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DATE: July 11, 2013

TO: Members of the Oakland City Council

FROM: Council President Kernighan

REPORT IN SUPPORT OF MOTION FOR CENSURE

Dear Councilmembers:

The Oakland City Council's Code of Conduct (Resolution No. 78307) provides that:
Each member of the City Council has a duty to:

Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties. ...

Maintain the highest standard of public conduct by refusing to condone breaches of trust or improper attempts to influence legislation, and by being willing to censure any member who willfully violates the rules of conduct contained in this Code of Ethics.

In light of the contents of the Grand Jury report released on June 24, 2013, and in keeping with our duty under the Council Code of Conduct to be willing to censure any member who willfully violates our rules of conduct, I am submitting to you a Motion to Censure Councilmember Brooks for her actions in building and managing the Rainbow Teen Center (also known as the Digital Arts and Culinary Academy, DACA).

Grand Jury Report

The Grand Jury begins its report on the Teen Center and District 6 Councilmember, with the following synopsis: (p. 34)

In 2007, the Oakland City Council approved the purchase of a building located at 5818 International Blvd. in Oakland with \$790,000 in redevelopment funds. The 4,000 square foot building, next to the Rainbow Recreation Center, was to be used as a neighborhood teen center but first needed extensive renovations. The project was spearheaded by the council member representing the neighborhood.

Interference with staff began almost immediately after the purchase. Less than a month after the city purchased the building, the council member sent an email to city staff asking, "When can I have the keys?"

From that moment forward, it was very clear that the council member exerted control over nearly every element of the project, making demands of staff from multiple city departments at all levels. City administration, including department heads, allowed the improper conduct to continue, even though the council member lacked the experience and expertise to ensure that city rules – and more importantly – state laws intended to protect the city, were followed. What ensued was a complete fiasco that diverted city administration's attention away from many other dire issues the city was facing.

(A copy of the Grand Jury report is an Exhibit to the Motion for Censure. It is attached as a hard copy and can be found online at <http://www.acgov.org/grandjury/final2012-2013.pdf>)

The Grand Jury report goes on to itemize various instances of misconduct by the District 6 Councilmember, including her engaging a contractor to start the building renovations, which began before any of the required bidding or city contracting procedures had been done. During and after the actual construction work was completed, City staff "scrambled" to try to get in place proper documentation and authorizations to legitimize the work that had been done and pay the contractor.

The District 6 Councilmember also personally hired staff to work in the Teen Center and paid them from her City Council office budget for many months before another source of funding was found. Her hiring of the staff was in violation of the City Charter, which requires that City staff for City operated recreation centers, and almost all other City jobs, must be hired through the civil service system. Further, the staff started working in the Teen Center before they had been finger-printed or had background checks completed, as is required by law.

The Grand Jury report also states that "During the renovation of DACA, \$19,000 worth of electronic equipment was purchased for the teen center at the direction of the council member," and that competitive bids were not obtained as required. Further evidence of the Councilmember exceeding her authority under the Charter is that she signed several City Payment Approvals on behalf of an account in the Community and Economic Development Agency to the Guitar Center for the electronic equipment. Copies of those Payment Approvals with the Councilmember's signature are attached as Exhibits to this Report and Motion.

The essence of the Grand Jury's report is that the District 6 Councilmember was acting as the project manager for the Teen Center construction and staffing and thus interfering in the Administrative Affairs of the City. The Grand Jury includes the Oakland City Charter Section 218 as Exhibit A to its Report.

OAKLAND CITY CHARTER SECTION 218

Section 218. Non-interference in Administrative Affairs.

Except for the purpose of inquiry, the Council and its members shall deal with the administrative service for which the City Manager, Mayor and other appointed or elected officers are responsible, solely through the City Manager, Mayor or such other officers. Except for powers particularly reserved

*to the Mayor pursuant to Section 305 of this Charter, **neither the Council nor any member shall give orders to any subordinate of the City under the jurisdiction of the City or such other officers, either publicly or privately, nor shall they attempt to coerce or influence the City Manager or such other officers, in respect to any contract, purchase of any supplies or any other administrative action;** nor in any manner direct or request the appointment of any person to or his removal from office by the City Manager, or any of his subordinates or such other officers, nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the City. Violation of the provisions of this section by a member of the Council shall be a misdemeanor, conviction of which shall immediately forfeit the office of the convicted member. (Amended by: Stats. November 1988 and Stats. November 2000.)*

City Administrator's Report of February 24, 2012.

Even prior to the issuance of the Grand Jury report, the City Council was presented with information and evidence about the non-standard activities and procedures concerning the building and staffing of the Rainbow/DACATeen Center in a staff report from the City Administrator dated Feb. 24, 2012. That report was heard at the March 6, 2013 Council meeting. The exhibits to the report include many emails to and from City staff and Councilmember Brooks as well as other documents, including the payment approvals signed by Councilmember Brooks. I have attached some of those exhibits to the Motion for Censure as supporting documentation.

Procedures for Issuance of a Motion for Censure

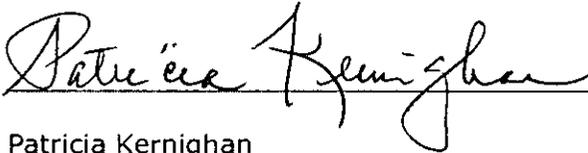
I requested and received a public legal opinion from the City Attorney setting forth the procedural and due process requirements for the Oakland City Council to Censure one of its members. A copy of that legal opinion is attached as an Exhibit to the Motion for Censure. A brief summary of the procedural requirements, per the opinion, is below:

- Draft resolution of censure and prepare any reports for the City Council Agenda.
- Agendize resolution of censure at Rules and Legislation Committee.
- Submit resolution of censure with supporting staff report for ten-day agenda
- Publish agenda.
- Serve the member who is the subject of the resolution a copy of the resolution and report.
- On the day of the meeting, allow the subject member an opportunity to present a rebuttal. No cross-examination of witnesses is required. A majority vote is necessary for passage; however, if Council proceeds by resolution, five affirmative votes are required. Since the censure has no financial effect on the member, the member is entitled to vote.

Recommendation:

The basis for the Motion for Censure is outlined in this report from me and is recited in the Motion itself. In order to maintain public trust in the integrity of City government, I believe it is incumbent upon the City Council to publicly take a position on Councilmember misconduct that violates the City Charter and Council Code of Conduct when that misconduct has become known and has been well-documented. I respectfully request your approval of the Motion for Censure.

Respectfully submitted,

A handwritten signature in cursive script, reading "Patricia Kernighan", is written over a horizontal line.

Patricia Kernighan
President, Oakland City Council

EXHIBITS TO MOTION TO CENSURE

- A. 2012-2013 Alameda County Grand Jury Final Report: Misgoverning the City of Oakland

- B. City Attorney Legal Opinion re City Council Censure Law and Procedure dated March 26, 2013

- C. Documents produced as exhibits to City Administrator's Report dated February 24, 2012

MISGOVERNING THE CITY OF OAKLAND

INTRODUCTION

The Grand Jury received a complaint alleging that a member of the Oakland City Council overstepped their authority when a council member inappropriately led efforts to open a teen center in their district between 2007 and 2011. After interviewing numerous witnesses and sorting through hundreds of documents, the Grand Jury found that city contracting, purchasing and hiring rules were circumvented during the teen center project. The Grand Jury determined that one council member stepped out of their role on the council and inappropriately made administrative decisions throughout the process, often with full knowledge and complicity of some city staff. Former city executives as well as current and former department heads failed to stop this inappropriate conduct. This allowed the project to move forward at a time when other parks and recreation programs were being cut and projects with higher priorities went unfunded. After the project was completed, the city council looked the other way by retroactively waiving competitive bidding requirements and failed to support a thorough investigation of the matter, demonstrating the city council's inability to self-police. Finally, the Grand Jury determined that while the city has a public ethics commission, the city council had not given the commission the tools necessary to address such transgressions that undermine the notion of fair and open government.

BACKGROUND

The city of Oakland has a mayor-council form of government, which is headed by the mayor who serves as the city's chief executive, and the city council that serves as the city's legislative body. The mayor serves a four-year term with a two-term limit. The mayor appoints the city administrator subject to confirmation by the city council. While the mayor is not a member of the city council, he or she may

cast a tiebreaking vote. The mayor can suspend legislation passed by the city council, but such suspension can be overridden by five votes from the council.

The Oakland City Council has eight council members representing seven districts in Oakland with one member elected at-large. Council members serve staggered four-year terms. There are no term limits for the city council. The city charter and municipal code specifically outline the powers of the city council.

City Council Powers

The Oakland City Council is the governing body of the city with all powers of legislation, but the council has no administrative powers (City of Oakland Charter, section 207). With very few exceptions, the powers of the city council are granted only to the full body, not to individual council members acting on their own. The City Council Code of Ethics states that council members must adhere to the American ideals of government, the rule of law, the principles of public administration, and high ethical conduct in the performance of public duties.

City council powers as a whole include, but are not limited to, the following:

- Pass ordinances (laws), resolutions, and policies (Charter section 207, 210).
- Adopt a bi-annual budget for the city.
- Adopt or amend an administrative code (Charter section 219).
- Establish, alter, or abolish city departments, offices or agencies (Charter section 600).
- Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed (Charter section 219).
- Order public works (Charter section 504).
- Be fully advised as to the financial condition and needs of the city (Charter section 504).
- Create city boards and commissions (Charter section 601).
- Prescribe by ordinance the manner that the city administrator purchases or contracts for equipment, materials, supplies and public works (Charter section 807).
- Prescribe by ordinance, conditions and procedures for any purchase or contract, including advertising and bidding requirements (Charter section 808).

- Award public contracts (municipal code section 2.04.030).
- Establish departments, divisions, offices and positions of employment by ordinance, and may change or abolish the same and prescribe their powers, functions and duties. By resolution provide for temporary employment of services when required (Charter section 902).

Individual council members also have the powers to:

- Ask for written legal opinions (Charter section 401(6)).
- Make inquiries of administrative staff (Charter section 218).

Section 218 of the city charter states that the city council cannot interfere in administrative affairs, and can only deal with administrative affairs through the mayor or city administrator.

Administrative affairs are generally the duties exclusive to the city administrator, city attorney or city auditor. They specifically include:

- Giving orders to any subordinate of the city administrator or such other officers including the city attorney and city auditor, either publicly or privately.
- Actions of the city administrator or such other officers, in respect to any contract or purchase of any supplies with the understanding that the city council awards public contracts.
- The appointment of any person to or his removal from office by the city administrator's subordinates or the subordinates of other officers (city attorney and city auditor).

The Oakland Municipal Code sets forth clear procedures for all contracts authorized by the council or city administrator. Such rules are common throughout government. They help to ensure that public monies are spent wisely and contractors are not chosen because of political patronage. Such rules encourage transparency with checks and balances to make sure agencies take advantage of an open and competitive marketplace while still complying with state and federal laws.

INVESTIGATION

During our investigation, the Grand Jury viewed thousands of pages of documents and emails relating to council interaction with city staff and vendors. We also reviewed city policies, ordinances, procedures, investigative reports, contracts, invoices, purchase orders and documentation related to the recreation centers, and viewed video of council meetings. The Grand Jury met with numerous city employees, current and former city officials, staff members of various departments in the city of Oakland, and city administrators from outside the city of Oakland to determine the best practices in governance.

The Grand Jury made numerous attempts by telephone, email, FAX and in writing in order to have the council member, who was the focus of much of this report, appear before the Grand Jury. The council member refused to cooperate with the Grand Jury's investigation.

City Council Interference

Efforts by council members to influence administrative decisions outside the council chambers are not new in the city of Oakland. While council members are required to go through the city administrator's office to deal with traditional administrative issues (Charter section 218), the Grand Jury learned that some council members would often put pressure on city staff to get their own issues prioritized above other city matters. District elections, a history of hands-off mayors, and the fact that large government bureaucracies operate using policies and procedures that can cause change or improvements to occur slowly, all contributed to this behavior. The Grand Jury heard testimony that this created the perception that council members operated as if they were "mayors of their own districts." Over the years, this problem led city administrators and city attorneys to issue numerous written reminders to council members explaining that interference in administrative affairs violates the city charter. While these reminders raised the issue, they did little to change the culture of interference.

