethnicity and income group. This information is necessary to determine whether City funds are being used to support or contribute to banking practices that would lead to negative impacts on the City's fiscal health.

BACKGROUND / LEGISLATIVE HISTORY

The City of Oakland has been a leader in progressive banking policies, passing the Linked Banking Services Ordinance No. 11607 C.M.S. (the "Ordinance") in 1993 and amending it in 1998 and 2001. The Linked Banking Services Ordinance is a tool that allows the City to leverage its banking relationships and deposits to maximize benefits for the City and the community. The Ordinance was passed after a 1989 Community Credit Needs Assessment commissioned by the City found that racial prejudice and racist practices severely restrict access to capital for minority businesses in the City's low-income neighborhoods.

Item: _____

Finance Committee
May 24, 2016

The current practice under the Ordinance is to conduct an annual survey of banks interested in doing business with the City to determine whether each bank has met its "Fair Share Goal" of community credit lending. The Fair Share Goal is calculated based on the bank's deposits in Oakland and on an assessment of the City's need for residential and commercial credit in the areas of affordable housing, small businesses, nonprofit enterprises, economic development, and seismic safety. Banks that show that they met that goal the previous year, commit to meeting future lending goals, comply with reporting requirements, are deemed "Eligible Depositories" and are eligible to do business with the City.

In 2012, Council Resolution No. 83988 C.M.S. was passed that directs the City Administrator to (1) include specific information in the survey addressing foreclosure loans, small business lending, and payday loan products; (2) require survey completion as a prerequisite to deeming a bank an "Eligible Depository"; (3) provide a transparent comparative analysis of bank performance; and (4) return to Council with recommendations for possible changes to update the Linked Banking Services Ordinance.

In 2013 Council authorized a three-year banking services contract with JP Morgan Chase. Resolution No. 64764 C.M.S. Under this resolution, JP Morgan Chase was required to continue to provide information on the bank's lending, services and investment activities in Oakland, especially in low and moderate income communities, including business loan, home loans, media outreach and branch locations for historically underserved communities. The bank was also required to provide information on a census tract or zip code level necessary to promote efforts by the Department of Housing and Community Development.

On January 12, 2016, staff presented an informational report to City Council's Finance and Management Committee (FMC) on the community and economic investment and foreclosure data provided by JP Morgan Chase pursuant to the 2013 resolution. Members of the committee and community members requested additional information beyond current reporting requirements. Staff provided a subsequent report at the March 8, 2016 FMC. While some additional information was provided, JP Morgan Chase declined to provide all of the requested information. Therefore, staff determined that an amendment to the current Linked Banking Services Ordinance would be necessary in order to memorialize and require the specific reporting elements that would enable the City to determine whether City funds are being used to support or contribute to banking practices that would negatively impact the City's fiscal health.

ANALYSIS AND POLICY ALTERNATIVES

The Linked Banking Services Ordinance was adopted in 1993 to address the problem of the lack of community lending in Oakland, particularly in Oakland's low income and minority communities¹. Aside from the general benefits to the community at large, robust community lending benefits the City's finances by circulating additional funds to Oakland homeowners and small businesses, thus decreasing the need for the City to fund its own community lending programs such as mortgage assistance programs and economic development loans. The

¹ Greenlining Institute. (2016). *Locked Out of the Market; Poor Access to Home Loans for Californians of Color*. Retrieved from <http://urbanstrategies.org/resources/>

Ordinance was also intended to mitigate the negative impacts on the City caused in part by the historical failure by lending institutions in Oakland to adequately lend to small businesses and low and moderate-income homeowners, particularly in low income and minority neighborhoods in Oakland. These impacts include decreased property tax revenue to the City resulting from stagnant property values, decreased business and sales tax revenue resulting from the lack of business activity, and increased need for police, fire, and code enforcement services in low income and minority neighborhoods in Oakland.

