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Barbara J. Parker

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. 90066 C.M.S.

INTRODUCED BY COUNCIL PRESIDENT NIKKI FORTUNATO BAS, COUNCILMEMBER REBECCA KAPLAN, COUNCILMEMBER JANANI RAMACHANDRAN, AND COUNCILMEMBER TREVA REID

RESOLUTION AMENDING AND RESTATING THE COUNCIL'S RULES OF PROCEDURE IN THEIR ENTIRETY IN ORDER TO INCREASE PUBLIC ACCESS AND PARTICIPATION BY, AMONG OTHER THINGS: 1) CHANGING THE TIMES FOR COMMENCING AND ENDING CITY COUNCIL MEETINGS; 2) AMENDING PUBLIC COMMENT PROCEDURES AND TIME LIMITS 3) AMENDING THE RULES FOR MAINTAINING ORDER DURING MEETINGS; AND 4) MAKING NON-SUBSTANTIVE, TECHNICAL EDITS

WHEREAS, the Council wishes to make amendments as well as non-substantive technical edits to its Rules of Procedure, and set forth in their entirety the Rules of Procedure as amended by this resolution; and

WHEREAS, the Council of the City of Oakland hereby declares that the business of the City is to be conducted in an orderly and efficient manner to facilitate sound City Council and public deliberation and decision making; and

WHEREAS, the following Rules of Procedure seek to provide for: (1) reasonable time for public input and comment on agenda items at the Committee and City Council meetings; and (2) an agenda that is managed more efficiently and effectively and for more predictable discussion times for debate regarding agenda items in order to avoid long waits by the public as the Council conducts its business in order to provide opportunity for all members of the public to engage in the deliberation of the Council's most important business; and

WHEREAS, in furtherance of these goals and in accordance with the Council's Code of Conduct (Rule 31), Councilmembers are expected to learn and study the background and purposes of important items of business before voting, including reviewing agendas and agenda materials, and reading eComments, sufficiently in advance of meetings to allow for consultation and coordination with other Councilmembers (as permitted by the Brown Act), City staff, City Attorney, and/or members of the public as permitted by law; and

WHEREAS, in recognition of these goals, the City Council desires to establish Rules of Procedure for the Conduct of City Council Meetings and a Code of Conduct; and

WHEREAS, the City will expand community engagement and education about how to participate in our Committee and Council meetings and share public comment; and

WHEREAS, the City will work to maximize the number of Council items reviewed by the relevant subject matter Committee prior to Council consideration in an effort to encourage robust Council and public discussion of items at Committee, which in turn will streamline the discussion at City Council meetings and expand the time for public participation on non-consent items. In March 2024, the Council will consider shifting to a Consent Calendar without public comment because items will have been discussed and debated by Committees; such Consent Calendars are utilized by other jurisdictions including San Francisco; and

WHEREAS, City Charter section 210 mandates that the Council provide by resolution for the order of business and the rules of procedure for the conduct of Council meetings; and

WHEREAS, the Brown Act (Government Code section 54950, et seq.) authorizes the Council to prescribe reasonable rules and regulations for public speakers; now therefore be it

RESOLVED: That, in accordance with Section 208 of the Charter of the City of Oakland, the time and place of Regular City Council meetings is hereby determined to be the following: the Council shall meet in regular session on the first and third Tuesdays of the month, commencing at 3:30 p.m. in the Chambers of City Hall, One Frank Ogawa Plaza, 3rd Floor, Oakland, California; and be it

FURTHER RESOLVED: That Regular and Special City Council meetings shall conclude no later than 9:30 p.m., except that the Council may extend the time for the meeting in one-hour increments by an affirmative vote of five (5) Councilmembers up to 11:30 p.m., and by and affirmative vote of six (6) councilmembers beyond 11:30 p.m.; and be it

FURTHER RESOLVED: That because these Rules are intended to encourage public participation and use City resources efficiently during Council and committee meetings, the Council fully uplifts and supports efforts by presiding officers and the City Administrator to maintain order in the chamber and to enforce these Rules, up to and including causing the Oakland Police Department to remove any person who, despite being warned, decides to deny, delay, or interrupt another person's rightful turn to speak at a meeting; and be it

FURTHER RESOLVED: That, in accordance with Section 210 of the Charter, the following are established as the Rules of Procedure for the conduct of Council meetings:

Rule 1. **Roberts Rules of Order Applies Except as Modified by these Rules**

The business of the Council and its Standing Committees shall be conducted, so far as it is practicable, in accordance with parliamentary rules as contained in Roberts Rules of Order Revised, except as modified by these rules and in accordance with the Brown Act (Government Code section 54950, et seq.), the City's Sunshine Ordinance (Oakland Municipal Code Chapter 2.20), and the City Charter. The City Attorney, or such other person as may be designated by the presiding officer upon approval of the Council, shall serve as the official parliamentarian for meetings of the Council.

Rule 2. **Seating of Councilmembers, Voting Order**

When in session, the Councilmembers shall occupy assigned seats in the Council Chambers in alphabetical order according to their surnames, commencing to the left of the President of the Council, and shall vote in said alphabetical order, with the President of the Council or other presiding officer voting last, except when utilizing the automated simultaneous voting system.

Rule 3. **Definition of Terms**

i. ***Action Item*** shall mean any resolution, ordinance, public hearing, motion or recommendation requiring official vote and approval of the City Council to be effective.

ii. ***Informational Item*** shall mean an agenda item consisting only of an informational report that does not require or permit Council action.

iii. ***Advisory Resolution*** shall mean a resolution solely intended to proclaim the Council's support for or opposition to actions being taken or contemplated by another authority or organization, or to recognize the achievements of an individual or organization, or similar resolution that requires little or no further action by the City to effectuate the intent of the resolution.

iv. ***Non-Advisory Resolution*** shall mean any resolution that is not an Advisory Resolution. A Non-Advisory Resolution is a resolution that requires substantial action or implementation by the City to effectuate the intent of the resolution or requires substantive review by the City Attorney.

v. ***Consent Item*** shall mean, for the purposes of the City Council agenda: 1) approval of Council minutes, and 2) any action or informational item placed on a Council agenda for a Regular Meeting or Special Meeting (i) as a Consent Item by the Rules and Legislation Committee, (ii) pursuant to Rule 28, or (iii) that a Standing Committee has forwarded to the full Council with unanimous recommendation for approval by the members who are present. Consent Item shall not include: 1) any item having a high level of public interest or controversy as determined by the Standing Committee Chair, or the Rules and Legislation Committee, or pursuant to Rule 28; or 2) any item that requires a public hearing or that otherwise is ineligible by law as a Consent Item.