Such conduct on the part of the council may appear to be insignificant and even well-meaning in many circumstances. The Grand Jury heard testimony that the Fruitvale Transit Village (neighborhood improvements near the Fruitvale BART station) may never have been completed without the pressure exerted by a former member of the city council. The interference included causing a public library to be uprooted from its established neighborhood location, and relocated to a second floor space to serve as an anchor tenant and revenue stream for the project.

However, the Grand Jury learned about many other instances of individual council members' interference that went well beyond being merely an annoyance. Project logs examined by the Grand Jury showed that on many occasions staff within the Office of Parks and Recreation (OPR) would not move forward on a host of projects until they obtained approval from a specific council member. This approval ranged from the replacement of trash cans and benches, to making decisions about the exterior design and façade.

Another example involved the Arroyo Viejo Recreation Center. In 2007, during the planning stages of the renovation, a city architect coordinated the efforts. Staff appeared to follow city purchasing rules as they were seeking bids from different vendors for the center's equipment needs. However, staff and city council email showed that major decisions were made only after obtaining a council member's approval. In May of 2008, a private architecture firm hired by the city would not move forward until they received design approval from the council member. Similarly, by July, a city architect would not proceed until they received approval from the council member for the project's estimate, design, and equipment list.

During the Grand Jury's interviews of city staff, administrators and elected officials, we learned that both the city charter and the city municipal code should have prevented individual council members from making key decisions as projects move forward. Yet, council interference would go even further when one

member took the unofficial role of project manager during the creation and renovation of a teen center within their district.

Digital Arts and Culinary Academy (DACA)

In 2007, the Oakland City Council approved the purchase of a building located at 5818 International Blvd. in Oakland with \$790,000 in redevelopment funds. The 4,000 square foot building, next to the Rainbow Recreation Center, was to be used as a neighborhood teen center but first needed extensive renovations. The project was spearheaded by the council member representing the neighborhood. Interference with staff began almost immediately after the purchase. Less than a month after the city purchased the building, the council member sent an email to city staff asking, "When can I have the keys?" From that moment forward, it was very clear that the council member exerted control over nearly every element of the project, making demands of staff from multiple city departments at all levels. City administration, including department heads, allowed the improper conduct to continue, even though the council member lacked the experience and expertise to ensure that city rules – and more importantly – state laws intended to protect the city, were followed. What ensued was a complete fiasco that diverted city administration's attention away from many other dire issues the city was facing.

Whether city officials condoned the conduct because they were focusing their time on more important issues, or because they simply chose to ignore the situation because of the council member's history of being incredibly difficult to deal with, city staff, not the council member, should have been in charge of the **DACA** project. The Public Works Agency should have managed the construction and planning for operation of the teen center. The Redevelopment Agency should have played a supporting role relating to financing of the construction. The Office of Parks and Recreation should have operated the facility and hired the employees. These agencies were staffed with experts who regularly handled the competitive bidding process, bonding issues, management, and project delivery.

During the planning stages of DACA, with the head of the Office of Parks and Recreation department copied on email, the facilities complex manager for the Public Works Agency sought approval from the council member to store valuable parts for a nearby city project in the vacant DACA building. The council member tersely denied the request, yet there were no consequences for the council member's actions. The OPR department head should have demanded the keys to the center, along with control over the facility's rehabilitation. If the department head was unsuccessful, the city administrator should have intervened. Yet this did not occur and the interference continued. Once again, a private architecture firm waiting to begin the design concept sought the council member's "blessings" before they continued.

By 2008, the DACA project and many other planned city projects stalled due to the city's dire financial situation, fueled in part by the global financial crisis. In November 2008, the city had to address a \$42 million budget gap. Among other things, the city eliminated 146 positions resulting in 65 layoffs. On top of that, the 2009-2011 City of Oakland Adopted Budget described an additional \$91-97 million annual shortfall, requiring the city to eliminate or freeze an additional 190 positions, resulting in 69 more layoffs. The cuts deeply affected every city government service. Not only was the DACA renovation and opening delayed, but other operating teen centers in Oakland were also losing funding.

In early March 2010, the council member, acting on behalf of the city without authority, negotiated with a private contractor and a local non-profit organization to perform the center's renovation. The Grand Jury heard testimony that the council member later met with the then-city administrator, explaining that the contractor and the non-profit would be donating the work. The city administrator directed the council member to meet with the director of the Community and Economic Development Agency to ensure that the proper permits were obtained. Yet the Grand Jury learned that the council member's agreement with the builder called for reimbursement to the builder for some labor and/or materials, but the details were unclear.

The amount of the reimbursement to the builder, which was expected to be in excess of \$100,000, would have required competitive bidding under the city's contracting rules or waiver of such rules by the city council. Neither action took place prior to the project moving forward. State law also required bidding because the project was a Redevelopment Agency-owned property. Bringing the matter before the city council would have been problematic because at that time, the council had been forced to make huge cuts to virtually every city department. Yet these rules were followed in other projects such as the Raimondi and Bella Vista Park rehabilitations, even when non-profits donated their efforts. The law requires these steps to ensure that the city is protected from liability should something go wrong, and to ensure that public funds are being used properly.

The Grand Jury learned that a junior staffer from within the Redevelopment Agency was directed to seek several bids after the city purchasing department raised questions as to whether city policies were followed. These bids were inappropriately sought once work was completed, and also inappropriately included a bid from someone who participated in the original renovation. It should be noted that long after construction was complete, the city council retroactively waived the bidding requirements, choosing to not hold anyone accountable.

The source of city funding for the reimbursement to the builder was unclear from the start. The council member summoned a staff member from the Redevelopment Agency to a meeting with the builder in early March 2010. The Grand Jury heard testimony that no one from the Parks and Recreation Department was present at the meeting, which was unusual. There were inaccurate assumptions by redevelopment staff that Parks and Recreation had plans for on-going funding of the facility. Staff was directed to locate construction funding immediately because work was to start within days. Emails showed that staff scrambled for funding ideas, first recommending the use of a city façade improvement grant, but quickly realizing the facility was publicly owned and there would need to be public hearings regarding the funding. Emails

stated that they settled on using Neighborhood Preservation Initiative funds that had previously been generically approved for a teen center.

Construction of DACA moved forward. The contractor and a non-profit entity refurbished a portion of the building, which included construction of a kitchen, a video and recording studio with an editing room, an office, and restrooms. The exterior façade was designed, fencing was installed, and the yard was landscaped, which included adding walking paths and a small garden.

The builder billed the city for reimbursement costs for the items that were not donated, raising red flags within the city's purchasing department. There were concerns of contract-splitting, which may have been an effort by staff to keep the billing increments under the competitive bidding limit and council-approval thresholds. In addition, some of the billing was for labor costs. This billing caused the purchasing department to question if wages were paid appropriately. State law required that prevailing wage be paid for all labor involved in the project. Prevailing wages had not been paid. The troubles for the teen center did not end there.

DACA Staffing Issues

The council member continued to control the teen center project by choosing the staffing levels for the center and overseeing the hiring of all the staff, using funds from their own district office budget. Yet it was clear these employees would, at some point, be managed by the Office of Parks and Recreation, which should have been in charge of both facility operations and hiring from day one. The city charter and labor contracts required Parks and Recreation employees to be hired through a competitive process and with specific qualifications for the job. These rules were circumvented.

Parks and Recreation employees are subject to civil service and other city rules. Part-time employees of individual council districts are exempt from these rules.

The council member hired the DACA employees as council staff and set their hours and salaries (as high as \$25/hour) with neither an appropriate official job description nor appropriate city job posting. The city human resources (HR) department processed the hiring paperwork based on the employees being hired to work for the council member's district and not as Parks and Recreation staff. The Grand Jury reviewed email from the city payroll department asking the council member for job descriptions and salaries of the DACA employees after they had already been hired. This indicated to the Grand Jury that the employment process did not follow the proper city procedures.

California Education Code section 10911.5 requires that employees working with youth must submit to a criminal background check prior to starting their assignment. Employees must also pass a drug test and a tuberculosis test. Additionally, city policy specifically states, "All potential employees and volunteers working with children and youth in any capacity must be fingerprinted and photographed as mandated by state law. All new hires and volunteers must complete the fingerprinting process before completing new hire forms ... and before they are allowed to work at OPR sites."

The Grand Jury reviewed literature and email announcing the opening of DACA, and that classes began on March 14, 2011. Documents show that ten children signed up for classes. An email from the council member to the head of Parks and Recreation on March 14, 2011, stated, "We finally opened the academy today. We need to have background checks run on the instructors. Tell me what the process is to have this done." Excerpts from follow-up email dated March 18, 2011, from instructors to the council member stated, "Although participation is a bit small and still being worked on, it seems to be growing every day." From the records the Grand Jury reviewed, no evidence was found that any employee had cleared a background check prior to this date. Another email dated March 25, 2011, stated, "... the first and second weeks of instruction ... The first day I had 4 students, then 6, then 9-10, and now back to 7 or 8." The Grand Jury found that only one employee had been cleared on March 21 and another on March 23, 2011. It was

not until March 25, 2011, eleven days after the center opened, that the council member was notified by email that the background checks (which included fingerprinting, drug and TB testing) for all but one employee were completed. Yet, a memo dated March 6, 2012, from the council member to the city council, stated, "It is important that you know that all DACA employees were fingerprinted and went through background checks prior to working with any teens."

Lack of Long-Term Planning

Even though the opening of DACA was celebrated by the council member, staff, some city department heads, and a few members of the community, the city council had not yet approved the operation of the teen center. This would obviously require a commitment to staff the facility long-term and to ensure that there was on-going funding to maintain the facility and pay for utilities.

It appears that no consideration was given to long-term city funding for the day-to-day operations of the center. The city had estimated that operating the teen center with four part-time staff members from 3PM to 9PM Monday through Friday would cost approximately \$150,000 annually, and on-going maintenance costs would be an additional \$10,000 annually. A commitment to spend this money was patently unfair to other Parks and Recreation facilities, many of which were in dire need of work. At least one center in another council district had to be closed because of budget cuts in the same period of time.

Equipment Purchase Problems

During the renovation of DACA, \$19,000 worth of electronic equipment was purchased for the teen center at the direction of the council member. City purchasing rules required competitive bids to ensure that the city did not overpay for the equipment. Such bids were not obtained as required. Upon delivery of the equipment, a dispute arose between the council member and the vendor

regarding the installation of the electronic items. The vendor explained that there were several issues, including the fact that a proper Internet connection was never installed at the center. Without the establishment of that connection, some of the equipment would not work.

The vendor claimed that they had never contracted to install the equipment, but rather made attempts to do so as a favor to the city. The dispute could have easily been resolved if a proper contract describing the vendor's responsibilities existed, but this was not the case. The council member, who handled the negotiations regarding the dispute, decided to have staff intercept the city check for payment for the equipment and withheld it for months until the vendor properly installed the items. This conduct flew in the face of the city purchasing policy. The vendor eventually threatened the involvement of his Loss Prevention and Legal Department in order to get paid.

Ironically, it was this same council member that touted Oakland's new automated procurement process in a press release in January 2010, and who was quoted as saying it would provide "greater transparency, accountability and collaboration in the contracting process" and that Oakland's Prompt Payment Policy – which the council member authored – would create greater opportunities for Oakland's businesses and residents.

Testimony indicated that throughout the different stages of the DACA project, there were concerns by some staff involved that if they failed to cater to the council member's needs, their jobs could be in jeopardy. Since some city department heads were copied in a variety of emails, staff assumed they were to move forward with their efforts regardless of city rules and regulations. Whatever the reasons, the Grand Jury finds a clear failure by the chain of command to stop the unauthorized behavior.

Whenever such interference occurs, there is a real danger that city and state policies which are intended to ensure fair and open government transactions will

be abused or simply ignored. The city and ultimately the taxpayers are at risk of being taken advantage of when business is conducted without written contracts and without competitive bidding. If transactions go bad, the city has little recourse to protect itself when its own policies are not followed. Vendors and their employees are at risk of not being paid in a timely manner. Such conduct discourages vendors from wanting to do business with the city of Oakland and leaves them with the perception that there is an unfair playing field with no rules.

REMEDIES

On paper, the city appears to have a multitude of oversight bodies that act as checks and balances for government misconduct. The Grand Jury examined three such oversight bodies and their powers.

