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CITY HALL · ONE FRANK H. OGAWA PLAZA · OAKLAND, CALIFORNIA 94612

JANE BRUNNER  
Councilmember  
District 1

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**To:** President Reid and Members of the City Council  
**From:** Councilmembers Brunner and Kaplan  
**Date:** July 10, 2012  
**RE:** Resolution To Direct the City Administrator To Include Specific Information In The Annual Linked banking Survey, To Require Survey Completion To Determine "Eligible Depositories", To Provide A Transparent Comparative Analysis Of Bank Performance To Council By March 31, 2013 And To Return To Council With Recommendations for Possible Changes To Update The Linked Banking Ordinance

#### SUMMARY

The City's needs for information and for services from banks have changed since the passage of the Linked Banking Ordinance in 1993. This resolution directs the City Administrator to make changes in the implementation of the ordinance in order to ensure that issues of concern to the community, such as loan modification, lending to small and minority-owned businesses, and use of predatory high-cost products are taken into account when the City chooses a banking service provider.

This resolution directs the City Administrator to:

- 1) Include specific information addressing foreclosure loans, small business lending, and payday loan products as outlined in Exhibit A, as well as other information staff deems relevant, in the annual linked banking survey,
- 2) Require survey completion as a prerequisite to deeming a bank an "Eligible Depository",
- 3) Provide a transparent comparative analysis of bank performance in a report to Council by March 31, 2013, and
- 4) Return to Council with recommendations for possible changes to update the Linked Banking Ordinance.

#### BACKGROUND

The role of financial institutions in the foreclosure crisis and recession has created renewed interest in and support for policies to hold banks responsible to the communities they serve.

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4) Return to Council with recommendations for possible changes to update the Linked Banking Ordinance.

## BACKGROUND

The role of financial institutions in the foreclosure crisis and recession has created renewed interest in and support for policies to hold banks responsible to the communities they serve. The City of Oakland has been a leader in progressive banking policies, passing the Linked Banking Ordinance in 1993 and amending it in 1998.

The Linked Banking Ordinance is a tool that allows the City to leverage its banking relationships and deposits to maximize benefits for the community. The Ordinance was passed after a 1989 Community Credit Needs Assessment commissioned found that racial prejudice and racist practice severely restrict access to capital for minority businesses in the City's low income neighborhoods.

The current practice is to conduct an annual survey of banks interested in doing business with the City, calculate each bank's "Fair Share Goal" of community credit based on their deposits in Oakland and on an assessment of the City's need for residential and commercial credit. Banks that show that they meet that goal are deemed "Eligible Depositories" and are eligible to do business with the City.

While this practice may encourage banks to invest more in low income areas and provides information about where participating banks are providing loans and grants, it has not captured information regarding a number of issues of concerns to the community, such as loan modification, lending to small and minority-owned businesses, and use of predatory high-cost products such as payday loans.

## PROPOSED POLICY

This resolution seeks to address these concerns by directing the City Administrator to do the following:

### 1. Include Specific Information In The Annual Linked Banking Survey

This resolution directs staff to update the survey to include more specific data on foreclosure and loan modification, small business lending and pay day lending. The City's needs for information and services from banks have changed since the passage of the Linked Banking Ordinance. In particular, the foreclosure crisis has had a devastating impact on the City of Oakland. According to a report by the Alameda County Public Health Department and Causa Justa, between 2006 and 2009, about 1 in 4 mortgages began to enter into foreclosure in Oakland. Many community members are interested in what banks are doing to keep people in their homes.

Recently, small businesses have also been suffering from a lack of available credit. According to a December 2010 report by the California Reinvestment Coalition, small business lending in California dropped by 71% between 2007 and 2009, lending to minority-owned businesses

dropped by 81 percent for African American-owned businesses and 84 percent for Latino-owned businesses. However, in the most recent survey, information was only gathered on Small Business Administration loans, which can apply to businesses with receipts exceeding \$20 million. Most Oakland businesses fall way below the SBA thresholds, which is why the City's uses 30% of SBA standards to determine a "small local business enterprise" for contracting purposes. No information was gathered on minority-owned business loans.

The questions attached to the resolution were developed in consultation with community groups concerned about these issues, as well as City staff in housing and economic development. More detailed data from major banks can help City staff better address issues related to foreclosure prevention, and access to capital for small businesses.

