

CITY OF OAKLAND



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MEMORIALIZATION OF ORAL ADVICE REGARDING POTENTIAL CONFLICT OF INTEREST RE RESOLUTION NO. 88877 C.M.S., ACCEPTING AND APPROPRIATING \$8,000,000 FROM THE STATE OF CALIFORNIA TO FUND ESO VENTURES

July 7, 2022

HONORABLE CITY COUNCIL
AND MEMBERS OF THE PUBLIC
Oakland, California

**Re: Councilmember’s Request that City Attorney Memorialize Advice
Regarding Potential Conflict of Interest with respect to Resolution No
88877 C.M.S., Accepting and Appropriating \$8,000,000 from State of
California to Fund ESO Ventures (Legislative File No. 21-0747)**

Dear City Council and Members of the Public:

I. INTRODUCTION

A Councilmember asked that this Office prepare a writing memorializing the advice we provided regarding a potential conflict of interest with respect to Councilmember Taylor’s participation and casting a vote when the Council considered accepting and appropriating \$8,000,000 awarded to the City by the State of California and granted the funds to ESO Ventures. The City Council authorized the appropriation and pass-through grant (moved by Councilmember Taylor and seconded by Councilmember Kalb - 5 Ayes (Gallo, Kalb, Kaplan, Reid, and Taylor), 1 Abstention (Bas), 2 Excused (Fife and Thao). The referenced resolution is Item 11 on the Council’s October 19, 2021 regular meeting agenda.

ESO ventures is a program that supports entrepreneurs in East Oakland by facilitating networking, providing training, and lending capital. Resolution No. 88877: (1) accepted and appropriated \$8,000,000 that the State of California awarded to the City for the specific purpose of funding ESO Ventures; and 2) granted the \$8,000,000 to ESO Ventures in two phases.

II. BACKGROUND

During the Council’s discussion of the item, various Councilmembers asked Councilmember (“CM”) Taylor about CM Taylor’s association with ESO Ventures. Specifically, Councilmembers asked whether ESO’s website promoted CM Taylor’s mayoral campaign, whether CM Taylor was a “partner” with ESO, and whether CM Taylor would be involved in ESO’s decision-making when it came to lending money. Our Office advised that, we

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contacted CM Taylor before we signed off on the resolution, approving it as to form and legality, and, that based on the information CM Taylor provided at that time, this Office did not identify any financial conflict of interest that would preclude CM Taylor from introducing the item or participating in the Council's consideration of and vote on the item.

During the meeting, ESO Ventures' representative said that the organization has three decision-makers and did not identify Councilmember Taylor as one of them. Councilmember Taylor stated that: 1) he does not provide direction to the organization; 2) ESO Ventures' website features his Councilmember office logo, which is distinct from his Mayoral campaign logo; and 3) he "partners" with ESO ventures in the general sense of working collaboratively with the organization.

A general concern also was raised during the meeting regarding whether a Councilmember can ever be "associated" with an organization prior to bringing forth a resolution regarding that organization. At the time our Office initially approved the resolution as to form and legality, we were not aware of any legal issue with Councilmember Taylor bringing this resolution forward, and we are not aware of any issue today.

Eventually, during the October 19, 2021 meeting, Councilmember Taylor made a motion to approve the resolution, and Councilmember Kalb seconded the motion. Councilmember Thao asked that the Council postpone the vote on the resolution until our Office memorialized our advice that we are not aware of any conflict of interest. Our Office stated that such a memo could be provided within a week and before the Council's next meeting. However, Councilmember Taylor, declined to postpone the vote on Taylor's motion, and the vote proceeded during the October 19, 2021 meeting.

Before the Council voted on the Councilmember Taylor's motion, Councilmember Taylor agreed to incorporate several proposed amendments, including an amendment that ESO Ventures' contract must prohibit the organization from "using public funds obtained under the grant agreement to promote the name, likeness, or logo of candidates and elected officials." Our Office advised that the amendments were legally permissible, and also noted that the City's contracting policy and grant policy already contain provisions to this effect. The motion, as amended, passed with 5 Ayes (Gallo, Kalb, Kaplan, Reid, and Taylor), 1 Abstention (Bas), and 2 Excused (Fife and Thao).

Very truly yours,



BARBARA J. PARKER
City Attorney