City Auditor

The city auditor is an independently elected city official with the duty to audit the books and accounts of all city departments and agencies as well as evaluate the city's internal controls to ensure that the city is safeguarded from fraud, waste, and mismanagement. In addition, the auditor has the authority to examine whether there is compliance with council resolutions and policies as well as state and federal laws. Such results are to be reported to the city council.

While the auditor has no authority to institute changes in city policy or take action against anyone violating city policies, the auditor's independent, public voice can provide the citizens of Oakland with an educated examination of city government. The auditor can report quarterly to the council and the public regarding the implementation of recommendations for corrective action noted in the city auditor's report. (City Charter section 403). Findings may also be forwarded to the District Attorney's Office for potential criminal prosecution. It should be noted that a violation of section 218 of the city charter is a

misdemeanor and charges must be filed by the District Attorney within one year of the violation occurring.

City Council Censure

The city council Code of Ethics states that council members must adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties. The same code requires council members to maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation, and by being willing to censure any member who willfully violates the rules of conduct contained in the Code of Ethics.

The power to censure is a tool available to nearly every legislative body. It allows them to publicly condemn one of their own. Censure is a formal legislative resolution reprimanding someone for specific conduct. The elected official, who is the focus of the censure, has the right to be notified of the action and must be able to respond. Although common in its existence, censure is rarely used. It carries no penalty other than the verbal reprimand itself. Requiring a political body to self-police its own members with no legal penalty attached can be seen as a shallow attempt at checks and balances.

When the city administrator presented the facts surrounding the potential charter and ethics violations to the city council in early 2012, the city council chose not to fund any further investigation. The Grand Jury heard testimony that two of the council members who did not support further investigation of this matter were in heated election battles and strong council alliances were important. This brings into question the council's ability to self-police.

The council's history of its members protecting each other extends to their budgeting policies. While other budget units within the city transparently report their expenditures in detail, individual council members' detailed budgets have

traditionally been kept private, only accessible to the president of the city council. It has been tradition that the city administration did not examine or review the spending decisions of individual council members. The Grand Jury believes that city council budgets need to be treated no differently than other city department budgets.

Public Ethics Commission

In November of 1996, the voters established the Oakland Public Ethics Commission. Among other responsibilities, the Oakland Public Ethics Commission oversees compliance with the Oakland Sunshine Ordinance, Code of Ethics for city officials, Conflict of Interest regulations, Campaign Reform Ordinance and the Lobbyist Registration Act.

The commission is made of seven volunteer members serving three-year terms. Three members are appointed by the mayor and confirmed by the city council. The remaining four members are chosen by the Ethics Commission as a whole. They meet once per month. Currently, the commission has one full-time city staff person and two part-time staffers responsible for the day-to-day needs and operations of the department.

City budget cuts have affected the viability of the commission. The commission's 2011 Annual Report stated that the commission lacked the resources to fulfill its legal mandate and was forced to prioritize responsibilities partly due to the fact that the city cut the commission's budget by nearly 43%. This cut resulted in the ability to rehire only one full-time staff member. Additionally, the executive director retired in June of 2011 and was not replaced until April of the following year, effectively disabling the commission for nearly a year. In fact, it appears the commission met only once during that ten month span and had no staff. The cut in staffing and limited budget appear to have rendered the commission unable to execute its responsibilities. In comparison, San Francisco's ethics commission has a staff of 17 with an annual operating budget of approximately \$2.2 million,

while Oakland's ethics commission has a budget of only \$186,336 for fiscal year 2012-2013.

Oakland's Public Ethics Commission's strengths appear to be in the area of education and training. Staff has traditionally held annual trainings with city staff, informing them of various local and state ethics laws and requirements. They also develop educational materials for public officials, candidates and public employees. Yet one public official only remembered having received ethics training once in the past decade.

While the commission may conduct investigations and audits relating to complaints received, its enforcement powers are less than clear. The municipal code states that the commission may impose penalties and fines, yet these penalties and fines must be prescribed by local ordinance. The Grand Jury learned that neither the voters nor the city council have granted the commission the power to penalize and fine in all areas where it has jurisdiction, giving the commission no tools to take meaningful action when violations occur. In addition, violations of City Charter section 218, which prohibits council members from interfering with the administrative responsibilities of the city administrator, are punishable as a misdemeanor resulting in removal from office. However, such charges may only be filed by the district attorney or the attorney general. This remedy leaves the Ethics Commission without jurisdiction or any power of enforcement although it may hold a hearing on the policy issues of the city's ethics code and may also propose legislative recommendations to the city council to address these issues.

Both San Francisco and Los Angeles have robust ethics commissions, with full-time investigators and auditors on staff. Such commissions are most effective when they have the power to enforce the laws and impose penalties when violations occur. While Oakland's Public Ethics Commission has many responsibilities as provided by the voters, it has little authority to ensure that such ethics related rules are followed.

The Grand Jury finds that local independent oversight of public ethics is essential. An ethics commission with authority to issue fines, penalties or sanctions in a public setting is a more appropriate solution when violations do not rise to the level of removal from office. This would also better serve the citizens of Oakland because traditionally, the city council's ability to self-police or censure its own members who commit wrongdoing is an ineffective tool. Citizens and taxpayers deserve elected officials who perform to the highest standards. An ethics commission with appropriate resources and power to enforce ethical standards is of the utmost importance.

CONCLUSION

The city of Oakland has policies and rules in place to help ensure that its government runs in a fair, open and lawful manner. Abandoning such rules for the sake of expediency or a sense of control can damage the foundations of our democracy and give the public the perception that our government institutions are broken and or corrupt. Elected leaders need to honor their oath of office. Oversight bodies, such as the Oakland Public Ethics Commission, need to be given the authority and the funding by the city council to do their job to protect public integrity. Transparency and open communication are critical to building trust between elected officials and citizens. In the end, public awareness and involvement are essential to holding government accountable.

OAKLAND CITY COUNCIL CODE OF ETHICS

Resolution No. 78307 C.M.S.RESOLVED: That the City Council hereby adopts the following Code of Conduct for each member of the City Council. Each member of the City Council has a duty to:

1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties.
2. Represent and work for the common good of the City and not for any private interest.
3. Refrain from accepting gifts or favors or promises of future benefits which might compromise or tend to impair independence of judgment or action.
4. Provide fair and equal treatment for all persons and matters coming before the Council.
5. Learn and study the background and purposes of important items of business before voting.
6. Faithfully perform all duties of office.
7. Refrain from disclosing any information received confidentially concerning the business of the City, or received during any closed session of the Council held pursuant to state law.
8. Decline any employment incompatible with public duty.
9. Refrain from abusive conduct, personal charges or verbal attacks upon the character, motives, ethics or morals of other members of the Council, staff or public, or other personal comments not germane to the issues before the Council.
10. Listen courteously and attentively to all public discussions at Council meetings and avoid interrupting other speakers, including other Council members, except as may be permitted by established Rules of Order.
11. Faithfully attend all sessions of the Council unless unable to do so because of disability or some other compelling reason.
12. Maintain the highest standard of public conduct by refusing to condone breaches of public trust or improper attempts to influence legislation, and by being willing to censure any member who willfully violates the rules of conduct contained in this Code of Ethics.

Exhibit B

City Attorney Legal Opinion re City Council Censure Law and Procedure
dated March 26, 2013

Sent via email on 3/26/13 and 4/2/13

CITY OF OAKLAND
CITY ATTORNEY'S OFFICE
LEGAL OPINION

TO: Patricia Kernighan
President, Oakland City Council

FROM: Barbara J. Parker
City Attorney 

DATE: March 26, 2013 File No:

RE: CITY COUNCIL CENSURE LAW AND PROCEDURES

I. Question

What options does the City Council have to address violations of the City Charter's non Interference clause (City Charter section 218)?

II. Summary Conclusion

The Council has the following options to address violations of the City Charter's non interference clause: (1) censure; (2) refer the matter to the District Attorney, (3) refer the matter to the Grand Jury, and/or (4) remove the subject Councilmember from committee chairpersonship and/or a council committee or committees.

III. Analysis

A. Censure Generally – A City Council Power

Rule 1 of the City Council's Rules of Procedure Resolution No. 82580 provides that the business of the Council shall be conducted "so far as it is practicable, in accordance with parliamentary rules as contained in Roberts Rules of Order Revised . . ." except to the extent Roberts Rules of Order is inconsistent with the Council's Rules of Procedure or open meeting laws.

Censure is a disciplinary procedure naming a particular member of the legislative body as an offender. (Robert's Rules of Order, Newly Revised ("Roberts"), p. 627, Section 61 (2000).)

The Oakland City Council has the power to censure one of its members. The Council's Code of Conduct, which is part of the Council's Rules of Procedure states that the City Council may censure any member "who willfully violates the rules of conduct contained in this Code of Ethics." (City Council Resolution No.82580, Code of Conduct No. 12, see also, Sunshine Ordinance, Oakland Municipal Code section 2.20.170 (censure for release of confidential information).) Moreover, censure is an inherent power of a legislative body that follows Robert's Rules of Order. (Roberts, p. 627-28, Section 61.)

B. Censure Is Protected by the First Amendment

When there is no penalty included, censure is only the expression of an opinion by the majority of the legislative body. (*Phelan v. Laramie County Community College Board Of Trustees*, 235 F.3d 1243 (10th Cir., 2000).) "In censuring Ms. Phelan, Board members sought only to voice their opinion that she violated the ethics policy and to ask that she not engage in similar conduct in the future."¹ (id. at 1248.) A board's censure opinion is protected by the First Amendment. (*Westfall v. City Of Crescent City*, ("Westfall I") 2011 WL 4024663 (unpublished) (N.D.Cal. 2011) (granting City's motion to dismiss).)² "... Council members had a corresponding First Amendment right to 'vot[e] their conscience on the important issues' they identified in the censure resolution." (*Westfall II* at *4.) The *Westfall II* court considered the censure First Amendment activity even though the censure resolution also stripped the respondent of her committee memberships.

Censure Protected By Anti-SLAPP Statutes. As an expression of an opinion, the resolution of censure is protected by the anti-SLAPP statutes of the state. (*Californians Aware v. Orange Unified School District* ("Californians Aware"), 2008 WL 4078764 at *11 (unpublished) (Cal.App. 4 Dist.)) "[A] governmental entity enjoys a right to freedom of speech, which is consequently enforceable under the anti-SLAPP law." (See also *Rodriguez, v. Jurupa Unified School District* ("Rodriguez"), 2010 WL 3135386 (Cal.App. 4 Dist.)³; *Shivers, v. Yuba Community College District* ("Shivers"), 2002 WL 22783 (unpublished) (Cal.App. 3 Dist. 2002) (District Administrator's lawsuit stricken on District's anti-SLAPP motion. Lawsuit challenged District board censure of Administrator.) *Westfall v. City Of Crescent City* ("Westfall I"), 2011 WL 2110306 (unpublished) (N.D.Cal.) (partially granting City's motion to strike).)

Even when a respondent is stripped of his or her committee memberships, he or she

¹ Wyoming college board censures board member for violating ethics policy. Court finds board did not violate member's First Amendment rights. Member had placed ad in newspaper criticizing a board decision.

² Most of the cases discussing censure are unpublished cases. Unpublished cases cannot be cited in California courts. California Rules of Court, Rule 8.1115.

³ School district censure board member for "Unacceptable Conduct" arising out of an investigation into inappropriate workplace conduct, including making sexually-charged comments, inappropriate physical contact, and threats against district employees.

may be barred from bringing actions for intentional infliction of emotional distress and defamation under the Anti-SLAPP statute. (*Westfall II* at *11.)

C. Due Process Is Limited

Numerous legislative bodies issue a censure by resolution. (See *Braun v. City of Taft*, 154 Cal.App. 3d 332, 339 (1984); *Californians Aware* at *5; *Westfall II* at *1; *Rodríguez* at *3.)

1. **Minimal Due Process.** "In determining applicable due process safeguards, it must be remembered that 'due process is flexible and calls for such procedural protections as the particular situation demands.'" (*People v. Ramirez*, 25 Cal.3d 260, 268 (1979).) Only minimal due process standards here should apply: notice and an opportunity to refute the allegations. One court has said that it could find "no required policies or procedures on censure that a city must follow." (*Westfall II* at *6.) The *Westfall II* court rejected the charge that the legislative body had no censure policy, and therefore could not impose a censure. (*Westfall II* at *5.) The court noted that there was no violation of due process as the respondent had "received notice of the Council's decision to vote to censure her at an upcoming public meeting, had communicated with [the City Attorney] regarding the procedural mechanism for the sanction, and attended the public meeting where the remaining Council members unanimously voted to censure her." (*Westfall II* at *6.) This was sufficient due process even when the censure resolution included stripping the respondent of committee membership. The court also noted that the transgressions were observed directly by other councilmembers no further investigation was necessary.