## **2. Require Survey Completion In Order To Determine "Eligible Depositories"**

In order to ensure that banks provided responses, the City Administrator must clarify that these questions must be answered in order for a bank to be deemed an "Eligible Depository." The most recent linked banking survey requested but did not require information on loan modification. In that survey, only 5 of the 10 responding banks provided information on loan modifications, however 8 of the 10 were deemed "Eligible Depositories".

The City is likely to issue a new Request for Proposals for banking services in 2013 and any banks to be considered must be deemed "Eligible Depositories" under the Linked Banking Ordinance. Currently, loan modification information is not taken into account when calculating whether a bank should be considered an "Eligible Depository". However, the Linked banking Ordinance gives the City Administrator discretion to require additional information in order to determine whether a bank is determined an "Eligible Depository". This direction is to make sure that banks have to answer the questions asked, including the questions about foreclosures and loan modifications, in order to do business with the City.

## **3. Provide A Transparent Comparative Analysis Of Bank Performance To Council By March 31, 2013**

In order for the information provided by banks to be useful to City staff and to the public, it must be analyzed, compared and presented in a clear way. The most recent report did not include any side-by-side comparison of banks' performances. Cities such as the City of Cleveland provide clear comparisons that allow elected officials and members of the public to see strengths and weaknesses in bank performance in their community which can then inform decision-making regarding banking contracts. This information must be available and made public before the new Request for Proposals for banking services in 2013 and any banks to be considered must be deemed "Eligible Depositories" under the Linked Banking Ordinance.

#### 4. Return To Council With Recommendations for Possible Changes To Update The Linked Banking Ordinance

The landscape of responsible banking has changed considerably since the passage of the Linked Banking Ordinance. In addition to the federal guidelines in the Community Reinvestment Act, numerous jurisdictions across the country, including Cleveland, Pittsburgh, Los Angeles, and New York have passed responsible banking ordinances. These are models that could inform an update of the City's Linked Banking Ordinance.

There are a variety of approaches used in other cities but most jurisdictions conducts an assessment of their own credit needs as a community (Oakland conducted a community credit needs assessment in 2011) and asks each bank to describe how the bank plans to address those needs. Most cities also require a certain level of local data collection, an analysis and evaluation of the information provided and some type of public process for reviewing the information. Common local data requests include residential lending, small business lending, foreclosure prevention, branch information, vendor usage, and employment.

The direction is to direct staff to review the City's existing ordinance and in light of newer ordinances to determine what changes in the Linked Banking Ordinance might benefit Oakland and return to Council with a report.

We recommend that you pass the attached resolution.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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Approved as to form and legality

By:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmembers Brunner and Kaplan

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**RESOLUTION DIRECTING THE CITY ADMINISTRATOR TO INCLUDE SPECIFIC INFORMATION IN THE ANNUAL LINKED BANKING SURVEY, TO REQUIRE SURVEY COMPLETION TO DETERMINE "ELIGIBLE DEPOSITORIES", TO PROVIDE A TRANSPARENT COMPARATIVE ANALYSIS OF BANK PERFORMANCE TO COUNCIL BY MARCH 31, 2013, AND TO RETURN TO COUNCIL WITH RECOMMENDATIONS FOR POSSIBLE CHANGES TO UPDATE THE LINKED BANKING ORDINANCE**

**WHEREAS**, the practices and products of financial institutions have a measurable impact on the City's tax base, quality of life and overall economic viability and competitiveness; and

**WHEREAS**, the role of financial institutions in the foreclosure crisis and recession has created renewed interest in and support for policies to hold banks responsible to the communities they serve; and

**WHEREAS**, the City of Oakland has been a leader in progressive banking policies, passing the Linked Banking Ordinance in 1993 and amending it in 1998; and

**WHEREAS**, the Linked Banking Ordinance is a tool that allows the City to leverage its banking relationships and deposits to ensure that banks are deploying capital in a way that is responsive to the needs of local residents; and

**WHEREAS**, the City currently conducts annual surveys of banks interested in doing business with the City in order to assess whether each bank is providing a sufficient amount of residential and business loans in Oakland; and