The proposed amendments to the Linked Banking Services Ordinance would require prospective and current providers of banking services to provide the following additional information:

- The number and dollar volume of home mortgage loans (both originations and refinancings) applied for, made, or serviced by the depository or any affiliate during the previous year in Oakland. The depository must indicate what percentage of these loans qualify as high cost loans under California law.*
- The number of home mortgage loan foreclosures initiated by the depository or any affiliate in Oakland over the previous five years.
- The number of home mortgage loan modifications applied for and approved by the depository or any affiliate in Oakland over the previous five years. Such information must specify what percentage of said loan modifications (1) resulted in lower monthly payments, (2) reduced interest rates, (3) reduced loan principal, (4) deferred loan payments, (5) increased loan principal, and/or (6) resulted in permanent modifications.
- Information on the depository's branch office locations in Oakland, including any imminent plans for closing any branch offices and efforts to mitigate the effects of branch closures on customers.
- Information on any felony convictions of the depository within the past five years.
- A summary of the fees charged to the depository's consumer customers.
- A list of names and locations of payday lending companies doing business in Oakland that are affiliated with the depository.

* Per California Financial Code Section 4970(b), a high cost loan is a "covered loan" defined as follows:

(b) "Covered loan" means a consumer loan in which the original principal balance of the loan does not exceed the most current conforming loan limit for a single-family first mortgage loan established by the Federal National Mortgage Association in the case of a mortgage or deed of trust, and where one of the following conditions are met:

(1) For a mortgage or deed of trust, the annual percentage rate at consummation of the transaction will exceed by more than eight percentage points the yield on Treasury securities having comparable periods of maturity on the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor.

(2) The total points and fees payable by the consumer at or before closing for a mortgage or deed of trust will exceed 6 percent of the total loan amount.

For the information on home mortgage lending, foreclosures, and loan modifications, as well as the information on community lending under the original Ordinance, the information must be provided at the census tract level, and must include demographic information on borrowers or applicants, including their race or ethnicity and income category, to the extent such information is collected by the depository.

The purpose of these proposed amendments is to seek further information from prospective providers of banking services on their community lending practices, including their foreclosure and loan modification practices, particularly in low income and minority neighborhoods in Oakland. Such information is necessary to inform City policymakers whether City funds deposited with the provider, or City funds paid to such providers in the form of fees, are being used to contribute to home mortgage lending practices that negatively impact the City's fiscal health.

Since 2007, the City has suffered from an unprecedented foreclosure crisis. There were over 10,000 completed foreclosures in Oakland from 2007 to 2011 alone.² Such foreclosures have been caused in part by a failure of some lenders to modify the terms of distressed mortgage loans in ways that would have avoided default and foreclosure.³

The effects of the foreclosure crisis on local government have been well documented. According to former Federal Reserve Chairman Ben Bernanke, "foreclosures can inflict economic damage beyond the personal suffering and dislocation that accompany them. Foreclosed properties that sit vacant for months (or years) often deteriorate from neglect, adversely affecting not only the value of the individual property but the values of nearby homes as well. Concentrations of foreclosures have been shown to do serious damage to neighborhoods and communities, reducing tax bases and leading to increased vandalism and crime. Thus, the overall effect of the foreclosure wave, especially when concentrated in lower-income and minority areas, is broader than its effects on individual homeowners."⁴ A report from U.S Department of Housing and Urban Development (HUD) and the Department of the Treasury as far back as 2000 concluded that "In an area where predatory practices may be driving families into foreclosure, the impact can be concentrated and felt throughout the community. Foreclosed homes frequently remain vacant for a prolonged period of time, during which they are poorly maintained. These vacant homes can contribute to neighborhood instability in terms of depressed property values and increased crime."⁵

The excessive number of foreclosures of home mortgage loans, particularly in Oakland's low income and minority neighborhoods, has resulted in an extraordinary incidence of property

² Urban Strategies Council. (2012). *Who Owns Your Neighborhood? The Role of Investors in Post-Foreclosure Oakland*. Retrieved from <https://urbanstrategies.org/who-owns-your-neighborhood-the-role-of-investors-in-post-foreclosure-oakland/>

³ California Reinvestment Coalition. (2010). *Foreclosure to Re-Redlining: How America's Largest Financial Institutions Devastated California Communities*. Retrieved from www.calreinvest.org/publications

⁴ Bernanke, C. B. (2012). Challenges in Housing and Mortgage Markets. *Operation HOPE Global Financial Dignity Summit*. Atlanta Georgia. (p.4)