Especially when a censure motion is "not a formal legal finding" and does not "diminish" a Councilmember's right as a Councilmember, due process is limited. At most, a respondent is entitled only to notice and an opportunity to refute the allegations. (*Rodríguez* at *12.)⁴ Even when the matters occur outside the view of the council, the court was not concerned that the allegations were submitted to the legislative body by just an oral report. (*Rodríguez*, at *8 (Investigators presented oral report on board member's unacceptable conduct involving allegations of sexually-charged comments, inappropriate physical contact, and threats against district employees).)

Other entities, such as licensing boards, do allow for a specific procedures before censure. These procedures, however, are required by the body's own rules. (See, e.g., Commission on Judicial Performance, Rule 123.) As noted by the *Westfall II* court, *supra*, no rule or statute mandates a specific process for a City Council censure.

2. **No Cross-examination.** Due process does not require that the subject have the "right of cross examination at a name-clearing hearing." (*Binkley v. City of Long Beach*, 16 Cal.App. 4th 1795, 1809 (1993) (Chief of Police, who held the position at the pleasure of the City Manager, could be fired without "just cause," so long as he was given an

⁴ The president of the Board, explained that adoption of the "resolution is not a formal legal finding and its adoption would not diminish Mr. Rodríguez's rights as a Trustee." "Under these circumstances, Rodríguez was, at most, entitled to notice of the censure resolution and an opportunity to refute the allegations and clear his name."

adequate opportunity to convince the agency to reverse its decision).) In the context of a censure of a City Councilmember, since not even firing is at stake, certainly there is no right to cross examination.

D. Procedural Steps

- Draft resolution of censure and prepare any reports for the City Council agenda. The report could be a City Auditor's report and/or a Grand Jury report
- Agendize resolution of censure at Rules and Legislation Committee.
- Submit resolution of censure with supporting staff report for ten-day agenda
- Publish agenda.
- Serve the member who is the subject of the resolution a copy of the resolution and report.
- On the day of the meeting, allow the subject member an opportunity to present a rebuttal. No cross-examination of witnesses is required. A majority vote is necessary for passage; however, if Council proceeds by resolution, five affirmative votes are required.⁵ Since the censure has no financial effect on the member, the member is entitled to vote. (*Acker v. City Of Ontario*, 2006 WL 540888 (unpublished) (Cal.App. 4 Dist.) at *8.)

The enabling ordinance of the Oakland Public Ethics Commission (PEC) contains some language that implies the PEC has jurisdiction over some areas that are enforceable by censure. OMC section 2.24.020 states that the PEC has the "function and duty" to "Oversee compliance with the city Code of Ethics." While there is not city-wide code of ethics, there is a City Council code of ethics in the Council's Code of Conduct which is part of the Council's Rules of Procedure - Resolution No. 82580, which we discussed earlier. Arguably, the PEC has jurisdiction over violations of the Council Code of Conduct. The PEC takes this position. Note however, that if the PEC has the power, it cannot be exclusive or be a precondition to the Council procedures. The City Council has the authority under the City Charter to pass resolutions, including censure resolutions. A mere ordinance cannot take away such express power from the City Council.

IV. Conclusion

The City Council has the power to pass a motion or resolution censuring a councilmember. A formal hearing and cross examination are not required. At a minimum (1) the item must be noticed on the public agenda in accordance with the Sunshine Ordinance requirements, (2) the agenda packet must contain the proposed motion or resolution and a report documenting the acts, and (3) the subject councilmember must be given an opportunity to rebut the charges against him/her. The City Council may censure a member by a majority vote; however, a censure resolution requires five affirmative votes.

⁵ The Charter provides that Council can act by motion, resolution or ordinance except when a resolution or ordinance is required. Council could proceed by written motion that is noticed on the agenda, in which case the motion would pass with a majority of those present and participating. (City Charter, section 210.)

In addition to or instead of censuring a member, the City Council could (1) refer the matter to the District Attorney, if the allegations involve criminal conduct, (2) refer the matter to the Alameda County Grand Jury, and (3) the City Council could remove a member from a City Council committee and/or revoke a committee chairpersonship.⁶

Attorney Assigned:
Mark Morodomi

⁶ The Council must pass a resolution to remove a Councilmember from a committee or revoke a Councilmember's chairpersonship as committee appointments are confirmed by a Council resolution. (Council Rule of Procedure No. 4.)

Exhibit C

Documents produced as exhibits to City Administrator's Report
dated February 24, 2013



The Musician's Choice

P.O. Box 5111
Thousand Oaks, CA 91359-5111

RAINBOW COMMUNITY CENTER
DESLEY BROOKS
2818 SEMINARY AVE.
OAKLAND, CA 94605

RECEIVED
CITY OF OAKLAND

2010 MAY 25

Pro Accounts Invoice

BILL TO

ATTN: JASON MITCHELL

INVOICE NO.	INVOICE DATE	CUSTOMER NO.
2247369530	05-06-10	0000013794
PURCHASE ORDER NO.	PO DATE	AMOUNT DUE
201011735	06-05-10	\$658.49

SHIP TO

Guitar Center Management
P.O. Box 5111
Thousand Oaks, CA 91359-5111

102-149-144
0460000

CITY OF OAKLAND OFFICE OF PARKS AND RE
250 FRANK H OGAWA PLZ FL 3
OAKLAND CA 94612-2010

Barcode

Barcode

Qty	Description	SKU	Unit Price	Total
1	PRESDNUS 900DMAXFS DIGIMAX FS CITY OF OAKLAND	0133579000	\$599.99	\$599.99
<p>CEDA - PAYMENT APPROVAL</p> <p>Fund <u>9450</u> Org <u>88059</u> Acct <u>52213</u> Project <u>8373710</u> Program <u>0000</u> P.O.# <u>201011735</u></p> <p>Authorized Signature _____ Date _____</p>				
All merchandise remains the property of Guitar Center until paid for in full Terms: 30 Days			Subtotal	\$599.99
Page 1 of 1			Tax	\$58.49
			Total	\$658.48

102-149-144

SALES PERSON	APPROVAL NO.	DATE	REFERENCE NO.
	00000745	05/25/10	N/A



The Musician's Choice

P.O. Box 5111
Thousand Oaks, CA 91359-5111

RAINBOW COMMUNITY CENTER
DESLEY BROOKS
5818 SEMINARY AVE
OAKLAND, CA 94605

Pro Accounts Invoice 2010 MAY 25 AM 8:00

INVOICE NO.	INVOICE DATE	CUSTOMER NO.
2241369400	05-06-10	0000013794
PURCHASE ORDER NO.	DUEDATE	AMOUNT DUE
201011735	06-05-10	\$12,016.72

ATTN: JASON MITCHELL

CITY OF OAKLAND OFFICE OF PARKS AND RE
250 FRANK H OGAWA PLZ FL 3
OAKLAND CA 94612-2010

Guitar Center Management
P.O. Box 5111
Thousand Oaks, CA 91359-5111



Qty	Description	SKU	Unit Price	Total
1	APPLE MAC PRO QUAD CORE 2.66GHZ ACX 3GB 640 Serial No YM952IA64PC	8076053224	\$2,174.00	\$2,174
1	APPLE IMAC INTEL CORE 2 DUO 21.5IN 3.06GHZ Serial No QP010D5Z5PC	4811448224	\$1,199.00	\$1,199
1	APPLE IMAC INTEL CORE 2 DUO 21.5IN 3.06GHZ Serial No W80139HT5PC	3652646224	\$1,199.00	\$1,199
4	SENNHEISER HD280PRO HDPH 004974	4547088000	\$67.95	\$271
1	DIGIDESIGN MBOX 2 99001724600 Serial No AKH10072820D	0770590224	\$361.88	\$361
1	DIGIDESIGN MBOX 2 990017246DD Serial No AKH10072818D	4604254224	\$361.88	\$361
1	JBL LSR4328P/PAK(PR) STU REF MON W/ROOM ACC Serial No 09020081A	2515379224	\$1,236.81	\$1,236
1	NEUMANN TLM103 LG DIAPHRAGM COND SR MIC Serial No 1050060393	8320384224	\$856.86	\$856
1	PROPELLERNEAD REASON 4.0 991010010	8565370000	\$239.81	\$239
1	FL STUDIO 31837 PRODUCER ED V9	9040747000	\$159.60	\$159
2	STUDIO RTA 60401 MIX STATION DESK	6831643000	\$77.81	\$155
1	STUDIO RTA 50D41 PRODUCER STATION WKSTN DES	8831605000	\$359.50	\$369
1	M AUDIO AXIOM PRO 49 KYBD CNTL 99005286010 Serial No 222F119908086	3625160224	\$285.95	\$285
1	M AUDIO AXIOM PRO 61 KYBD CTRL 99005288700	0889367000	\$414.44	\$414

CEDA - PAYMENT APPROVAL

All merchandise remains the property of
Guitar Center until paid for in full
Terms: 30 Days

Fund 11950	Org 88659	Subtotal	\$10,949
Acct 52213	Project T 373710	Tax	\$1,057
Program 0000	P.O.# 201011735	Total	\$12,016

Page 1 of 3

Authorized Signature _____ Date _____

SALES PERSON	APPROVAL NO.	PICK UP BY	REFERENCE NO.
FRANK BOETZGEN	00000210	RAINBOW COMMUNITY CENTER	NA



The Musician's Choice

P.O. Box 5111
Thousand Oaks, CA 91359-5111

SHIP TO

DESLEY BROOKS
5818 INTERNATIONAL AVE
OAKLAND, CA 94605

RECEIVED
CITY OF OAKLAND

2010 MAY 25

Pro Accounts Invoice

INVOICE NO.	INVOICE DATE	CUSTOMER NO.
2201369464	05-06-10	0000013794
PURCHASE ORDER NO.	DUE DATE	AMOUNT DUE
201011735	06-05-10	\$5,311.89

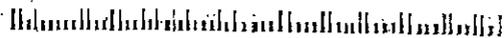
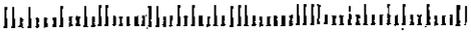
BILL TO

ATTN: JASON MITCHELL

CITY OF OAKLAND OFFICE OF PARKS AND RE
250 FRANK H OGAWA PLZ FL 3
OAKLAND CA 94612-2010

REMIT TO

Guitar Center Management
P.O. Box 5111
Thousand Oaks, CA 91359-5111



Qty	Description	Slw	Unit Price	Total
1	EUPHONIX MC MIX 8 KNOBS/FADERS 9471029701 Serial No 1016R030104	9738728224	\$850.00	\$850
1	EUPHONIX MC MIX 8 KNOBS/FADERS 9471029701 Serial No 1015R030135	1853733224	\$850.00	\$850
1	EUPHONIX MC MIX 8 KNOBS/FADERS 9471029701 Serial No 1015R030152	0509582224	\$850.00	\$850
1	EUPHONIX MC MIX 8 KNOBS/FADERS 9471029701 Serial No 101R030109	174B985224	\$850.00	\$850
1	DIGIDESIGN 003RK+ FACTORY BNDL 99005935600 Serial No AUR09270371B1	9025116224	\$1,299.99	\$1,299
2	DIGIDESIGN 99106016700 PRODUCERS FACTORY BN	8275548000	\$70.00	\$140
1	PROLINE PL400 QUICK RELEASE DBL BRACED X KY	6735259000	\$0.90	\$0

PLEASE BILL TO CEDA DIVISION PO# 201011735

CEDA - PAYMENT APPROVAL

Fund 9450 Org 88659
 Acct 8223 Project T373710
 Program 0000 P.O.# 201011735
 Authorized Signature _____ Date _____

All merchandise remains the property of
Guitar Center until paid for in full
Terms: 30 Days

Subtotal	\$4,839
Tax	\$471
Total	\$5,311

SALESPERSON	APPROVAL NO.	PICK UP BY	REFERENCE NO.
	00000210	DESLEY BROOKS	N/A

3



The Musician's Choice

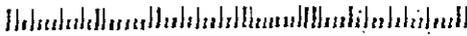
P.O. Box 5111
Thousand Oaks, CA 91359-5111