vi. ***Consent Calendar*** shall mean the portion of a Council agenda for a Regular Meeting or Special Meeting designated for the discussion and consideration of Consent Items.

vii. ***Non-Consent Item*** shall mean, for the purposes of a City Council agenda for a Regular Meeting or Special Meeting, any action or informational item that: 1) a Standing Committee has forwarded to the full Council **without** unanimous recommendation for approval; 2) has a high level of public interest or controversy as determined by a Standing Committee Chair, the Rules and Legislation Committee, or pursuant to Rule 28; or 3) requires a public hearing or is otherwise ineligible by law as a Consent Item.

viii. ***Non-Consent Calendar*** shall mean the portion of a Council agenda for a Regular Meeting or Special Meeting designated for the discussion and consideration of Non-Consent Items.

ix. ***Other Non-Consent Item*** shall mean a Non-Consent Item that does not require a public hearing.

x. ***Regular Meeting*** shall mean a meeting of the Council or of a Standing Committee occurring on a recurring basis and at a regular, established time for which all required public notice requirements for a regular meeting have been met.

xi. ***Special Meeting*** shall mean a meeting of the Council or of a Standing Committee occurring on a date and time other than the regular, established time for that meeting.

xii. ***Standing Committees*** shall mean such standing subject matter committees as the Council may establish.

xiii. ***Council-Approved Meeting Calendar*** shall mean a schedule of Council and Standing Committee meetings for the calendar year, (1) which shall be approved and may be amended by the Council, (2) which reflects Regular Meetings for the year, as well as any cancellations or variations due to foreseeable events such as City holidays, Council recesses, and 5th Tuesdays, and (3) which shall include key deadlines for submitting agenda materials (see Rule 26).

xiv. ***Scheduling Request Form*** shall mean the form published by the Clerk's office, which shall be used to request scheduling a proposed agenda item by the Rules and Legislation Committee to help ensure the timely and orderly submission and scheduling of such requests.

xv. ***Agenda Report Template*** shall mean the template attached hereto as Attachment A, which shall be used to generate reports to accompany ordinances and Non-Advisory Resolutions in accordance with Rule 26(D).

Rule 4. **<u>Standing Committees</u>**

Standing Committees of the Council shall consist of the following and are entitled as follows:

- Community and Economic Development Committee
- Public Works and Transportation Committee
- Life Enrichment Committee
- Finance and Management Committee
- Public Safety Committee
- Rules and Legislation Committee

The President of the Council shall appoint all committees subject to confirmation by Council resolution and provided that a majority of the Councilmembers may direct the appointment of a committee by the President of the Council. Committee

chairs also shall be appointed by the President of the Council and confirmed by City Council resolution. The Council may establish such other ad hoc or Standing Committees as it deems appropriate by Council resolution. Currently, such existing committees are the City/Port Liaison Committee and the Education Partnership Committee. The Regular Meetings of the Standing Committees shall be as follows:

- The Second and Fourth Tuesdays
  - Finance and Management Committee at 9:30 a.m.
  - Public Works and Transportation Committee at 11:30 a.m.
  - Community and Economic Development Committee at 1:30 p.m.;
  - Life Enrichment Committee at 4:00 p.m.
  - Public Safety Committee at 6:00 p.m.
- Thursdays (weekly)
  - Rules and Legislation Committee at 10:30 a.m.

The Education Partnership Committee and the City-Port Liaison Committee shall meet at the discretion of the respective committee chairs or as determined by the Council.

Meetings of Standing Committees also shall be noticed as Special Meetings of the Council in light of the possibility that a majority of the Councilmembers or Councilmember's staff may participate in the meeting. Adjourning into a Special Meeting will not be necessary if a majority of the Councilmembers and/or their staff merely attend or observe a Standing Committee meeting but do not actually participate.

The Standing Committees are authorized and directed to ascertain, study and analyze all facts relating to any subjects or matters within their jurisdiction as may be assigned by the Rules and Legislation Committee, and shall report to and submit recommendations to the City Council for action

Standing Committee meetings may be cancelled by the Committee Chair, upon notice to the City Clerk, by the Rules and Legislation Committee or pursuant to Rule 28.

Rule 5. **Action by Standing Committees**

The assigned Standing Committee shall have initial jurisdiction over any item assigned to it by the Rules and Legislation Committee and may take any of the following actions with respect to the assigned item:

1. The Committee Chair shall develop with staff the schedule to hear items to be confirmed by a majority of the Committee.

2. The Committee may, by a vote of the majority of the members present, decide to postpone, continue or table an item on the agenda.

3. On any item on an agenda, the Committee Chair may allow for an informational presentation by City staff relating to the item.

4. With respect to an action item, and after discussion and consideration of the item, committee may take one of the following actions:

   a. Vote by majority of those present to forward the recommendation of staff or the originator of the proposed action item to the full Council. The Committee may request additional information to be presented for consideration when the full Council hears the item.

   b. Propose by a majority vote of those present one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.

   c. With respect to items that a Standing Committee forwards to the Council pursuant to subparts a. or b., above, the committee chair may designate such items as Consent Items only if the Standing Committee's recommendation was unanimous, provided that the Rules and Legislation Committee has authority to make the final determination of Consent or Non-Consent Items.

   d. Fail to approve any recommended action, in which case the item shall **not** be forwarded to the full City Council; provided that when the item is urgent, the Rules and Legislation Committee shall have jurisdiction to place the item on the supplemental agenda for a Regular Meeting of the City Council, or on the agenda for a special meeting of the City Council in accordance with the requirements of the Sunshine Ordinance if no action was taken on the item: (1) due to the cancellation of a committee meeting; (2) due to lack of a quorum; (3) because the committee ran out of time; or (4) because the committee was not able to approve any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules and Legislation Committee schedule the item for a Council meeting. (See Rule 24(2).) Any such action will be recorded in the minutes and may be subject to consideration if pulled by a Councilmember at the appropriate Council meeting pursuant to Rule 8(8).

   e. Reject by a majority vote of those present, jurisdiction over the action item and refer the action item back to the Rules and Legislation Committee with a recommendation for reassignment to another appropriate Standing Committee.

   f. Request, by majority vote of those present, additional, specified information from staff or the originator of the proposed action item and continue or reschedule the item for further consideration at the soonest

feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance and Brown Act.