⁵ U.S. Department of Housing and Urban Development. (2000). *Curbing Predatory Home Mortgage Lending*. Treasury Task Force on Predatory Lending. (p. 25)

vacancies and abandonment in these neighborhoods, which leads to blight, theft, vandalism, drug use/dealing, arson, fire hazards, and other public nuisances. Such property conditions have resulted in significant negative fiscal impacts to the City and its budget. Impacts include decreased property tax revenues to the City resulting from decreased property values. The foreclosure crisis has resulted in an estimated loss of \$12.3 billion in home values in Oakland alone, with lost property tax revenues to the City estimated at \$75.3 million.^{6,7} Fiscal impacts of foreclosure also include increased costs to the City resulting from the need to provide additional police, fire, code enforcement and abatement services in low income and minority neighborhoods in Oakland in response to the increased crime and nuisance conditions caused by vacant, abandoned and blighted properties. Increased police, fire, and abatement costs resulting from foreclosures have cost the City of Oakland an estimated \$224 million between 2008 and 2012.^{8,9}

Given the well-documented effect of foreclosures on the City's finances, it would be imprudent from a business standpoint for the City to support a banking institution with its deposits and fees if the institution is at the same time undermining the City's finances through poor home mortgage lending practices. The proposed amendments are intended to provide City policymakers with the information necessary for them to make an informed decision regarding who should act as the City's banker.

The proposed amendments would also seek additional information from prospective and current banking services providers on a census tract level, broken down by race/ethnicity and income category, regarding the volume of home mortgage lending applications and approvals, branch banking services offered by providers, providers' compliance with banking laws (i.e. felony convictions of bank), providers' consumer fee policies, and any provider payday lending activity in Oakland. This information is also necessary to determine whether City funds are being used to support or contribute to banking practices in these areas that would lead to negative impacts on the City's fiscal health.

The proposed amendments would also repeal amendments to the Linked Banking Services Ordinance enacted in 2001. Those amendments prohibited Eligible Depositories from engaging in certain predatory home mortgage lending practices as defined in the City's Anti-Predatory Lending Ordinance, which was enacted at the same time as the Linked Banking Services amendments. The City's Anti-Predatory Lending Ordinance was overturned on State law preemption grounds by the California Supreme Court in 2005 in the case of *American Financial Services Association v. City of Oakland*. Therefore, the 2001 amendments to the Linked Banking Services Ordinance are not in effect.

⁶ Alliance of Californians for Community Empowerment and the California Reinvestment Coalition. (2011). *The Wall Street Wrecking Ball: What Foreclosures are Costing Oakland Neighborhoods*. Retrieved from <http://www.calreinvest.org/publications/california-reinvestment-coalition-research>

⁷ Immergluck, D., & Smith, G. (2006). The External Costs of Foreclosure: The Impact of Single-Family Mortgage Foreclosures on Property Values. *Housing Policy Debate*, 17(1), 59-79.

⁸ Alliance of Californians for Community Empowerment and the California Reinvestment Coalition. (2011). *The Wall Street Wrecking Ball: What Foreclosures are Costing Oakland Neighborhoods*.

⁹ City of Oakland v. Wells Fargo & Co., 3:15-cv-04321-HSG (US District Court, Northern District of California 2015).

Finally, the proposed amendments would codify the Linked Banking Services Ordinance into the Oakland Municipal Code. This will make the Ordinance more accessible to the public.

FISCAL IMPACT

No direct cost is anticipated to be incurred as a result of these amendments. However, under the Linked Banking Services Ordinance costs due to increased bank contract charges are allowable up to \$100,000. The City Administrator is authorized to waive the restrictions if no depository meets the standards for an "Eligible Depository", or the City will incur costs exceeding \$100,000 as a consequence of the Ordinance.

PUBLIC OUTREACH / INTEREST

In August 2011, the City held a meeting with representatives of Alliance of Californians for Community Empowerment (ACCE), California Reinvestment Coalition (CRC), and East Bay Housing Organization (EBHO) regarding responsible banking in Oakland, specifically to discuss improvement to the linked banking survey. Furthermore, in response to Council's request for additional data at the January 12, 2016 FMC, Treasury staff met with staff from the Green Lining Institute and California Reinvestment Coalition to discuss potential data available from the depository that could help the City evaluate the population being served by the depository.

COORDINATION

The Housing and Community Development Department (HCDD) prepared this report in coordination with the Treasury Bureau, Controller's Bureau, and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: The Linked Banking Services Program encourages lenders to invest at least their fair share community lending goal in Oakland if they wish to be considered an Eligible Depository for the purpose of providing the City of Oakland's banking services. Their investment expands lending opportunities for the purchase and/or development of affordable housing, small business, non-profits, small business, and community development in Oakland. The proposed amendments would expand those efforts.