Pro Accounts Invoice

BILL TO

ATTN: JASON MITCHELL

102-140-144
CITY OF OAKLAND OFFICE OF PARKS AND RE
250 FRANK H OGAWA PLZ FL 3
OAKLAND CA 94612-2010



SHIPTO

RAINBOW COMMUNITY CENTER
5818 INTERNATIONAL AVE.
OAKLAND, CA 94605

INVOICE NO.	INVOICE DATE	CUSTOMER NO.
2241370139	05-10-10	0000013794
PURCHASE ORDER NO.	PO DATE	AMOUNT DUE
201011735	06-09-10	\$153.20

REMIT TO

Guitar Center Management
P.O. Box 5111
Thousand Oaks, CA 91359-5111

87451



Qty	Description	SKU	Unit Price	Total
1	JBL LSR2325P 5IN BI AMP STUDIO MON (EA) Serial No 10030359 SWAP OUT FOR DEFECTIVE SPEAKER ON TICK 2241369400	3730237224	\$139.59	\$139.59

P.O. 201011735

CEDA - PAYMENT APPROVAL

Fund 9450 Org 88659
 Acct 52213 Project T373710
 Program 0000 P.O.# 201011735
 Authorized Signature _____ Date _____

RECEIVED
CITY OF OAKLAND
2010 MAY 25 AM 8:55
CEDA FISCAL

All merchandise remains the property of
Guitar Center until paid for in full
Terms: 30 Days

Subtotal	\$139
Tax	\$13
Total	\$153

STATE PERSON	APPROVAL NO.	PICKUP BY	REFERENCE NO.
	00000004	DEELEY BROOKS	N/A

ENCUMBRANCE LIQUIDATION

5/27/10

PROPERTY OF THE FEDERAL GOVERNMENT	
DISTRICT OF COLUMBIA	
OFFICE OF THE INSPECTOR GENERAL	
REPORT NO. 10-001	

SUPPLIER NO.	87541
SUPPLIER NAME	Guitar Center, Attn: Jason Mitchell
ADDRESS	P.O. Box 5111
CITY STATE ZIP	Thousand Oaks, CA 91359-5111

AMOUNT	8,140.30
--------	----------

I HEREBY CERTIFY THE ARTICLES OR SERVICES DESCRIBED BY THE INVOICE(S) ATTACHED AND LISTED BELOW WERE NECESSARY FOR USE BY THIS AGENCY / DEPARTMENT AND HAVE BEEN DELIVERED OR PERFORMED AND THAT NO PRIOR CLAIM HAS BEEN PRESENTED FOR SAID ARTICLES OR SERVICE

AGENCY / DEPARTMENT	CEQA - Redevelopment
DATE	05/25/10
PAYMENT REQUEST PREPARED BY:	CLARA GARCIA
REQUESTOR PHONE NO. (REQUIRED)	X3971
AUTHORIZATION SIGNATURE AND DATE (REQUIRED)	<i>[Signature]</i>

Invoice Date	Invoice No.	Invoice Amount	Customer / Account Number	Description / (SIC) / (NAICS) / (Maximum Includes)	Quantity	Unit Price	Amount	GA DDF	
05/25/10	2241370139	153.20		Computer hardware and music system for Rainbow Teen Center	201011735	1	153.20		
05/25/10	2241369400	12,016.72		Computer hardware and music system for Rainbow Teen Center	201011735	1	12,016.72		
05/25/10	2241369464	5,311.89		Computer hardware and music system for Rainbow Teen Center	201011735	1	5,311.89		
05/25/10	2241369430	658.49		Computer hardware and music system for Rainbow Teen Center	201011735	1	658.49		
INVOICE TOTAL							18,140.30	AMOUNT TOTAL	18,140.30

4

DETAILED DESCRIPTION 9450.08659.52213.T373710.0000

Larry Gallegos (e-mail: lagalleaos@oaklandnet.com)
City of Oakland, CEDA- Redevelopment Division
250 Frank Ogawa Plaza, 5th Floor
Oakland, CA 94612
(510) 238-6174 ph.
(510) 238-3891 fax

From: Brooks, Desley
Sent: Monday, March 08, 2010 3:09 PM
To: Gallegos, Larry; 'Bill Sadler'
Subject: Grant agreement.

Hey Larry:

This is a follow up to our conversation with Bill regarding expenditures for the Rainbow Teen Center Rehab project. As we all agreed Pulte will pay for any expenses and submit an invoice to the City for reimbursement. Can we provide Pulte with a grant agreement to this effect. As I mentioned they are starting the project tomorrow so time is of the essence.

Looking forward to hearing from you soon.

Desley Brooks
Council Member, District 6
City Hall
1 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94612
(510) 238-7006
(510) 986-2650 (Facsimile)
[dbrooks@oaklandnet.com](mailto:dbrooksoaklandnet.com)

Keep Making a Difference -- Pay It Forward!

CONFIDENTIALITY NOTICE: This email may contain confidential and privileged material for the sole use of the intended recipient(s). Any review, use, distribution or disclosure by others is strictly prohibited. If you have received this communication in error, please notify the sender immediately by email and delete the message and any file attachments from your computer. Thank you.

Hi Desley,

Are you okay with the below scope or did you want us to include something else with the new allotment of NPI funds?

Thanks,

Larry-

Larry Gallegos (e-mail: lgallegos@oaklandnet.com)

City of Oakland, CEDA- Redevelopment Division

250 Frank Ogawa Plaza, 5th Floor

Oakland, CA 94612

(510) 238-6174 ph.

(510) 238-3691 fax

From: Parikh, Rupa
Sent: Wednesday, March 17, 2010 3:38 PM
To: Gallegos, Larry
Cc: Soo Hoo, Lily; Schwarz, Alison; Bembry, RSCO; Seamans, Daniel
Subject: RE: Rainbow Rec Center - NPI grant update and response
Importance: High

Larry - I just spoke with Reco. Can you please run this scope by Councilmember Brooks:

\$54,000 in Coliseum NPI funds to redo Gym Flooring, redesign windows on right and left sides of entryway, and pay for new blinds to help with heat management.

These seem to be the current priorities of Parks and Rec. staff but they would rather have us double check with Councilmember Brooks to make sure she agrees.

Thanks,

Rupa .

Rupa Parikh, Urban Economic Analyst III
City of Oakland - Redevelopment Division
250 Frank H. Ogawa Plaza, Suite 5313

-----Original Message-----

From: Brooks, Desley
Sent: Wed 3/17/2010 3:54 PM
To: Gallegos, Larry
Cc: Hunter, Gregory
Subject: RE: Rainbow Rec Center - NPI grant update and response

No, I am not okay with this scope. Call me to discuss further.

Desley Brooks

Council Member; District 6

City Hall

1 Frank Ogawa Plaza, 2nd Floor

Oakland, CA 94612

(510) 236-7006

(510) 986-2650 (Facsimile)

dbrooks@oaklandnet.com <mailto:dbrooks@oaklandnet.com>

Keep Making a Difference -- Pay It Forward!

From: Gallegos, Larry
Sent: Wednesday, March 17, 2010 3:49 PM
To: Brooks, Desley
Subject: FW: Rainbow Rec Center - NPI grant update and response
Importance: High

Oakland, CA 94612

Ph: (510) 238.6248

Fax: (510) 238.3691

Note: I am in the office Mon-Wed only.

From: Bembry, Reco
Sent: Wednesday, March 17, 2010 3:26 PM
To: Seamans, Daniel; Parikh, Rupa
Cc: Gallegos, Larry; Soo Boo, Lily; Schwarz, Alison
Subject: RE: Rainbow Rec Center - NPI grant update and response

Hello Team, as you all know, and as is apparent by the work that's already started at the site, Council Member Brooks has a vision, a scope and a private sector match involved with activity at Rainbow Recreation Teen Center and potentially the main recreation facility as well. We at OPR will defer to her existing scope, I again, recommend you contact her directly, my thought initially was to visit the site to at-least have a handle of what the site looks like and the location and proximity of both NPI projects and how they might connect to the Prop 84 grant submittal, we've done that portion as a pre-meeting phase, now it's time to kick phase II in gear.

Phase II - meeting with Councilmember Brooks to determine vision and scope.....

I hope this is helpful....

Reco

From: Seamans, Daniel
Sent: Wednesday, March 17, 2010 2:07 PM
To: Parikh, Rupa
Cc: Gallegos, Larry; Soo Hoo, Lily; Bembry, Reco; Schwarz, Alison
Subject: RE: Rainbow Rec Center

Hi, Rupa

I am working on implementing the previous NPI grants, and I have not been determining the unmet needs at the site in a comprehensive way. It seems to me that the proposed scope for additional grants in this funding round should come from the Parks and Rec department, or perhaps from Councilmember Brooks. Reco Bembry is the Parks and Rec person who is in charge of the 5818 International Teen Center and the Rainbow Rec Center, and I think he would be the best person to ask. There is a large Prop 84 grant application pending for both facilities that Ali worked on, so she would know how best to coordinate with that.

When Reco and I were out at the Rainbow Rec Center the facility manager informed us that his most pressing need was for restoration of the gym flooring, and the gym is not covered in the Prop 84 grant proposal, so this might be the best use of the funds at Rainbow Rec Center.

Daniel Seamans

City of Oakland, CEDA Redevelopment

250 Frank Ogawa Plaza, Suite 5313

Oakland, CA 94612-2034

Phone: 510-238-3250

Fax: 510-238-3691

dseamans@oaklandnet.com

From: Parikh, Rupa

Sent: Wednesday, March 17, 2010 1:54 PM

To: Schwarz, Alison; Seamans, Daniel

Cc: Gallegos, Larry; Soo Hoc, Lily

Subject: RE: Rainbow Rec Center

How soon would you be able to get a scope to us? We basically have \$54K that we're willing to give to you if you want it, but we can't do that unless we can justify to the City Attorney's Office and the City Council what the funds would be used for. I have two weeks to finalize the NPI awards and complete the Council Report. Let me know if you guys can come up with a basic scope that the Attorney's can review within that time frame.

Rupa

Rupa Parikh, Urban Economic Analyst III

City of Oakland - Redevelopment Division

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

Ph: (510) 238.6248

Fax: (510) 238.3691

Note: I am in the office Mon-Wed only.

From: Schwarz, Alison

Sent: Wednesday, March 17, 2010 12:03 PM

To: Parikh, Rupa; Seamans, Daniel

Cc: Gallegos, Larry; Soo Hoo, Lily

Subject: RE: Rainbow Rec Center

No. At this time we have a very conceptual plan for both the Rec. center and the Teen Center. A scope would have to be determined.

Ali Schwarz

Project Delivery, Facilities Planning

City of Oakland, Public Works Agency

250 Frank H. Ogawa Plaza, Suite 4344

Oakland, CA 94612

(510) 238-7310

From: Parikh, Rupa

Sent: Wednesday, March 17, 2010 11:30 AM

To: Seamans, Daniel; Schwarz, Alison

Cc: Gallegos, Larry

Subject: RE: Rainbow Rec Center

Dan and Ali:

If we give \$54K to Rainbow Rec. Center from this 2010 Coliseum NPI round, do you know what it would specifically be used on?

Thanks,
Rupa

Rupa Parikh, Urban Economic Analyst III

City of Oakland - Redevelopment Division

250 Frank H. Ogawa Plaza, Suite 5313

Oakland, CA 94612

Ph: (510) 238.6248

Fax: (510) 238.3691

Note: I am in the office Mon-Wed only.

From: Gallegos, Larry

Sent: Wednesday, March 17, 2010 11:09 AM

To: Parikh, Rupa

Subject: FW: Rainbow Rec Center

Fyi..

Larry Gallegos (e-mail: lagallegos@oaklandnet.com)

City of Oakland, CEDA- Redevelopment Division

250 Frank Ogawa Plaza, 5th Floor

Oakland, CA 94612

(510) 238-6174 ph.

(510) 238-3691 fax

From: Seamans, Daniel
Sent: Thursday, March 11, 2010 12:55 PM
To: Schwarz, Alison
Cc: Gallegos, Larry; Bemby, Reco
Subject: RE: Rainbow Rec Center

Hi, Ali

Thanks for sending the plans.