5. With respect to an informational item, following discussion and consideration, committee shall take one of the following actions:

   a. Receive the informational report by majority vote of those present without forwarding the report to the full City Council;

   b. Receive the informational report and forward the report onto the full City Council by majority vote of those present; the Committee may request that additional information be presented for consideration when the full Council hears the item;

   c. Request by motion and second more specific information from staff or the originator of the proposed informational item and continue or reschedule the item for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Sunshine Ordinance.

6. Each Standing Committee shall review the minutes of its previous meeting, make corrections to mistakes, if any, and approve the minutes by majority vote of the members present.

Rule 6. **Election of Council President; President's Powers / Duties**

The Council President shall be elected for a two-year term by resolution in accordance with Charter section 208. The President of the Council shall serve as the presiding officer of the City Council and shall perform the following duties:

- Chair Regular Meetings and Special Meetings of the City Council;
- Manage the Office of the City Council and present the budget of the Office of the City Council for adoption;
- Appoint Council committee members and chairpersons of committees in accordance with Rule 4 of these Rules of Procedure;
- Except for those appointments reserved for the Mayor pursuant to the City Charter or other enabling legislation, the President of the Council shall recommend appointments to regional and local boards and agencies, as appropriate, subject to confirmation by Council resolution.

The Council, by resolution, shall elect a Councilmember to serve as "President Pro tempore" in accordance with Charter section 208. In the absence or unavailability of the President of the Council, the President Pro tempore shall perform the duties of the President of the Council.

Rule 7. **Order of Business at Regular Council Meetings**

Subject to the discretion of the Council President or presiding officer, the order of business for Regular Council meetings shall be as follows:

1. Call to Order by Council President (3:30 p.m.)
2. Roll Call
3. Action on Special Orders / Presentations of the Day ("Ceremonial Items") (with accompanying agenda materials as required by Sunshine Ordinance), including:
    a. Ceremonial presentations, including proclamations, individual recognitions, etc.; and
    b. Reports or presentations e.g. from the Mayor, other public officials, or special guests.
4. Modifications to the Agenda and Procedural Items, including but not limited to the following:
    a. Requests, with a motion and second, from Councilmembers to pull an item from the Consent Calendar and reschedule as Non-Consent Item on the same City Council meeting agenda pursuant to Rule 8(6).
    b. Requests by Councilmembers to change the order of the items on the Non-Consent Calendar, or to defer items or make other modifications to the agenda.
    c. Announcements by the Presiding Officer of changes in the order of the agenda, deletion or deferral of items or other modifications to the agenda.
    d. Motion for Members' Requests for Reconsideration of Action the Council took at Immediately Preceding Meeting (In order to make motion, Member must have voted on "prevailing side".)
    e. Members' Requests for Scheduling of Items considered by Committee but not forwarded to Council to be scheduled to the next City Council meeting. Scheduling of such items requires only a motion and a second pursuant to Rule 8.

    Agenda modifications and procedural requests referenced in this section are scheduling matters that are not subject to public comment and no public comment will be heard on these matters.
5. Adoption of items on the Consent Calendar (after hearing public speakers and Councilmembers)

For Regular Meetings, action on Non-Consent Items will commence at 5:00 p.m., or as soon thereafter as reasonably practicable

6. Consideration of items with statutory Public Hearing Requirements

7. Action on Other Non-Consent Items

8. Council Acknowledgements / Announcements

9. Open Forum

10. Adjournment – 9:30 p.m., except that the Council may extend the time for the meeting in one-hour increments by an affirmative vote of five (5) Councilmembers up to 11:30 p.m., and by an affirmative vote of six (6) councilmembers beyond 11:30 p.m. If a motion to extend the meeting fails, the Council shall move immediately to open forum and then adjourn the meeting.

Rule 8. **Action and Procedures at Council Meetings**

1. The Regular Meetings of the City Council shall take place on the first and third Tuesdays of each month, and shall begin at 3:30 p.m. At Regular Meetings, all Non-Consent Items shall be heard and discussed no earlier than 5:00 p.m. The fifth Tuesdays will be utilized for special meetings and workshops.

2. The City Council may consider and act upon those items assigned by Rules and Legislation Committee directly to City Council (i) pursuant to Rule 24, (ii) forwarded by a Standing Committee pursuant to Rule 5, (iii) added to a City Council agenda pursuant to Rules 28, or (iv) pulled at the immediately preceding Council meeting by a Councilmember for discussion pursuant to Rule 8(8).

3. For each action item and informational item, the agenda shall list the following:

    a. A summary description of the item pursuant to the Brown Act and the Sunshine Ordinance;

    b. The recommendation, alternatives and/or direction recommended by the Standing Committee, including the voting record of Committee members on the item; and

    c. For each action item referred directly by the Rules and Legislation Committee, a brief statement of the Rules and Legislation Committee's reason for referring item to Council directly without Standing Committee consideration.

4. For each action item and informational item on the agenda, the agenda package shall include the following information:

    a. Staff or informational reports submitted to a Standing Committee, including but not limited to:

        i. any additional information requested to be included by the Standing Committee;

ii. a listing of all funding sources to fund the action or recommendation being taken, an indication that no funding sources are identified, or an indication that no funding is necessary;

iii. a list of the organization/stakeholders contacted regarding the item, if any; and

iv. information and comment on the Sustainable, Economic, Environmental and Social Equity Opportunities afforded by the recommended action.

5. The City Council shall approve the minutes of the preceding Council meeting (but not of the Standing Committee meetings), after corrections to any errors that may have occurred during recordation of the proceedings of the meeting. The City Council shall not discuss, consider, or debate the substance of any matter recorded in the minutes, unless such items are specifically included as an Action or Information Item on the posted agenda.

6. During "Modifications to the Agenda" any Councilmember may request a change in the order of the agenda. Such requests are subject to the discretion of and require the consent of the presiding officer, except that any Councilmember is entitled to pull a Consent Item from the Consent Calendar and place the item on the Non-Consent Calendar as a Non-Consent Item if another Councilmember seconds the motion; it is not necessary that the Council vote on or pass the motion, and it is not necessary that the presiding officer consent, however the presiding officer shall determine where to place the item on the Non-Consent Calendar.

   Notwithstanding the preceding paragraph, a motion to move the second reading of an ordinance from the Consent Calendar to the Non-Consent Calendar must be approved by a majority of the Councilmembers present and voting.