Environmental: There are no environmental opportunities or issues associated with these actions.

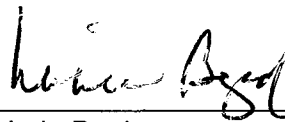
Social Equity: The Linked Banking Services Program encourages lenders to provide credit to markets that have been traditionally underserved such as small businesses and low and moderate-income homeowners, particularly in low income and minority neighborhoods. The proposed amendments would expand those efforts by modifying reporting requirements to identify demographic information of clients being served by the depository thus verifying equitable lending practices.

ACTION REQUESTED OF THE CITY COUNCIL

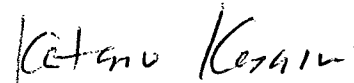
Staff recommends that the City Council adopt an Ordinance Amending Ordinance No. 12066 C.M.S. Establishing The Linked Banking Services Program To Add Reporting Requirements, And Codifying The Linked Banking Services Ordinance Into The Oakland Municipal Code.

For questions regarding this report, please contact Norma Thompson, Housing Manager, at 510-238-7137 or Christina Morales, Housing Development Coordinator, at 510-238-6984.

Respectfully submitted,



Michele Byrd
Director, Department of Housing and
Community Development



Katano Kasaine
Treasurer, Treasury Bureau

Reviewed by:
Norma Thompson, Manager of Housing
Development

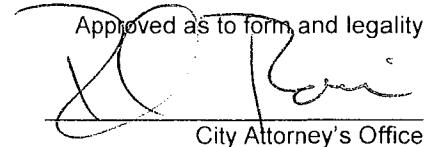
David Jones, Assistant Controller

Prepared by:
Christina Morales, Housing Development
Coordinator
Housing Development Services

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Approved as to form and legality



City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING ORDINANCE NO. 12066 C.M.S.
ESTABLISHING THE LINKED BANKING SERVICES PROGRAM TO
ADD REPORTING REQUIREMENTS, AND CODIFYING THE LINKED
BANKING SERVICES ORDINANCE INTO THE OAKLAND MUNICIPAL
CODE**

WHEREAS, the City passed an ordinance establishing a linked banking services program, Ordinance No. 11607 C.M.S. (the "Linked Banking Services Ordinance") on July 13, 1993, in order to encourage community lending and require that any depository with which the City contracts for banking services meet certain lending goals and provide certain information on lending practices; and

WHEREAS, the Linked Banking Services Ordinance was amended and restated by Ordinance No. 12066 C.M.S. passed on July 14, 1998; and

WHEREAS, the Linked Banking Services Ordinance was further amended by Ordinance No. 12362 C.M.S. passed on October 2, 2001 to add provisions prohibiting eligible depositories from engaging in certain predatory home mortgage lending practices as defined in the City's Anti-Predatory Lending Ordinance; and

WHEREAS, the amendments to the Linked Banking Services Ordinance enacted by Ordinance No. 12362 C.M.S. are not in effect given that the City's Anti-Predatory Lending Ordinance was overturned by the California Supreme Court in the case of *American Financial Services Association v. City of Oakland* (2005) 34 Cal.4th 1239; and

WHEREAS, Council wishes to amend the Linked Banking Services Ordinance to expand the reporting requirements for providers of banking services, both prospective providers and current providers, to gain additional information concerning the providers' lending and banking practices in Oakland; and

WHEREAS, the Linked Banking Services Ordinance was originally intended and continues to ensure that City funds, including funds deposited into the City's deposit

accounts and fees paid by the City to the depository for banking services, are used for community lending in ways that benefit the City of Oakland; and

WHEREAS, among other benefits, robust community lending benefits the City's finances by circulating additional funds to Oakland homeowners and small businesses, thus decreasing the need for the City to fund its own community lending programs such as mortgage assistance programs and economic development loans; and

WHEREAS, such community lending further benefits the City by mitigating and decreasing the negative impacts on the City caused in part by the historical failure by lending institutions in Oakland to adequately lend to small businesses and low and moderate income homeowners, particularly in low income and minority neighborhoods in Oakland; and