I have 3 questions:

1. When will the City hear about the grant?

2. We have \$40,000 of NPI funds to do minor improvements on the Rec Center, and also NPI funds for the Teen Center. If the City does not get the grant, do you have room in your schedule for the design and construction management of these small improvement projects? I believe we have funding for this.

3. If the grant does come through, can the NPI projects be coordinated and managed with the grant improvements?

Thanks,

Daniel Seamans

City of Oakland, CEDA Redevelopment

250 Frank Ogawa Plaza, Suite 5313

Oakland, CA 94612-2034

Phone: 510-238-3250

Fax: 510-238-3691

dseamans@oaklandnet.com

Hi Daniel,

I believe you are correct. the project in the past has been managed by the Councilmember directly. Do you have a copy of the NPI grant? I can have staff to see what was completed or not and we can work from there. I do remember the windows were suppose to be done and they are not and the tile in the back room is not done to my knowledge. I have cc Reco Bembry on this email who is the General Manager and who will be the contact for your questions.

Please let me know if I can be of further assistance.

Audree

From: Seamans, Daniel
Sent: Wednesday, March 03, 2010 11:47 AM
To: Jones-Taylor, Audree V.
Cc: Gallegos, Larry; Parikh, Rupa
Subject: Rainbow Rec Center

Hello, Audree

I have been assigned to work on implementation of the NPI projects for the Rainbow Rec Center and the 5818 International Teen Cehter. I would like to check with you to verify what has happened with the FY 2006-7NPI project for the Rec Center.

Am I correct in thinking that the project from FY 2006-7, for \$40,000 to improve the center by adding new tiles and windows and other minor capital investments, has not been implemented?

Thanks for your help,

Daniel Seamans

City of Oakland, CEDA Redevelopment

250 Frank Ogawa Plaza, Suite 5313

Oakland, CA 94512-2034

Phone: 510-238-3250

Fax: 510-238-3691

dseamans@oaklandnet.com

From: Schwarz, Alison
Sent: Thursday, March 11, 2010 10:47 AM
To: Seamans, Daniel
Cc: Gallegos, Larry; Bembry, Reco
Subject: RE: Rainbow Rec Center

Daniel,

I have attached the site plan for the Rainbow Park Expansion and New Teen Center grant application. You should know that Council Member Brooks is in the process of doing some improvements to the teen center that are a bit different from what is on the Teen Center floor layout on this plan. If we get the grant we will be starting from whatever has been completed this spring by Council Member Brooks efforts.

Let me know if you have any questions.

Ali Schwarz

Project Delivery, Facilities Planning

City of Oakland, Public Works Agency

250 Frank H. Ogawa Plaza, Suite 4344

Oakland, CA 94612

(510) 238-7310

From: Seamans, Daniel
Sent: Wednesday, March 03, 2010 5:35 PM
To: Schwarz, Alison
Cc: Gallegos, Larry; Bembry, Reco
Subject: RE: Rainbow Rec Center

Hi, Ali

I just spoke with Reco Bembry about the implementation of the Coliseum Redevelopment Neighborhood Project Initiative (NPI) projects for the Rainbow Rec Center (\$40K) and the 5818 International Teen Center (\$80K). Reco mentioned that you have just finished work on a large Prop 84 grant application for the teen Center. Since any improvements that we undertake with the NPI funds should complement the proposed work for the prop 84 grant it would be useful if you could send me a copy of the plans or the scope of work from the grant proposal, if they are available. Reco and I also wondered if we could involve you in the planning of the NPI funded work, to take advantage of your knowledge of the site and the proposed grant.

Thanks,

Daniel Seamans

Hey Audree.

We finally opened the Academy today. We need to have background checks run on the instructors. Tell me what the process is to have this done. Also I want the academy marketed with the other summer camp programs. Let me know what we need to do for this as well.

Thanks.

Desley

Desley Brooks
Vice Mayor
Oakland City Council Member, District 6
City Hall
1 Frank Ogawa Plaza, 2nd Floor
Oakland, CA 94612
(510) 238-7006 (office)
(510) 986-2650 (facsimile)
dbrooks@oaklandnet.com

Keep Making A Difference -- Pay It Forward!

Montrice

Subject: RE: New Hires for Councilmember Brooks Office

Susan,

I received your voicemail this morning concerning what needs to be done on the 6 new hires. Here is what I have so far... The following three can be processed as usual - they passed their backgrounds:

[REDACTED]
[REDACTED]
[REDACTED]

HR had approved the packets last week and Clara was walking the documents through for signatures last week. As far as I know, these employees would get paid this Thursday if all the hiring documents are submitted to Payroll by today or tomorrow.

For [REDACTED], [REDACTED], and [REDACTED]: these hiring packets were approved for the purpose of getting them paid for the hours they have already worked. Clara was going to walk these through also. However, you will need to coordinate with Payroll on how to best pay them for the hours worked. They should not work any more hours until the results of their backgrounds are known. (OPR estimated that the results might come back sometime this week - we should check on this on a daily basis.) Of course, if they fail, the background, they would not be allowed to work with the teens, etc. Please see below.

Jason: can you inform Susan / Clara if any of these background results ([REDACTED], [REDACTED], and [REDACTED]) have come in since last Wednesday?

Thanks,
Daryl

From: Look, Daryl
Sent: Wednesday, March 30, 2011 9:03 AM
To: Garzon, Clara; Sanchez, Susan; Mitchell, Jason
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Clay, Joyce F.; Walsh, Kip
Subject: RE: New Hires for Councilmember Brooks Office

Hi Clara,

Thank you for hand-carrying the documents through the Budget Office and CAO for signatures for [REDACTED], [REDACTED], and [REDACTED].

Update: I spoke with Payroll this morning (3/30) - they informed me that if they receive all the documents by Monday (4/4) or Tuesday (4/5) of next week, they should be able to get them into the system on time to get them paid during the regular payroll cycle (Payday is on Thurs, 4/7).

However, keep in mind that these three have not yet passed their background check and should not be working additional hours until the results are available and they have passed.

Jason: Is it possible for you to provide an update on these backgrounds each day next week?

Finally, your office will need to work directly with the Payroll Department to determine how to best pay these individuals for the hours worked should 1) any of them fail their background or 2) the results of the background check not be available

Fax: (510) 238-6129
cgarzon@oaklandnet.com

From: Mitchell, Jason
Sent: Tuesday, March 29, 2011 10:16 AM
To: Look, Daryl; Garzon, Clara
Cc: Wright, Lisa D.; Taylor-Lloyd, Michele; Sanchez, Susan; Clay, Joyce F.
Subject: RE: New Hires for Councilmember Brooks Office

Hello Daryl,

They are being processed / scheduled, we do not have the results as of yet. I don't think the results will be in until next week. We will keep you posted as they clear.

Jason M.

From: Look, Daryl
Sent: Tuesday, March 29, 2011 10:12 AM
To: Mitchell, Jason; Garzon, Clara
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Sanchez, Susan
Subject: RE: New Hires for Councilmember Brooks Office
Importance: High

Hi Clara, Jason,

Any word on the backgrounds for

[REDACTED]
[REDACTED]
[REDACTED]

If we don't hear soon, we may have to find a way to pay these individuals for the time worked, but not have final approval until the background checks are complete.

Thx,
Daryl

From: Look, Daryl
Sent: Monday, March 28, 2011 2:24 PM
To: Mitchell, Jason
Cc: Garzon, Clara; Wright, Lisa D.; Taylor-Lloyd, Michelle; Sanchez, Susan
Subject: RE: New Hires for Councilmember Brooks Office

Hi Jason,

I will process the hiring packets for [REDACTED], [REDACTED], and [REDACTED] immediately.

I don't recall seeing a packet for [REDACTED].

When do you think the results will be in for the following??

[REDACTED]
[REDACTED]
[REDACTED]

Thanks,
Daryl

From: Mitchell, Jason
Sent: Monday, March 28, 2011 1:08 PM
To: Look, Daryl
Subject: RE: New Hires for Councilmember Brooks Office

Hello Daryl,

The following individuals have completed and passed the fingerprinting (live scan) and background test:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]

The others are being processed and their status is still pending.

Thanks,

Jason M.

From: Look, Daryl
Sent: Monday, March 28, 2011 12:08 PM
To: Mitchell, Jason
Subject: New Hires for Councilmember Brooks Office

Jason,

I'm reviewing some documents that were submitted through DHRM today. Can you please confirm if any required background checks have been completed for the following applicants who are going through the hiring process for Councilmember PSE-14 positions? I understand they are going to be working on the "Rainbow Teen Center" which may have exposure to working with youth (as well as other possible Council projects).

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Although these positions appear to be funded out of the City Council Office, it's apparent the employees will be working with and/or around teens, and we want to be sure that all required background checks and protocol is followed.

Thank you for your assistance in this matter.

Daryl B. Look
Principal HR Analyst
Department of Human Resources

by early next week. Normally, no hours are worked by employees until background checks are complete and results have been reported.

Thanks,
Daryl

From: Look, Daryl
Sent: Tuesday, March 29, 2011 4:38 PM
To: Garzon, Clara; Mitchell, Jason
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Sanchez, Susan; Clay, Joyce F.; Walsh, Kip
Subject: RE: New Hires for Councilmember Brooks Office

Hi Clara,

Given that these three individuals have already worked several times since February, we feel it is critical to pay them for the hours they have already worked.

Thus, we will process the documents for these three today with the hope you can hand-carry the packets through the Budget Office and CAO before getting them to Payroll. However, the status of these three should be monitored very closely as we await the results of the background checks in the next few days / week.

I would advise not having these three work additional hours until you hear back on the results of the background checks. If any of them fail their background, their employment status should change and they should be terminated, or their assignment changed so that they are no longer working with the teens, etc.

Let's check in every day on the status of the background checks until it is clear that they have passed or not. In the meantime, please hand carry the documents through so that the individuals can get paid for the hours worked.

Laurence Jackson
Timothy Quick
Bryan Matheson

Thanks,
Daryl

From: Garzon, Clara
Sent: Tuesday, March 29, 2011 10:35 AM
To: Mitchell, Jason; Look, Daryl
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Sanchez, Susan; Clay, Joyce F.
Subject: RE: New Hires for Councilmember Brooks Office

Hi Daryl,

I agree with Jason, the results will probably not be in until next week. My understanding is that Laurence Jackson has yet to set the appointment for screening/fingerprinting. The other two (Bryan Matheson, Timothy Quick) have not been cleared. Thank you all for your help in expediting this.

Clara P. Garzon
Assistant to
Vice Mayor Desley Brooks
Oakland City Council Office, District 6
City Hall
Frank H. Ogawa Plaza - 2nd floor
Oakland, CA 94612
Office: (510) 238-3971

Montrice

Subject: RE: New Hires for Councilmember Brooks Office

Susan,

I received your voicemail this morning concerning what needs to be done on the 5 new hires. Here is what I have so far... The following three can be processed as usual – they passed their backgrounds:

Aarin Burch
Andrea President
Clayton Richardson

HR had approved the packets last week and Clara was walking the documents through for signatures last week. As far as I know, these employees would get paid this Thursday if all the hiring documents are submitted to Payroll by today or tomorrow.

For Jackson, Quick, and Matheson: these hiring packets were approved for the purpose of getting them paid for the hours they have already worked. Clara was going to walk these through also. However, you will need to coordinate with Payroll on how to best pay them for the hours worked. They should not work any more hours until the results of their backgrounds are known. (OPR estimated that the results might come back sometime this week – we should check on this on a daily basis.) Of course, if they fail, the background, they would not be allowed to work with the teens, etc. Please see below.

Jason: can you inform Susan / Clara if any of these background results (Jackson, Quick, and Matheson) have come in since last Wednesday?

Thanks,
Daryl

From: Look, Daryl
Sent: Wednesday, March 30, 2011 9:03 AM
To: Garzon, Clara; Sanchez, Susan; Mitchell, Jason
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Clay, Joyce F.; Walsh, Kip
Subject: RE: New Hires for Councilmember Brooks Office

Hi Clara,

Thank you for hand-carrying the documents through the Budget Office and CAO for signatures for Jackson, Quick, and Matheson.

Update: I spoke with Payroll this morning (3/30) – they informed me that if they receive all the documents by Monday (4/4) or Tuesday (4/5) of next week, they should be able to get them into the system on time to get them paid during the regular payroll cycle (Payday is on Thurs, 4/7).

However, keep in mind that these three have not yet passed their background check and should not be working additional hours until the results are available and they have passed.