7. During "Members' Request for Reconsideration," a Councilmember who voted on the prevailing side of a motion or other action taken at the immediately preceding Council meeting may move that item for reconsideration. If the motion is seconded and at least five (5) Councilmembers vote in favor of the motion, the item shall be placed on the agenda for the next City Council meeting as a Non-Consent Item. This section is not intended and shall not be construed to preclude a Councilmember, who voted on the prevailing side of a motion or other action taken at a Council meeting, from moving for reconsideration of the item at the same meeting; nor shall this section be interpreted to preclude the Council from reconsidering the item at the same meeting if the motion to reconsider passes.

8. During "Members' Requests for Scheduling of Items Considered by Committee but not forwarded to Council", any Councilmember by motion that is seconded by another Councilmember, may place on the agenda of the next City Council meeting (subject to compliance with Sunshine Ordinance and Brown Act) any action item that has been considered in a subject matter

Committee, but not forwarded by the Committee to the City Council; it is not necessary that the Council vote on or pass the motion.

9. On any action item, the City Council by the requisite number of votes may:

   a. Approve an item as scheduled by the sponsor, approve a Standing Committee's alternative recommendation, or approve an alternative recommendation proposed at the full Council in compliance with the Brown Act and Sunshine Ordinance; if a Standing Committee's alternative recommendation is before the Council for approval on the Consent Calendar, it shall be presumed that the Council is approving the Committee's recommendation unless otherwise specified in the motion for approval;

   b. By a majority of the Councilmembers present and voting, continue the item to the next regular Council meeting if permitted by Sunshine Ordinance and Brown Act;

   c. By a majority of the Councilmembers present and voting, refer the item to any Standing Committee for reconsideration; or

   d. With respect to an item that the Rules and Legislation Committee referred directly to Council or an item that was added to the Council agenda pursuant to Rule 28, the Council may take any action subject to the Brown Act and the Sunshine Ordinance.

10. On any agendized informational report, the City Council may receive the report either by oral presentation by staff or as written.

Rule 9. **Protocol at Council Meetings**

Every member of the Council, before speaking, shall address the presiding officer, and no member shall speak except while seated at or standing in the immediate vicinity of their assigned seat. When items on the agenda relate to a specific Council District, the presiding officer shall recognize the Council representative of the District first, and the Councilmember-at-Large secondly, prior to recognizing other Councilmembers.

Presenters shall limit their presentations to no more than seven (7) minutes, absent the consent of the presiding officer.

Rule 10. **Announcements by Councilmembers**

Each member of the Council shall have the right to make brief announcements via the City operated station, KTOP, or at the appropriate time on the agenda, without a previous motion, upon matters which are Council sponsored or relate to the welfare and condition of the City. The Councilmember shall, at the commencement of the announcements, state the subject matter on which the Councilmember desires to speak. Individual announcements shall not exceed two minutes unless additional time is authorized.

Rule 11. **Speaking Time Limits for Councilmembers**

No member of the Council shall speak for more than eight (8) minutes on any Non-Consent Item without the consent of the presiding officer or a majority of the members of the Council, which consent may be granted for complex matters such as adoption of the biennial or midcycle budget. No member of the Council shall speak for more than two (2) minutes on the Consent Calendar without the consent of the presiding officer or a majority of the Council. For Ceremonial Items, the presiding officer may determine the allotted speaking time for Councilmembers.

Rule 12. **Speakers' Cards and eComments**

The City Clerk shall facilitate the process for public speakers as well as the public's submission of written comments and shall provide the public with information on how to appropriately address the Council and Standing Committees.

The City Clerk shall facilitate the receipt of written comments ("eComments"), and the process for submission and the procedure to view eComments shall be clearly stated on each agenda. Members of the public shall be able to submit eComments up to twenty-four (24) hours before the posted meeting time, and Councilmembers are expected to read the eComments in advance of the meeting. The City Clerk shall state the number of eComments and the percentage of supporting, opposing, and neutral eComments during each Non-Consent item.

Members of the public wishing to speak must submit to the City Clerk a separate speaker's card for each item on the agenda they wish to discuss before being recognized by the presiding officer. Directions for filling out speaker cards on-line will be included on all Standing Committee and Council agendas. Members of the public wishing to speak via teleconference must provide their Zoom profile name (which at the speaker's discretion may be their legal name or other information to identify them) or phone number on their speaker card to allow the Clerk's office to recognize them.

In order for the City Clerk and presiding officers to assess the number of public speakers, implement Rule 14, and facilitate meetings generally, the time for submitting speaker cards after a meeting has begun is limited as described below.

Unless the presiding officer or a majority of the members of the Council consent, speakers' cards submitted for items at Regular or Special City Council meetings must be received by the City Clerk as follows: (1) for Action on Special Orders / Presentations of the Day, before the City Clerk begins reading the item into the record; (2) for Consent, before the City Clerk begins reading the first Consent item; (3) for all other items (including Non-Consent and Open Forum), within the first hour and a half after the meeting is called to order or before the Clerk begins the reading of the first Non-Consent item into the record, whichever occurs earlier.

Speakers' cards submitted for items at Standing Committee meetings must be received by the City Clerk within the first ten minutes after the meeting is called to order or before the City Clerk begins reading the item into the record, whichever occurs first, unless consent to speak is given by the presiding officer.

Multiple speakers representing an organization or position on an item are encouraged to organize their presentations. The presiding officer shall have discretion to provide designated spokesperson(s) representing the position of multiple speakers on an item an appropriate allocation of time to address the Council or Standing Committee on behalf of all of the speakers.

Rule 13. **Open Forum**

During City Council or Standing Committee meetings, public speakers submitting their names to speak under open forum shall be allotted one (1) minute each to speak. The presiding officer has discretion to increase the allotted time for each open forum speaker up to a maximum of two (2) minutes, in the discretion of the presiding officer. A speaker may speak only once under open forum during any one meeting, subject to the discretion of the presiding officer. Speakers during open forum may address the City Council or Standing Committee regarding any items of public interest that are not on the meeting agenda. Open Forum speaker cards are to be numbered by the City Clerk in the order received. Ceding time to other speakers is not permitted for open forum speakers.