WHEREAS, such negative impacts have included substantial fiscal impacts to the City from decreased property tax revenue to the City resulting from stagnant property values, decreased business and sales tax revenue resulting from the lack of business activity, and increased need for police, fire and code enforcement services in low income and minority neighborhoods in Oakland resulting from the lack of investment by private financial institutions in those neighborhoods; and

WHEREAS, since 2008, the City has suffered from an unprecedented foreclosure crisis; and

WHEREAS, these foreclosures have been caused in part by a failure of some lenders to modify the terms of distressed mortgage loans in ways that would have avoided default and foreclosure; and

WHEREAS, the excessive number of foreclosures of home mortgage loans, particularly in Oakland's low income and minority neighborhoods, has resulted in an extraordinary incidence of property vacancies and abandonment in these neighborhoods, which leads to blight, theft, vandalism, drug use, arson, fire hazards, and other public nuisances; and

WHEREAS, as documented in the staff report accompanying this Ordinance, such property conditions have resulted in significant negative fiscal impacts to the City, including millions of dollars in decreased property tax revenues to the City resulting from decreased property values, and millions of dollars in increased costs to the City resulting from the need to provide additional police, fire, code enforcement, and abatement services in low income and minority neighborhoods in Oakland in response to the increased crime and nuisance conditions caused by vacant, abandoned and blighted properties; and

WHEREAS, the City wishes to amend the Linked Banking Services Ordinance to seek further information from prospective providers of banking services on their community lending practices, including their foreclosure and loan modification practices,

particularly in low income and minority neighborhoods in Oakland, to inform the City whether City funds deposited with or paid to such providers are being used to contribute to home mortgage lending practices that negatively impact the City's fiscal health; and

WHEREAS, the additional information sought by the City from prospective and current banking services providers regarding home mortgage lending in Oakland neighborhoods, branch banking services, compliance with banking laws, consumer fees, and payday lending is also intended to inform the City whether City funds are being used to support or contribute to banking practices that would lead to negative impacts on the City's fiscal health; and

WHEREAS, Council wishes to codify the Linked Banking Services Ordinance into the Oakland Municipal Code to make it more accessible to the public; now, therefore

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

SECTION 1. Ordinance No. 12362 C.M.S. is hereby repealed.

SECTION 2. Ordinance No. 12066 C.M.S. is hereby replaced by the provisions of the Oakland Municipal Code added by this Ordinance.

SECTION 3. Chapter 4.52 is hereby added to the Oakland Municipal Code to read as follows:

Chapter 4.52

LINKED BANKING SERVICES

4.52.010 Purpose.

The City of Oakland hereby establishes a Linked Banking Services Program. The purpose of the Program is to encourage community lending, and require that any depository with which the City contracts for banking services meet certain lending goals and provide certain information on lending practices.

4.52.020 Definitions.

The following definitions apply to this chapter:

"Affiliate" means any business entity that controls, is controlled by, or is under common control with, another entity, as set forth in the federal Bank Holding Company Act of 1956 (12 U.S.C. §1841, et seq.), as such statute may be amended from time to time, and includes any successors in interest or alter egos to the business entity.

"Community Credit Lending" means lending within the City of Oakland in the following areas:

- A. 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.

- B. "Local economic development credit needs", defined as:
 - 1. 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 (\$15,000,000), addressed in any of the seven Community Development Districts;
 - 2. lending to or grants made to nonprofit enterprises, other than universities and hospitals, addressed in Oakland; or
 - 3. 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.

- C. 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.

- D. Other community needs, defined as:
 - 1. home equity lines of credit and home equity loans made on homes in the Community Development Districts;

2. sponsorship of or technical assistance provided for consumer banking and financial education and training; or
3. donations of equipment or other property to Oakland nonprofit organizations serving community development needs.

"Community Credit Need" means the estimated total credit need in the City of Oakland in areas of Community Credit Lending, as published annually by the City Administrator or his or her designee.

"City Banking Services" means 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.

"Eligible Depository" means 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:

- A. Meets its Fair Share Goal, as defined below, for the previous year with respect to Community Credit Lending;
- B. 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,
- C. Complies with reporting requirements specified in Section 4.52.040 of this chapter.

"Fair Share Goal" means 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;

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

4.52.030 Fair share goals.

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 chapter. In the event that a depository with which the City contracts for banking services fails to meet its Fair Share Goal, as defined above, 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 Administrator 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.

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 Administrator.