**WHEREAS**, the City of Oakland has been hard hit by the foreclosure crisis; according to a report by the Alameda County Public Health Department and Causa Justa, between 2006 and 2009, about one in four mortgages began to enter into foreclosure in Oakland; and

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**WHEREAS**, a report by the California Reinvestment Coalition and the Alliance of Californians for Community Empowerment estimated that between 2008-2012, the total cost of foreclosures to local government in Oakland, including loss of property taxes, increased public safety and code inspection costs was \$224 million; and

**WHEREAS**, the most recent survey requested but did not require information on loan modifications; and

**WHEREAS**, in the most recent survey, only 5 of the 10 responding banks provided information on loan modifications, however 8 of the 10 were deemed Eligible Depositories; and

**WHEREAS**, in the most recent survey, information was only gathered on Small Business Administration loans which can apply to businesses with receipts exceeding \$20 million; and

**WHEREAS**, most Oakland businesses fall below the SBA thresholds, which is why the City uses 30% of SBA standards to determine a “small local business enterprise” for contracting purposes; and

**WHEREAS**, geographic data on foreclosures, loan modifications and small business lending can be of assistance to the City’s housing policy and economic development efforts respectively; and

**WHEREAS**, there are many models of responsible banking ordinances nationwide that could inform an update of the City’s Linked Banking Ordinance; and

**WHEREAS**, numerous jurisdictions across the country, including Cleveland, Pittsburgh, Los Angeles, and New York have responsible banking ordinances that require data from banks, including data on foreclosures and small business lending , and provide the public with analysis and evaluation of the banks’ responses; and

**WHEREAS**, the most recent report on the Linked Banking surveys included no comparative analysis of banks’ performance; and

**WHEREAS**, the City’s current needs for information and services from banks has changed since the passage of the Linked Banking Ordinance and the survey should be updated accordingly; and

**WHEREAS**, the existing Linked Banking Ordinance gives the City Administrator the authority to determine what information is required in order to assess whether a bank is an Eligible Depository; and

WHEREAS, the City is expected to issue a new Request for Proposals for banking services in Spring of 2013, and any banks to be considered must be deemed "Eligible Depositories" under the Linked Banking Ordinance; now therefore be it

RESOLVED: That the City Council hereby directs the City Administrator to:

- 1) include specific information addressing foreclosure loans, small business lending, real estate owned properties and payday loan products as outlined in Exhibit A, as well as other information staff deems relevant, in the annual linked banking survey,
- 2) require survey completion as a prerequisite to deeming a bank an "Eligible Depository",
- 3) provide a transparent comparative analysis of bank performance in a report to Council by March 31, 2013, and
- 4) return to Council with recommendations for possible changes to update the Linked Banking Ordinance.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California

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## EXHIBIT A: Additional Survey Questions

### Loan Modification Activity (by zip code for the previous year)

This includes both loans originated and loans serviced by the Responding Bank.

- 1) How many home loans were made?
- 2) How many loans were serviced by the bank or any affiliate? (Please list affiliates)
- 3) How many properties received foreclosure notices?
- 4) How many borrowers applied for a loan modification (for originated and serviced loans)?
- 5) Of those who applied, how many loans were modified?
- 6) Please provide the percentage of modifications that:
  - a. Resulted in lower monthly payments
  - b. Reduced interest rates
  - c. Reduced principal
  - d. Deferred payments
  - e. Increased principal
  - f. Resulted in a permanent modification

### Small Business Lending (by zip code for the previous year)

- 1) How many loans were made to Oakland businesses with revenue of \$1 million or less?
- 2) How many Oakland businesses with revenue of \$1 million or less applied for loans?
- 3) How many of these loans were less than \$50,000?
- 4) How many of these loans were between \$50,000 and \$150,000?
- 5) How many of these loans were less than \$150,000?
- 6) How many loans were made to minority-owned, women-owned and /or disabled-owned businesses in Oakland?
- 7) How much has the Responding bank invested in small business lending in Oakland either through direct loans or through a Community Development Financial Institution (CDFI)?

### Pay Day Lending

- 1) List names and locations of any payday lending companies in Oakland, which are affiliated with the bank.
- 2) Does the Responding Bank offer a payday or deferred deposit or cash advance product and if so, what is the APR?
- 3) Does the Responding Bank extend lines of credit to, or otherwise finance payday lenders?

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