Jason: Is it possible for you to provide an update on these backgrounds each day next week?

Finally, your office will need to work directly with the Payroll Department to determine how to best pay these individuals for the hours worked should 1) any of them fail their background or 2) the results of the background check not be available

Also, is there any news on [REDACTED]?

Thanks very much,
Daryl

From: Mitchell, Jason
Sent: Friday, April 08, 2011 4:56 PM
To: Look, Daryl; Garzon, Clara; Sanchez, Susan
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Clay, Joyce F.; Walsh, Kip; Kasaine, Katano; Holman, Sharon; Goodman, Montrice
Subject: RE: New Hires for Councilmember Brooks Office

Hello All,

- [REDACTED] - Cleared fingerprinting.
- [REDACTED] - cleared fingerprinting - Waiting the results of the drug test.

Thanks,

Jason M.

From: Look, Daryl
Sent: Friday, April 08, 2011 8:55 AM
To: Mitchell, Jason; Garzon, Clara; Sanchez, Susan
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Clay, Joyce F.; Walsh, Kip; Kasaine, Katano; Holman, Sharon; Goodman, Montrice
Subject: RE: New Hires for Councilmember Brooks Office

Thanks, Jason... will look forward to hearing on [REDACTED] and [REDACTED].

Regards,
Daryl

From: Mitchell, Jason
Sent: Thursday, April 07, 2011 8:04 PM
To: Look, Daryl; Garzon, Clara; Sanchez, Susan
Cc: Wright, Lisa D.; Taylor-Lloyd, Michelle; Clay, Joyce F.; Walsh, Kip; Kasaine, Katano; Holman, Sharon; Goodman, Montrice
Subject: RE: New Hires for Councilmember Brooks Office

Hello Daryl,

I received notice today that the background report was sent to our Office.

Audree is the only person that reviews background reports. Once she reviews the report hopefully by tomorrow we would know the outcome of [REDACTED].

[REDACTED] will keep everyone updated on his status.

Thanks,

Jason M.

1.2108.88919.51111.G05650.Y511

Please let me know if you have questions.

Thank you,

Sam Aigbekaen
City of Oakland
Housing & Community Development Division
Community & Economic Development Agency
Phone -(510) 238-3786, Fax (510) 238-3691
saigbekaen@oaklandnet.com

From: Garzon, Clara
Sent: Friday, December 16, 2011 11:16 AM
To: Aigbekaen, Sam
Cc: Byrd, Michele
Subject: RE: Account Codes for D.A.C.A.

Hi Sam,

- 1) Hourly rate - \$25/hr. each
- 2) Total hours per week vary for each one of them depending on what each instructor has planned for the week. It varies from 6 to 20 hrs.; but no more than 20hrs.
- 3) All are part-time (CCPSE 14 PT).

Thanks,
Clara

Clara P. Garzon
Assistant to
Vice Mayor Desley Brooks
Oakland City Council Office, District 6
City Hall
1 Frank H. Ogawa Plaza - 2nd floor
Oakland, CA 94612
Office: (510) 238-3971
Fax: (510) 238-6129
coarzon@oaklandnet.com

From: Aigbekaen, Sam
Sent: Friday, December 16, 2011 10:54 AM
To: Garzon, Clara
Cc: Byrd, Michele
Subject: Account Codes for D.A.C.A.

Hi Clara,

For each D.A.C.A. employee, I need the following information:

1. Hourly rate
2. Total hours per week
3. Indicate if permanent or part time

Thank you,

Office: (510) 238-3971
Fax: (510) 238-6129
cgarzon@oaklandnet.com

From: Sanchez, Susan
Sent: Monday, December 19, 2011 12:24 PM
To: Garzon, Clara
Subject: Re: Account Codes for D.A.C.A.

Can you call and ask the question? We do not process payroll for any other dept.
Susan A Sanchez
Sent by using BlackBerry

From: Sanchez, Susan
Sent: Monday, December 19, 2011 12:18 PM
To: Garzon, Clara
Subject: Re: Account Codes for D.A.C.A.

What dept is the funding coming from?
Susan A Sanchez
Sent by using BlackBerry

From: Garzon, Clara
To: Sanchez, Susan
Cc: Rosa, Joshua
Sent: Mon Dec 19 11:54:55 2011
Subject: FW: Account Codes for D.A.C.A.

Hi Susan,
Please be advised that as of today, D.A.C.A. employees will be paid with the account codes below.
Thanks,
Clara

Clara P. Garzon
Assistant to
Vice Mayor Desley Brooks
Oakland City Council Office, District 6
City Hall
1 Frank H. Ogawa Plaza - 2nd floor
Oakland, CA 94612
Office: (510) 238-3971
Fax: (510) 238-6129
cgarzon@oaklandnet.com

From: Aigbekaen, Sam
Sent: Monday, December 19, 2011 11:52 AM
To: Garzon, Clara
Cc: Byrd, Michele
Subject: RE: Account Codes for D.A.C.A.

Hi Clara,

Starting today, you can now use the following codes to pay the seven DACA employees:

Hi Sarah,

We spoke. Here's the CDBG funding code for District 6 ~~D.A.C.A.~~ employees:
1.2108.88919.51111.G05650.Y511. I will prepare the necessary BCR to move funds to cover staff charges.

Attached you will find the e-mail from Councilmember Brook's Office and the staff names.

Thank you,

Sam Aigbekaen
City of Oakland
Housing & Community Development Division
Community & Economic Development Agency
Phone (510) 238-3786, Fax (510) 238-3591
saigbekaen@oaklandnet.com

From: Aigbekaen, Sam
Sent: Monday, December 19, 2011 4:36 PM
To: Sanchez, Susan
Cc: Garzon, Clara
Subject: FW: Account Codes for D.A.C.A.

Hi Susan,

These're District 5 staff and CDBG is funding staff costs. Please let me know if you still have questions.

Thank you,

Sam Aigbekaen
City of Oakland
Housing & Community Development Division
Community & Economic Development Agency
Phone (510) 238-3785, Fax (510) 238-3691
saigbekaen@oaklandnet.com

From: Garzon, Clara
Sent: Monday, December 19, 2011 12:54 PM
To: Aigbekaen, Sam
Subject: FW: Account Codes for D.A.C.A.

Hi Sam,
Do you have the answer to Susan's question below?
Thanks,
Clara

Clara P. Garzon
Assistant to
Vice Mayor Desley Brooks
Oakland City Council Office, District 6
City Hall
1 Frank H. Ogawa Plaza - 2nd floor
Oakland, CA 94612

Susan A. Sanchez
Executive Assistant
to the Oakland City Council
One Frank H. Ogawa Plaza 2nd Fl.
Oakland, CA 94612
Tel.: 510 238-6917
Fax.: 510 238-6129
E-mail: SSanchez@Oaklandnet.com

Visit the City of Oakland's web site at www.oaklandnet.com



Please consider the environment before printing this email

From: Aigbekaen, Sam
Sent: Wednesday, January 11, 2012 3:05 PM
To: Sanchez, Susan; Landreth, Sabrina; Schlenk, Sarah; Byrd, Michele
Subject: RE: Account Codes for D.A.C.A.

The account/costing codes you're requesting was already provided below. Again, here're the codes :
1.2108.88919.51122.G05650.YS11.

Thank you,

Sam Aigbekaen
City of Oakland
Housing & Community Development Division
Community & Economic Development Agency
Phone -(510) 238-3786, Fax (510) 238-3691
sajbekaen@oaklandnet.com

From: Sanchez, Susan
Sent: Wednesday, January 11, 2012 2:55 PM
To: Landreth, Sabrina; Schlenk, Sarah; Byrd, Michele
Cc: Aigbekaen, Sam
Subject: RE: Account Codes for D.A.C.A.

Hello,

In order for me to change the account/costing codes, Please provide the following information.

FUND:
Org:
Project:
Program:

Orologas, Alexandra

From: Landreth, Sabrina
Sent: Monday, January 23, 2012 6:10 PM
To: Montu, Janelle
Cc: Santana, Deanna; Sanchez, Susan; Blackwell, Fred
Subject: RE: D.A.C.A. staff (District 6)

We are directed to NOT use CDBG funds at this time. Thx.

From: Montu, Janelle
Sent: Monday, January 23, 2012 3:18 PM
To: Landreth, Sabrina
Subject: RE: D.A.C.A. staff (District:6)

Hi Sabrina,

I left a personnel requisition with you a week ago and I am about to go and pick another requisition from personnel for the hire of District 6 DACA staff.

Susan mentioned that CDBG funds will now be used effective January to pay for DACA employees. The funding codes and email from CEDA authorizing the use of CDBG funds is provided in the emails below. I know that you also sent an email to the City Administrator (attached) asking for direction – have you heard back from her? How would you like me to proceed?

With thanks,
Janelle.

From: Sanchez, Susan
Sent: Monday, January 23, 2012 2:48 PM
To: Montu, Janelle
Subject: FW: Account Codes for D.A.C.A.

Here is the coding block:

*Susan A. Sanchez
Executive Assistant to
the City Council
City of Oakland
Plm: 510 238-6917
Fax: 510 238-6129
Email: SASanchez@Onkiandnct.com*

From: Schlenk, Sarah
Sent: Thursday, January 12, 2012 11:42 AM

Rainbow Recreation and Teen Center Timeline

April 1, 2010	Work commenced at the site, under agreement brokered by Councilmember Brooks. The budget for project was not determined.
May 4, 2010	Council Approved an additional \$60,000 in funds for Teen Center.
May 10, 2010	Staff requested insurance documents, scope of work, and W-9 from Pulte for draft Grant Agreement.
May 27, 2010	Staff received documents from Pulte to support Grant Agreement, except complete invoice log which would define both the budget and the scope of work.
July 7, 2010	Staff sent draft Grant Agreement to City Attorney for review. Dan Rossi rejected the Agreement, mainly because of the absence of competitive bids, and suggested obtaining Council Authorization for waiver of competitive bidding.
July 27, 2010	Pulte sent final invoice log, which showed that the total cost to be reimbursed was \$121,378.50.
August, 2010	Staff prepared memo requesting waiver of competitive bidding to submit with Direct Pay Request for total amount. However, after considering recent issues with Purchasing on other requests, staff determined that this was not a viable approach.
August, 2010	Staff prepared account set-ups for the 2009-10 NPI allocations to allow an additional \$60,000 for project.
September 2, 2010	Staff requested Pulte provide 2 additional sets of bids in order to submit PC Requests for the different phases of the work with competitive bids.
October 14, 2010	Pulte submitted one additional set of bids for the project. Staff requested a full description of the work performed to solicit an additional set of bids.
October 26, 2010	Staff requested additional bids from a third contractor
November 10, 2010	Staff received bids from 3rd contractor
November 22, 2010	Agency submitted PO Requests for project. Staff also sent revised draft Grant Agreement accompanied by bid documents to City Attorney for review.

Rainbow Rec. Teen Center Procurement for Pulte Homes Reimbursement

A. General

CM Brooks brokered deal and requested staff provide funding to reimburse Pulte for labor performed on teen center. However, project did not fit standard program guidelines since:

- 1) Work had already been completed;
- 2) Proposed deal structure would require payment after the fact;
- 3) No competitive bids used;
- 4) No direct Council authorization.

In addition, typically an NPI project that benefits City property such as a park would be managed by a PWA project manager and ORA is not responsible for procurement.

Staff has attempted via multiple approaches to obtain the authority to issue a check to Pulte Homes.

Option A:

Staff has been working with Pulte to prepare adequate documentation to submit a series of Purchase Orders in order to forward to CEDA Fiscal and Purchasing.

Option B:

Staff has prepared a draft contract for review by the City Attorney's Office for awarding the grant funding.

Pulte is requesting payment by the end of the year, but have been slow to provide the documents that staff has requested.

B. Timeline

April 2010:

Work commenced in April 2010. The initial plan was an NPI Agreement between the City and Pulte for the improvements.

May 2010:

Staff requested insurance documents, scope of work, and W9 from Pulte on May 10, 2010. In addition, during May an additional \$60,000 was approved for the project of 2009-10 NPI funds. The signed resolution was not available until the end of the month because of changes to the Resolution.