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.

4.52.040 Reporting.

Depositories providing the City with Banking Services must provide annually to the City such information as established from time to time by the City Administrator or his or her designee in order to establish whether the depository has met the requirements of an Eligible Depository as defined above. In particular, depositories must provide annually information to establish whether they have

provided sufficient levels of Community Credit Lending, as defined above to meet their Fair Share Goals. Such information must be provided at the census tract level, and, for information on lending to individuals or businesses, must be broken down by the race or ethnicity and income category of the borrower or business owner, to the extent the depository collects such information. 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 Administrator.

In addition, depositories that provide the City with Banking Services or that propose to provide the City with Banking Services must provide the following information, to the extent such information is collected, in a format provided by the City Administrator:

- A. The number and dollar volume of home mortgage loans (both originations and refinancings) applied for, and the number and volume of such loans made by the depository or any affiliate of the depository the previous year in Oakland. Such information shall indicate what percentage of said loans made in Oakland qualify as "covered loans" under California Financial Code Section 4970(b).
- B. The number and dollar volume of home mortgage loans serviced by the depository or any affiliate of the depository the previous year in Oakland.
- C. The number of home mortgage loan foreclosures initiated by the depository or any affiliate of the depository in Oakland over the previous five years. For purposes of this paragraph, a foreclosure is initiated if a notice of default has been given to the borrower and/or a judicial foreclosure action has been filed.
- D. The number of home mortgage loan modifications applied for and the number of such modifications approved by the depository or any affiliate of the depository in Oakland over the previous five years. Such information must specify what percentage of said loan modifications (1) resulted in lower monthly payments, (2) reduced interest rates, (3) reduced loan principal, (4) deferred loan payments, (5) increased loan principal, and/or (6) resulted in permanent modifications.
- E. Information on the depository's branch office locations in Oakland, including any imminent plans for closing any branch offices and efforts to mitigate the effects of branch closures on customers.
- F. Information on any felony convictions of the depository within the past five years.

- G. A summary of the fees charged to the depository's consumer customers.
- H. A list of names and locations of payday lending companies doing business in Oakland that are affiliated with the depository.

For purposes of this section, "home mortgage loan" means a loan secured by a mortgage or deed of trust on residential property used or intended to be used by the borrower as their principal dwelling if the loan proceeds are used by the borrower to purchase or improve said residential property. For the information required under subsections A through D above, the information must be provided at the census tract level, and must include demographic information on borrowers or applicants, including their race or ethnicity and income category specified by the City, to the extent such information is collected by the depository.

4.52.050 Eligible Depository list.

A list of Eligible Depositories and those depositories doing business in Oakland that are not Eligible Depositories will be filed by the City Administrator 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.

4.52.060 Waivers.

Notwithstanding any other provisions in this chapter, the City Administrator may waive the restrictions imposed by the Linked Banking Services Program if the City Administrator 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 Administrator 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 Administrator 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 herein; 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.

4.52.070 State law.

The Linked Banking Services 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 chapter 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 chapter shall be construed to supersede the provisions of Section 53630 et. seq., or covenants governing the deposit of loan proceeds or loan redemption funds.

4.52.080 Investment policy.

The requirements of the Linked Banking Services Program shall be incorporated into the City of Oakland Investment Policy adopted by the City Council and published by the Director of Finance.

4.52.090 Regulations.

The City Administrator is hereby authorized to issue rules and regulations for the Linked Banking Services Program consistent with this chapter.

SECTION 4. The provisions of this Ordinance are severable, and if any clause, sentence, paragraph, provision, or part of this Ordinance, or the application of this Ordinance to any person, is held to be invalid, such holding shall not impair or invalidate the remainder of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such provisions not been included.

SECTION 5. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of the City Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2016

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID,
and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

**ORDINANCE AMENDING ORDINANCE NO. 12066 C.M.S.
ESTABLISHING THE LINKED BANKING SERVICES PROGRAM TO
ADD REPORTING REQUIREMENTS, AND CODIFYING THE LINKED
BANKING SERVICES ORDINANCE INTO THE OAKLAND MUNICIPAL
CODE**

NOTICE AND DIGEST

This Ordinance amends the Linked Banking Services Ordinance to add certain reporting requirements on depositories. This Ordinance also codifies the Linked Banking Services Ordinance into the Oakland Municipal Code.