Rule 14. **Time Limits for Public Speakers on Committee and Council Agenda Items**

1. Any member of the public who has submitted a speaker card pursuant to Rule 12 on an agenda item, other than open forum, shall be allotted a minimum of two (2) minutes per item to speak prior to any vote or action by the Council or Committee, subject to the regulations provided under this Rule 14. The presiding officer may reduce each speaker's allotted time to one (1) minute if they publicly state all reasons justifying any reduction in speaker time, which reasons shall be based at a minimum on consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body, and whether there will be sufficient time available during the meeting to consider all agenda items if all speakers are allowed two minutes to speak.

2. Subject to the provisions of this Rule that apply to public speakers who submit multiple speaker's cards, all speakers on any one item shall be allocated the same amount of speaking time on that item, unless the presiding officer approves ceded time pursuant to Rule 14(6) or an organized presentation pursuant to Rule 12, or unless more time must be given to comply with due process or other legal requirements or in circumstances where the Council is acting in a quasi- adjudicatory capacity. To ensure that all public speakers are treated equitably, limitations on speaking time include all time a speaker spends commenting and/or posing questions, including procedural questions.

3. **Speakers Submitting Speaker's Cards on Multiple Items at Standing Committees.** Subject to Rule 14(7) and the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), a speaker who submits their name to speak on three (3) or more items (other than open forum) may be instructed to address all items concurrently and shall be allocated two (2) minutes per item up to a maximum of eight (8) minutes if the presiding officer states all reasons justifying the instruction, which reasons shall be based at a minimum on consideration of the time allocated or anticipated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body.

   If the presiding officer reduces speaker time to one (1) minute per item pursuant to Rule 14(1), the maximum time to speak on all items pursuant to this subsection shall be reduced to four (4) minutes. Ceding time to other speakers is not permitted when speaking on multiple items pursuant to this Rule 14(3).

4. **Speakers Submitting Speaker's Cards for Multiple "Other Non-Consent Items" at Council Meetings.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), speakers who submit their name to speak on three (3) or more "Other Non-Consent Items" (i.e., Non-Consent Items that do not require a public hearing) may be instructed to address all items concurrently.

   Speakers who are instructed to address all items concurrently shall be allotted two (2) minutes per item up to a total of eight (8) minutes if the presiding officer states all reasons justifying the instruction. At a minimum, the reasons justifying the instruction to address all items concurrently shall be based on (i) consideration of the time allocated or anticipated for the meeting, (ii) the number and complexity of agenda items and (iii) the number of persons wishing to address the local body.

   If the presiding officer reduces speaker time to one (1) minute per item pursuant to Rule 14(1), the maximum time to speak on all items pursuant to this subsection shall be reduced to four (4) minutes. Ceding time to other speakers is not permitted when speaking on multiple items pursuant to this Rule 14(4).

5. **Speakers Submitting Speaker's Cards for Consent Items at Council Meetings.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), public speakers who sign up for Consent Items will be instructed to speak on all items at once and be given one (1) minute to speak on each item up to a maximum of three (3) minutes. The presiding officer may increase speaker time to two (2) minutes for each item up to a maximum of six (6) minutes based on consideration of the time allocated for the meeting, the number and complexity of agenda items and the number of persons wishing to address the local body. Ceding time to other speakers is not permitted when speaking on multiple items pursuant to this Rule 14(5).

6. **Ceding Time.** A speaker may extend their speaking time if other speakers who have submitted their names to speak agree to cede their time to the recipient speaker. The recipient speaker will receive one (1) minute speaking time from each ceding speaker, up to five (5) minutes. At the presiding officer's discretion, speakers may be allotted more than five (5) minutes based on ceded time. The recipient speaker must submit the ceding speakers' speaking cards, and the ceding speakers must be present at the time the recipient speaker speaks. Ceding time to other speakers is not permitted for Consent Calendar, open forum speakers or when speaking on multiple items pursuant to Rule 14(3), 14(4), 14(5), or 14(7).

7. **Public Speakers on Scheduling Item at Rules and Legislation Committee.** Subject to the discretion of the presiding officer, which discretion must be exercised in accordance with Rule 14(1) and (2), public speakers who sign up to speak on the Scheduling Item at the Rules and Legislation Committee will have one minute per scheduling request up to a maximum of three (3) minutes, provided that a public speaker's total time for all items on the Rules and Legislation Committee agenda (excluding open forum) may be limited to eight (8) minutes in accordance with Rule 14(3).

Rule 15. Presiding Officer's Role in Maintaining Order

The presiding officer shall maintain order in the chamber. The presiding officer may rule a member of the public out of order if:

(a) the person engages in Disruptive Behavior, as defined below; or

(b) the person's public remarks are not related to the agenda item or, in the case of open forum, are not related to any matter within the jurisdiction of the Council.

Remarks that express nothing more than hate for a person or group of people based on race, nationality, ethnicity, religion, gender, gender expression, sexual orientation, or similar grounds are inherently unrelated to any matter within the jurisdiction of the Council and are therefore out of order.

"Disruptive Behavior" is behavior that impedes the orderly progress of a meeting by denying, delaying, or interrupting other people's rightful turn to speak. Disruptive Behavior includes, but is not limited to: 1) speaking beyond the time the speaker has been allotted and failing to yield; 2) speaking, yelling, or otherwise making noises impedes another person's right to speak or be heard; and 3) actions that physically impede another person's right to speak or be heard.

The public has the right to criticize policies, procedures, programs or services of the City or of the actions or omissions of the legislative body or staff. But members of the public do not have the right to prevent or delay the orderly progress of meetings or the conduct of City business. Each member of the public must respect other people's rights to speak, including other members of public, members of staff, presenters, and members of the body.

If a member of the public engages in Disruptive Behavior, the presiding officer may rule them out of order. Furthermore, a person who engages in Disruptive Behavior may be removed from a meeting at the direction of the presiding officer. Before being removed, the person must be warned: (1) that their behavior is disrupting the meeting, and (2) that continued disruption may result in their removal. The person may be so warned by the presiding officer, a member of City staff, a security guard, and/or a peace officer.

Any person who engages in dangerous activity during a meeting, including using force or making a credible threat to use force, may be removed without any direction from the presiding officer and without any warning.

Rule 16. **Temporary Suspension of a Council Rule**

The Council may suspend one or more of these Rules of Procedure, including Rule 14, on a temporary, ad hoc basis for a single meeting only if the Council passes a motion by an affirmative vote of six (6) Councilmembers, including a finding or findings of necessity, provided the temporary suspension otherwise complies with applicable law, including but not limited to the City Charter, Brown Act, and Sunshine Ordinance.

