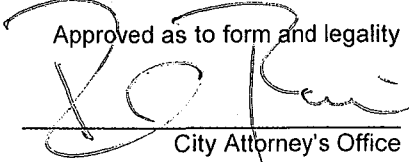


FILED
OFFICE OF THE CITY CLERK
OAKLAND

17 JUN 21 PM 2:20

REVISED FINANCE & MANAGEMENT COMMITTEE 6/13/2017
REVISED CITY COUNCIL 6/20/2017

Approved as to form and legality

City Attorney's Office

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING ORDINANCE NO. 12066 C.M.S.
ESTABLISHING THE LINKED BANKING SERVICES PROGRAM TO
REQUIRE ELIGIBLE DEPOSITORIES TO SUBMIT IMPROVEMENT
PLANS AND OTHER INFORMATION CONCERNING BANKING AND
LENDING PRACTICES AS REQUIRED BY THE CITY ADMINISTRATOR**

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

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

WHEREAS, the Linked Banking Services Ordinance was originally intended and continues to ensure that City funds, including funds deposited into the City's deposit accounts and fees paid by the City to the depository for banking services, are used for community lending in ways that benefit the City of Oakland; and

WHEREAS, the City Council wishes to amend the Linked Banking Services Ordinance to allow the City Administrator to expand the criteria for determining when a depository may be considered an "Eligible Depository", including expanding the reporting requirements for prospective providers of banking services to gain additional information concerning the providers' lending and banking policies and practices in Oakland; and

WHEREAS, the City Council wishes to amend the Linked Banking Services Ordinance to further authorize the City Administrator to seek commitments from

prospective and current banking services providers to correct harmful and discriminatory banking and lending practices and to improve their level of service to the Oakland community as needed to promote equity and fairness in banking; and

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

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

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

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

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

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

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

WHEREAS, the additional information sought by the City from prospective and current banking services providers regarding banking and lending practices in Oakland

is intended to inform the City whether City funds are being used to support or contribute to banking policies and practices that would lead to negative impacts on the City's fiscal health; now, therefore

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

SECTION 1. Section 2.D. of Ordinance No. 12066 C.M.S. is hereby revised to read as follows (added text is noted with double-underlining and deleted text is noted with strikeout text):

"Eligible Depository": a "depository" under Government Code Section 53630, defined as a state or national bank, savings and loan association or federal association, or a state or federal credit union doing business in this state, which meets all of the following:

1. Meets its Fair Share Goal, as defined in paragraph E below, for the previous year with respect to Community Credit Lending;
2. Commits in writing to a volume goal by loan products responsive to Oakland's published annual Community Credit Need assessment. It is understood that depositories may specialize in loan products where they have particular expertise, e.g. small business lending, construction lending, permanent residential lending, home purchase lending, rehabilitation lending, etc. Nevertheless, no depository will be eligible to provide the City with Banking Services without a written commitment to meeting a fair share of the City's published Community Credit Need; and,
3. Commits in writing to a plan, approved by the City Administrator, for (a) correcting any identified disparities in access to or the provision of banking and lending services in Oakland, and (b) improving the overall level of service to the Oakland community as needed to promote equity and fairness in banking to all of Oakland;
4. Provides detailed information that shows whether or not the depository does or does not "Support the Dakota Access Pipeline", "Violate Indigenous Sovereignty", and/or "Support Mass Incarceration" as defined below;
5. Complies with reporting requirements specified in Section 3 of this Ordinance~~;~~
6. Provides written information on any felony convictions of the depository and any civil or regulatory fines or penalties exceeding \$10 million imposed on the depository within the past five years;

7. Provides a written summary of the fees charged to the depository's consumer customers; and
8. Provides a list of names and locations of payday lending companies doing business in Oakland that are affiliated with the depository.

SECTION 2. The following definitions are added to Section 2 of Ordinance No. 12066 C.M.S.:

- F. "Support the Dakota Access Pipeline": Direct investment in, or provision of loans, credit, bonds or similar debt instruments, or underwriting services to, entities organized to carry out the construction of the Dakota Access Pipeline, operate the Dakota Access Pipeline, or operate pipeline and energy infrastructure connected to the Dakota Access Pipeline. As of December 2016, such companies include Energy Transfer Partners, Energy Transfer Equity L.P., Dakota Access LLC, and Sunoco Logistics.
- G. "Violate Indigenous Sovereignty": Any act that: violates the standards set out in the International Finance Corporation's Environmental and Social Sustainability Performance Standard 7; or that violates articles 11, 12, or 25 of the United Nations Declaration on the Rights of Indigenous People; or that violates Indigenous People's right to free, prior, and informed consent; or that violates a treaty of the United States.
- H. "Support Mass Incarceration": Direct investment in, or provision of loans, credit, bonds or similar debt instruments, or underwriting services to, for-profit corporations that own, lease, or operate prisons, jails, immigration detention centers, or youth detention centers.

SECTION 3. Section 3 of Ordinance No. 12066 C.M.S. is hereby revised to read as follows (added text is noted with double-underlining and deleted text is noted with strikeout text):

Depositories providing the City with Banking Services must provide annually to the City such information as established from time to time by the City Manager Administrator or his or her designee in order to establish whether the depository has met the requirements of an Eligible Depository as defined in Section 2.D. In particular, depositories must provide annually information to establish whether they have provided sufficient levels of Community Credit Lending, as defined in Section 2.A. to meet their Fair Share Goals. Such information must be provided at the census tract level, and, for information on lending to individuals or businesses, must be broken down by the race or ethnicity and income category of the borrower or business owner, to the extent the depository collects such information. Depositories meeting the definition of a small bank contained in the federal Community Reinvestment Act may elect to submit information annually on one or more reporting areas to demonstrate that it has met its Fair Share Goal of providing community credit. All other depositories must provide information on all

Community Credit Need reporting areas as established by the City Manager Administrator.

In addition, depositories that provide the City with Banking Services or that propose to provide the City with Banking Services must provide information concerning the depository's lending, loan servicing and banking practices as requested by the City Administrator or his or her designee, including without limitation information on the depository's home mortgage loan origination, servicing, modification, and foreclosure policies and practices in Oakland, branch banking and other consumer services provided by the depository in Oakland, and other lending and banking policies and practices of the depository that may adversely impact Oakland residents and businesses. The City Administrator or his or her designee is hereby authorized to request such information from a depository as the City Administrator determines in his or her discretion is necessary or helpful in gauging a depository's level of service to the Oakland community.

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

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

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2017

PASSED BY THE FOLLOWING VOTE:


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

NOES -

ABSENT -

ABSTENTION -

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



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NOTICE AND DIGEST

This Ordinance amends the Linked Banking Services Ordinance to required depositories that provide or propose to provide banking services to the City to submit certain information on the depositories' banking and lending practices as required by the City Administrator.