July 2010:

Staff drafted agreement and sent to Dan Rossi on July 7th. Dan Rossi objected, mainly because of the lack of competitive bids, and suggested obtaining Council authorization for the project. On July 27, Pulte sent staff invoice log for the project. Until that time, staff did not have an estimate on the amount Pulte was requesting reimbursement. During the months of June and July, the CM was also spending against the NPI projects to procure musical equipment for the Teen Center, making it impossible to know the amount of funds that would be available to reimburse Pulte Homes.

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August 2010:

During month of August, staff prepared account financial set-ups for the 2009-10 NPI allocation which would allow an additional \$60,000 for the project. In addition staff prepared Sources and Uses table (see attached) for the project. In addition, staff began preparing a draft memo requesting a waiver of competitive bidding to submit with a Direct Pay Request for the total amount. However, after considering recent issues with Purchasing on other requests, staff determined that this was not a viable approach.

September 2010:

On September 2nd, staff requested that Pulte provide subcontractor estimates in order to submit three separate PO requests for the different phases of the work. Each purchase order requires separate competitive bids.

October 2010:

On October 14th, Pulte submitted an additional bid for the project. Staff requested a full description of the work performed to solicit an additional bid. However, Pulte did not provide a full description of the completed work. Staff requested an additional bid from a contractor on October 26th.

November 2010:

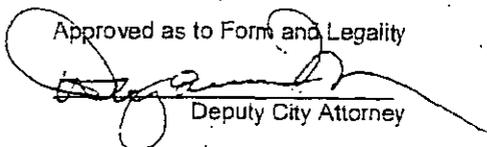
Staff received the required third bid on November 10th. Staff submitted the three separate PO Requests for 3 phases of the project. Staff also revised the NPI agreement with Rebuilding Together Oakland together with the 3 bids attached. Dan Rossi has referred the contracts over to D. Moreno for her review.

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 FEB 29 PM 2:30

Approved as to Form and Legality


Deputy City Attorney

OAKLAND CITY COUNCIL

Resolution No. 83743 C.M.S.

RESOLUTION:

- 1) AMENDING RESOLUTION NO. 83165 C.M.S. TO AUTHORIZE AN INCREASE IN THE CONTRACT WITH PULTE HOMES FOR THE CONSTRUCTION OF THE RAINBOW TEEN CENTER BY \$30,699 FROM \$121,000 TO \$151,699 TO PAY FOR PREVAILING WAGE COSTS;
- 2) APPROPRIATING PRO-RATED ONE-TIME FUNDS FOR FY 2011-2012 IN THE AMOUNT OF \$67,000; AND
- 3) AMENDING RESOLUTION 83344 C.M.S. FOR THE FY 2011 ANNUAL ACTION PLAN, SUBMITTED TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) WHICH INCLUDED THE FY 2011 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) ALLOCATIONS, TO ASSIGN \$48,000 OF \$62,250 EARMARKED FOR THE OAKLAND CITIZENS COMMITTEE FOR URBAN RENEWAL (OCCUR) TO THE OFFICE OF PARKS & RECREATION IN ORDER TO PROVIDE FUNDING FOR THE RAINBOW TEEN CENTER, IF PERMISSIBLE UNDER CDBG REGULATIONS, FOR EXPENDITURES FOR PERIOD JULY 1, 2011—JUNE 30, 2013

WHEREAS, the City of Oakland acquired the former child care and medical facility at 5818 International Boulevard with Redevelopment Agency funds in 2007 to provide a Rainbow Teen Center with a kitchen and recording and television training studios for Central East Oakland teens as part of the Oakland program to increase youth recreation activities; and

WHEREAS, in the spring of 2010 Pulte Homes partnered with Rebuilding Together Oakland to renovate the property by donating management time and pooling the skills and donations of a group of contractors; and

WHEREAS, in procuring the labor and materials which were not donated and were needed to complete the renovation of the Teen Center, Pulte Homes incurred expenses which the City seeks to reimburse; and

WHEREAS, Resolution No. 83165 C.M.S. passed on January 18, 2011, waived advertising and bidding requirements and awarded a contract for the construction of the

Rainbow Teen Center to Pulte Homes in an amount not to exceed \$121,000 to reimburse Pulte Homes for materials and labor expenses incurred for the project; and

WHEREAS, the City's Contract Compliance Department has collected payroll records from subcontractors for the project; and

WHEREAS, the City's Contract Compliance Department has determined that additional funds in the amount of \$30,699 should be paid to laborers on the project to comply with state prevailing wage laws; and

WHEREAS, the City and the Redevelopment Agency entered into a Cooperation Agreement on July 1, 2004, which generally governs the provision of assistance and the payment of funds between the two agencies, including Agency assistance to City public improvement projects; and

WHEREAS, on May 3, 2011, City Council approved Resolution 83499 C.M.S. for the FY 2011 Annual Action Plan submitted to the U.S. Department of Housing and Urban Development (HUD) which included the FY 2011 Community Development Block Grant (CDBG) allocations; and

WHEREAS, as part of the approved CDBG allocations, the Community Development (CD) District Board in District 6 made a recommendation allocating \$62,250 to OCCUR of which \$48,000 was earmarked for operating the Rainbow Teen Center for period July 1, 2011 – June 30, 2013; and

WHEREAS, the development of the contract between the City and OCCUR for the Youth Services which included the Rainbow Teen Center has not been successful; and

WHEREAS, the recommended staffing level that has been deemed appropriate to continue service at the Center includes 1.0 Recreation Program Director; 1.0 Recreation Leader II-PPT, 2.0 Recreation Specialist I-PT, and 0.50 Recreation Specialist II-PT, for an annual staffing cost of approximately \$200,000; and

WHEREAS, one-time funding has been identified to fund the Center's operations for the remainder of FY 11-12, and this appropriation does not include maintenance, utilities, or any other O&M costs; and

WHEREAS, additional funding will need to be identified in the FY 12-13 Midcycle Budget to continue the Center's operations; and

RESOLVED: That Resolution No. 83165 C.M.S. is hereby amended to increase the amount of the contract awarded to Pulte Homes for Rainbow Teen Center interior and exterior improvements by \$30,699, from \$121,000 to \$151,699 to pay for the cost of payment of prevailing wages on the project; and be it

FURTHER RESOLVED: That funds in an amount not to exceed \$30,699 will be allocated from the Coliseum Capital Fund (5650) for this purpose; and be it

FURTHER RESOLVED: That the amendment increasing the contract amount shall be reviewed and approved for form and legality by the City Attorney's Office and filed in the office of the City Clerk; and be it

FURTHER RESOLVED: That funds in an amount not to exceed \$67,000 will be allocated from the OPRCA Recreation Center Operations Fund (1550) to provide staffing of the Center for the remainder of FY 11-12; and be it

FURTHER RESOLVED: That Resolution 83499 C.M.S. is hereby amended to assign \$48,000 of \$62,250 earmarked for OCCUR to the Office of Parks & Recreation in order to provide funding for the Rainbow Teen Center, if permissible under CDBG regulations, for expenditures for period July 1, 2011 – June 30, 2013.

IN COUNCIL, OAKLAND, CALIFORNIA,

MAR 6 2012

PASSED BY THE FOLLOWING VOTE:

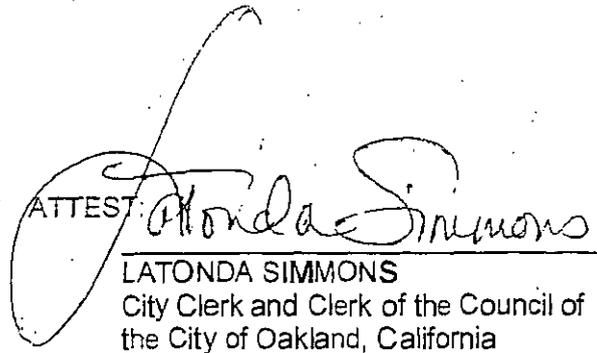
AYES - BROOKS, BRUNNER, DE LA FUENTE, ~~KAPLAN~~, KERNIGHAN, NADEL,
SCHAAF, AND PRESIDENT REID - 7

NOES - 0

ABSENT - Kaplan - 1

ABSTENTION - 0

ATTEST


LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

OAKLAND CITY COUNCIL

2013 JUL 15 PM 12: 32

MOTION

MOTION OF THE OAKLAND CITY COUNCIL CENSURING COUNCILMEMBER DESLEY BROOKS FOR ACTIONS PERTAINING TO THE RAINBOW TEEN CENTER IN VIOLATION OF CITY CHARTER SECTIONS 207, 218 AND OTHER LAWS AS FOUND IN THE ALAMEDA COUNTY GRAND JURY REPORT AND SUBSTANTIATED BY DOCUMENTARY EVIDENCE.

WHEREAS, the City Council adopted by resolution a code of ethics, entitled "Code of Conduct" for each member of the Council (Resolution No. 82580 C.M.S.); and

WHEREAS, the Oakland City Council Code of Ethics states in pertinent part: Each member of the City Council has a duty to: 1. Respect and adhere to the American ideals of government, the rule of law, the principles of public administration and high ethical conduct in the performance of public duties, and ...12. Maintain the highest standard of public conduct by refusing to condone breaches of trust...and by being willing to censure any member who willfully violates the rules of conduct in this Code of Ethics; and

WHEREAS, City Charter section 1206, entitled "Oath of Office", requires that "[e]very officer of the City, before entering upon his duties, shall take the following oath and file the same with the City Clerk: 'I solemnly swear or affirm that I will support the constitution of the United States, the constitution of the State of California, and the Charter of the City of Oakland, and will truly and to the best of my abilities perform the duties of the office of _____'; and

WHEREAS, Councilmember Brooks and every other sitting Councilmember took the aforesaid oath of office swearing or affirming that they would support the Constitution of the United States, the Constitution of the State of California and the Charter of the City of Oakland; and

WHEREAS, the Oakland City Council makes the following findings:

1. Councilmember Brooks engaged a building contractor in 2010 to do construction work on the Rainbow Teen Center building, a City-owned property, without first having a City contract approved for the work or getting City Council approval, which action violated the Purchasing Ordinance, state law and City Charter sections 207 and 218. (Alameda County Grand Jury Report ("GJ"), p. 35, and exhibits hereto)
2. Councilmember Brooks personally hired individuals to work as staff at the Rainbow Teen Center, even though staff for a City parks and recreation facility are required by law to be hired through the civil service process. (See GJ, pp. 37, 38-39; and exhibits hereto)
3. At the direction of Councilmember Brooks, the staff hired by her began working in the teen center facility before they had passed a background check and been fingerprinted as required for staff who work with children and teens. (See GJ, pp. 38-39; and exhibits hereto)

4. Councilmember Brooks directed city staff to purchase sound equipment from the Guitar Center in Berkeley, at an approximate cost of \$19,000, to be paid from a City account in the CED agency, even though a Councilmember has no authority to purchase goods on behalf of any City department other than her own Council office. (See GJ, p. 39;)
5. Councilmember Brooks signed several CED departmental payment approvals for the sound equipment from the Guitar Center, which is an administrative action prohibited by City Charter sections 218 and 207. (See exhibits hereto.)
6. Councilmember Brooks directed staff to issue a check for payment for the sound equipment and then took possession of the check for some months before she released it to the Guitar Center. (See GJ, p. 40.)
7. The above listed actions by Councilmember Brooks violate City Charter section 218, entitled Non-Interference In Administrative Affairs and section 207, entitled Powers of the Council, and the Council's Code of Conduct; and

WHEREAS, copies of emails and other documents which provide evidence of a number of the above actions are part of the public record, having been produced as exhibits to a staff report by the City Administrator dated February 24, 2012. Copies of some of those records are attached to this Motion as Exhibits; and

WHEREAS, the above actions by Councilmember Brooks are part of the improper conduct that is the focus of an Alameda County Grand Jury report released June 24, 2013, in which it is stated "the Grand Jury found that city contracting, purchasing and hiring rules were circumvented during the teen center project. The Grand Jury determined that one council member stepped out of their role on the council and inappropriately made administrative decisions throughout the process..."; and

WHEREAS, several advisory memos about the strictures of City Charter section 218 had been issued to the City Council by the City Attorney, including in 2006; and

WHEREAS, Councilmember Brooks is an attorney and should have been aware of the provisions of the City Charter and basic City requirements for contracting and purchasing;

NOW THEREFORE, the Oakland City Council declares that the actions listed in the findings above constitute a breach of the public trust and a willful breach of the Council Code of Conduct and hereby censures Councilmember Brooks for this misconduct.