Rule 17. **Attendance of Staff at Council and Standing Committee Meetings**

The City Administrator shall designate appropriate staff to attend the Council meetings. The presiding officer may request that staff answer questions and provide assistance to the public, and has discretion whether to ask staff to answer questions during the meeting or afterwards. However, the Brown Act does not permit detailed responses, exchanges or discussions regarding items that are not on the posted agenda for the meeting.

Rule 18. **Ballot Measures**

The affirmative vote of a majority of the members of the Council is required to endorse or oppose any proposition submitted to the electorate on any national, state, county, or local ballot.

Rule 19. **Appointments to Boards, Commissions and Other Bodies**

For any appointment to a board or commission that requires Council confirmation, the City official making the appointment or recommendation shall submit to the City Clerk, in accordance with the Sunshine Ordinance, the following for inclusion in the agenda-related materials: the person's name, resume, and any application and other materials the person submitted. A Council resolution is required to confirm such appointments and such resolution shall be scheduled pursuant to Rule 24.

Appointments by the Mayor to the Planning Commission, the Port Commission, the Housing, Residential Rent & Relocation Board, and the Police Commission shall first be scheduled to and considered by the Rules and Legislation Committee before being scheduled to the full Council.

Rule 20. **Council's Annual Recess**

The City Council shall recess for the period of August 1 through 31 of each year, or until the first meeting in September as set by the Rules and Legislation Committee, which shall be known as the "Annual Recess." During the Annual Recess, the City Council may be convened for special Council meetings as provided for by the City Charter.

Rule 21. **Actions During Annual Recess**

The Mayor is authorized to take such actions as would normally be taken by the City Council during the period of the Annual Recess except for those matters specifically set forth herein. The Mayor is further authorized to convene emergency meeting(s) of the Council to take such emergency actions as may be necessary, for the immediate preservation of the public peace, health or safety. All matters approved by the Mayor during the Annual Recess must clearly set forth the reason(s) why approval cannot be deferred for Council approval following the Annual Recess. The Mayor's contract approvals must conform with and be limited to the requirements of the City's purchasing ordinance as set forth in Chapter 2.04 of the Oakland Municipal Code. The Mayor is not authorized to take any actions for which the adoption of an ordinance is required. Further, the Mayor's approvals shall be limited to authorizations within previous adopted budgeted amounts. The Mayor is not authorized to appropriate funds without prior Council authorization and approval.

The Mayor is further directed to make a full and complete report to the City Council, at its first Regular Meeting in October, of actions taken by the Mayor pursuant to this Resolution, at which time the City Council may make such findings and confirm said actions of the Mayor, as may be required.

Action(s) taken by the Mayor during the Annual Recess shall be implemented in a manner to provide public notice and an opportunity for public comment and input on matters to be approved. In keeping with the intent of the Sunshine Ordinance (OMC §§ 2.20.010 et seq.) the Mayor will cause a 10-day agenda to be posted at regular posting locations. The Mayor, through the City Clerk, shall facilitate the receipt of written comments by the public on any matter presented to the Mayor for consideration. The Mayor shall review and consider all written comments in making their decision on the matter. A record of the final action of the Mayor shall be filed with the City Clerk along with any supporting legislation, reports and comments received on that matter. A summary of final action taken shall be posted at the regular agenda posting locations.

Rule 22. **Proclamations**

Individual Councilmembers may issue proclamation(s) for the purpose of commendation, recognition or congratulation of any person, group, organization or event, or for the purpose of expressing sympathy, regret or sorrow on the death of any person. Such a proclamation shall be known as a "Member Proclamation" and shall be in a form, which clearly identifies the Councilmember who has sponsored

the proclamation. City Council approval is not required for the issuance of a Member Proclamation.

Rule 23. **Rules and Legislation Committee's Jurisdiction**

The Committee on Rules and Legislation shall serve as the procedural committee of the Council and shall have responsibilities including, but not limited to, the following:

- Make recommendations to the Council regarding endorsing or opposing propositions submitted to the electorate on any national, state, county, or local ballot, and for propositions placed upon the ballot on the Council's own motion. Propositions that the Council may place on the ballot on the Councils' own motion also may be assigned, at the discretion of the Rules and Legislation Committee, to one or more additional Standing Committees as information items for their input, provided the Rules and Legislation Committee retains authority to determine whether to forward such propositions to the City Council.
- Monitor pertinent state, federal and local legislative activities, and recommend action related thereto to the full Council. The Committee shall also submit to the Council, an annual legislative agenda.
- Provide general oversight for the offices of the City Administrator, City Attorney, City Clerk and shall have policy jurisdiction on Public Information, Constituent Services, Community Governance, Strategic Planning, Public Ethics Commission and the state and federal legislative agenda, intergovernmental relations and operational oversight of the Office of the City Council. It shall, in addition, monitor and assign issues pertaining to the Port Department, the Oakland-Alameda County Coliseum Authority, and other governmental agencies, as appropriate, and make referrals to appropriate Standing Committees as required.
- Recommend the setting of special meetings of the Council, Standing Committees, and such other ad hoc committees as may be established by the Council.
- Subject to Rule 8(8) and the Council's authority to schedule agenda items by motion, assign proposed Action Items and Informational Items to Council or Standing Committee agendas, including establishing the Consent Calendar and Non-Consent Calendar.
- Define the jurisdiction and responsibilities of Standing Committees, subject to Council approval.
- Conduct studies and make recommendations designed to promote, improve and expedite the business and procedures of the Council and of the committees thereof, and to propose to the City Council any amendments to the Rules deemed necessary to accomplish such purposes.

Rule 24. **Rules and Legislation Committee's Powers re Agenda Items**

The Rules and Legislation Committee may assign and schedule agenda items proposed by one or more Councilmembers, a Standing Committee of the City Council, the Mayor, the City Administrator, City Attorney, City Auditor, or a member of the public to a Standing Committee and/or full Council for consideration and action as follows:

1. For any Action Item or Information Item, the Rules & Legislation Committee, may:

    a. By a majority vote of the members present assign and schedule the item to a Standing Committee, or

    b. By a majority vote of the members present return the item to the requestor with a request to work with the City Administrator and/or City Attorney to refine the item, or

    c. By a majority vote of the members present, assign and schedule the item directly to City Council provided that the Rules and Legislation Committee determines that the item should bypass Committee consideration and proceed directly to the City Council for a specified reason, or

    d. Fail to assign and schedule the item.

2. Notwithstanding any other provision of these Rules of Procedure, the Rules and Legislation Committee shall have the power to place an item that is urgent on the supplemental agenda for a regular Council meeting or on a special Council meeting agenda, in accordance with the requirements of the Sunshine Ordinance, if no action was taken on the item (1) due to the cancellation of a committee meeting, (2) due to lack of a quorum, (3) because the committee ran out of time, or (4) because the committee was not able to approve any recommended action and the Committee passes a motion by the affirmative votes of the majority of the members who are present requesting that the Rules and Legislation Committee schedule the item for a Council meeting.

3. The Rules and Legislation Committee shall not schedule any item to a Regular Meeting with less than the notice required by the Sunshine Ordinance, unless the Committee complies with Oakland Municipal Code section 2.20.080.D.2. The Committee shall state the required finding on the record.

4. The Rules and Legislation Committee shall not schedule any item proposed by a member of the public unless the member of the public submits documentation with the scheduling request demonstrating that they contacted each Councilmember to request a Councilmember sponsor for their scheduling item and were refused or received no response within 48 hours.

Rule 25. **Accountability and Transparency in High-Stakes Negotiations Policy; Voting by Delegates and Alternates to Boards, Commissions and Other Bodies**

Councilmembers, the Mayor or City officials who represent the City as a delegate or alternate before any board, agency, authority, joint powers authority, commission, etc. shall receive City Council authorization from a majority of the Council prior to casting vote(s) on behalf of the City on any matter which could have a significant economic or policy impact on the City, or on any matter of particular controversy. Should time be of the essence, resulting in the representative's inability to obtain prior City Council authorization, the representative shall obtain approval from the appropriate Standing Committee. Thereafter, the representative shall report back to the full Council, at the next Regular Meeting of the Council, the action taken.

City Council delegates and alternates shall: (i) within 30 days of appointment to represent the City on such bodies, participate in training provided by the City Administrator or designee on the duties and obligations of representation; (ii) provide the City Council and/or the appropriate Council committee with an annual report or briefing on general business regarding the issues, activities and agenda of the body on which the representative serves; (iii) work with the City Administrator or their designee to notify the City Council via an Informational Memorandum, Information Report to the appropriate Standing Committee(s) or closed session briefing when appropriate under the California Brown Act (Gov. Code Sec. 54950, et seq.) and Oakland Sunshine Ordinance (O.M.C. Chap. 2.20) as soon as high-stakes negotiations or transactions commence; (iv) provide the City Council real-time reports on high-stakes negotiations or transactions.

In the event that a representative determines that casting a vote as directed by the Council would not be in the best interest of the City because of changed circumstances or new information that was not available at the time authorization was granted, the representative may change their vote(s). The representative shall, however, attempt to carry forth the general intent of the Council when casting a changed vote. Thereafter, the representative shall report back to the full Council, the action taken and the basis upon which the vote was changed.

"High-Stakes" negotiations/transactions shall be defined as any negotiations or transactions by a board, commission, agency, joint powers authority, etc. with Council appointed Councilmember, Mayor or City official delegates or alternates involving: licenses, leases, contracts or other transactions that could or will have an economic impact of

$1,000,000.00 or higher on the City of Oakland or a significant policy impact or a matter of particular controversy.

Rule 25 shall not apply to matters under consideration by a multijurisdictional board/commission/agency/joint powers authority, etc. that would purely benefit/bring revenue to the City. Such revenue matters are exempt from Rule 25.

Rule 26. **Procedure for Councilmember to Place Items on an Agenda**

A. **Councilmember Due Diligence and Preparation Prior to Submitting and/or Amending Items.** The timely, orderly, and thoughtful submission of new items to the City Council is critical to conducting City business and Council meetings in an efficient and effective manner, including allowing City staff and the City Attorney a reasonable time to provide meaningful input, and allowing the public and Councilmembers to follow and participate in the City's policy-making process. Accordingly, Councilmembers shall make every effort to thoroughly investigate policy issues prior to submitting proposals to a committee or the Council for action. In addition, Councilmembers, City staff, City Attorney, and Mayor shall make all reasonable efforts to submit new proposals to an appropriate Standing Committee, rather than submitting the proposal directly to the City Council, and are expected to plan accordingly. The Rules and Legislation Committee shall ensure compliance with this Rule and shall schedule a new item directly to a Council meeting only by a majority vote of those present, and only after the proponent has articulated a reasonable basis for such scheduling.

On matters pending before a committee or Council, Councilmembers should, when feasible and in compliance with the City Charter and open meeting requirements, study and obtain relevant information prior to the meeting where action is to be taken. Councilmembers who intend to make a motion to substantively modify legislation during a meeting should discuss their proposed modification with City staff and/or the City Attorney **prior to the meeting,** to allow for adequate input and advice. Standing Committees may direct that items appropriately pending before the committee be scheduled for future committee agendas. New items and issues brought before a Standing Committee shall be referred to the Rules and Legislation Committee for scheduling. The Rules and Legislation Committee shall provide general oversight of the implementation of this Rule to ensure compliance.

B. **Planning and Coordination for Informational Reports.** Depending on the complexity, informational reports can be costly to the City because their preparation can expend significant staff time and other resources. Accordingly, requests for informational reports should be minimized and shall be consistent with the Council-Approved Meeting Calendar, which details due dates for reports to the City Administrator's Office, reports to the Clerk and agenda distribution.

C. **Legal and Fiscal Review of Ordinances and Resolutions.** Councilmembers, as well as City Administrator, City Attorney, and Mayor, are expected to comply with, and the Rules Committee shall reasonably enforce, the following guidelines:

- **Advisory Resolutions.** Draft titles for Advisory Resolutions should be submitted to the City Attorney **at least** two (2) full working days prior to the deadline for submitting the Scheduling Request Form. A substantive draft of the Advisory Resolution should be submitted to the City Attorney at least two (2) full working days prior to the deadline for submitting the legislation to the Clerk for inclusion in the agenda packet.

- **Ordinances and Non-Advisory Resolutions.** Substantive drafts of ordinances and non-urgent / Non-Advisory Resolutions that would create a new agenda item should be submitted to the City Attorney and City Administrator **at least** three (3) weeks prior to the deadline for submitting the Scheduling Request Form in order to facilitate legal and fiscal review prior to scheduling.

Sponsors of ordinances and resolutions shall indicate on their Scheduling Request Form whether they have complied with the above guidelines.

If a sponsor is unable to comply with the above guidelines because an ordinance or Non-Advisory Resolutions requires immediate and urgent consideration, notice of the legislation must be given to the City Attorney and City Administrator as early as possible, and the Rules and Legislation Committee may schedule the item only if the committee determines by a majority vote of those present that the item should be scheduled for a specified reason, which reasons shall be stated on the record at the meeting. Sponsors are expected to conduct reasonable due diligence and planning in endeavoring to comply with the above guidelines and avoid creating urgent situations.

D. The sponsors of ordinances or Non-Advisory Resolutions shall submit a memorandum or report, substantially in the format of and including the information set forth in the Agenda Report Template and shall do so no later than the deadline for submitting the legislation to the Clerk for inclusion in the agenda packet.

Rule 27. **Quorum for Standing Committees**

A quorum for the conduct of meetings of Standing Committees that have a membership of four, shall be three (3) members. A quorum for the conduct of meetings of the Education Partnership and City/Port Liaison Committees shall be a majority of the seats designated for each constituent body. If the Council seat of a member of a Standing Committee becomes vacant, the quorum for that committee shall not be reduced. A quorum for all other established committees shall be a majority of the duly appointed members.

In the event that a quorum is not established within fifteen (15) minutes of the noticed start time of the meeting, the meeting **may** be declared canceled. In determining whether a meeting should be canceled, the Committee Chairperson should consider factors such as whether the delay is caused by conflicting meeting schedules; if prior notice from the member was given that the member would be late; or if there is a need to take official action on important item(s) of business once a quorum has been established.

In the event that a quorum is never established or is lost at any point during a meeting, discussion of the items noticed on the agenda may continue but no action can be taken other than adjournment. The record will reflect that the meeting was canceled or adjourned due to a lack of a quorum and that no action was taken on the items discussed.

The City Clerk shall keep a record of Committee members' attendance. The attendance record shall reflect absences and tardiness (arrival after the fifteen (15) minute scheduled start time) and shall indicate whether the absence or tardy was excused or unexcused by designation of the presiding officer. If during the calendar year a Committee member accumulates three (3) unexcused absences and/or late arrivals the City Clerk shall so advise the President of the Council and the President of the Council may, in their discretion, remove the member from the Committee. If removed, the member can be considered for reappointment by the President of the Council, as appropriate.

Rule 28. **Procedure to Add, Remove Agenda Items**

A. Anyone wishing to add an item to, remove an item from, or modify the title of an existing item on, a Council agenda or a Standing Committee agenda after the Rules and Legislation Committee has met, but before the agenda is printed, must get authorization from the Chair of the Rules and Legislation Committee, the President of the Council, and either the Mayor or the City Administrator. For Standing Committee agendas, authorization also must be received from the committee chair. If any one of these persons objects, or if addition, modification, or removal of such item is not in compliance with the Sunshine Ordinance or the Brown Act, the subject agenda as approved by the Rules and Legislation Committee will not be changed. Requests to add, modify, or remove an agenda item should be submitted to the City Administrator's Office no later than 12 p.m. the day before the agenda publication deadline. The City Administrator's Office shall transmit all Rule 28 requests to the Council President, the City Administrator, Mayor, Chair of the Rules and Legislation Committee, and (when applicable) the appropriate committee chair person(s), preferably as a single list, and cc'd to the City Attorney and the City Clerk agenda team.

If approval is obtained, the City Administrator is responsible for: 1) notifying the City Council within two (2) business days of the decision via e-mail; and 2) notifying the City Clerk prior to any affected meeting, to amend the agenda to reflect the approved change.

Once the agenda is printed, an item may be removed at the next Rules and Legislation Committee meeting only if there is an intervening Rules and Legislation Committee meeting prior to the City Council meeting for which the item is agendized, or upon a duly adopted motion of the City Council at the meeting for which the item is agendized, if there is no intervening Rules and Legislation Committee meeting.

B. **Certain Items Approved in Closed Session.** Notwithstanding any other provision of these Rules of Procedure, an item or items that are finally approved in closed session before the deadline for noticing and posting the item to the next regular or special Council meeting, including but not limited to settlement agreements, may be added to the agenda provided that the required legislation and agenda-related materials are submitted to the Clerk during closed session or within two hours after conclusion of closed session.

Rule 29. **Tie-Breaking Votes by Mayor**

In the event that the Councilmembers are evenly divided in their vote on an item (by motion, resolution or ordinance) the item will automatically be continued to its next Regular Meeting solely for the purpose of allowing the Mayor to cast a vote; provided that if the Mayor so chooses, the Mayor may cast a vote at the meeting at which the tie vote occurs. In accordance with Charter Section 305(i), solely for the purposes of determining whether the Mayor is eligible to cast a tie-breaking vote, abstentions and absences shall count as a "No" vote, except that where a Councilmember is absent or abstains because they were required by law to recuse themselves, such as due to a legally-recognized conflict of interests, then such a legally-required recusal shall not count as a "No" vote. The City Clerk shall provide the Mayor with all supporting documentation, reports and legislation relating to the item and a copy of the videotape of the discussion, if available. Council and public discussion is permitted on the item to be voted on by the Mayor; however, Councilmembers cannot change their vote unless the item has been properly noticed for reconsideration. The Mayor must appear at the Council meeting in order to cast a tie breaking vote.

Rule 30. **Resolution or Ordinance Required to Approve Contracts**

Notwithstanding City Charter section 210 which permits the City Council to take action by ordinance or resolution or motion, the Council shall approve and authorize contracts by resolution unless an ordinance is required.

Rule 31. **Council Code of Conduct**

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 for 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, including reviewing agendas and agenda materials, and reading eComments, sufficiently in advance of meetings to allow for consultation and coordination with other Councilmembers, staff, legal counsel, and/or members of the public as permitted by law.
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 Councilmembers, 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 Councilmembers, 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; and, as soon as possible, inform the Council President or Committee Chair when they are unable to attend a scheduled meeting, or need to arrive late or leave early.

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 negligently, willfully or intentionally violates the rules of conduct contained in this Rule 31

13. Abide by federal and state law, the City Charter, City legislation and City Council policies.

Rule 32. **Censure of Councilmembers**

A. **Background and Purpose.** The City of Oakland and the City Council have a strong commitment to the Oakland Charter, local, state and federal laws, and Council policies and procedures. The City Council has the power to censure one of its members for violations of these laws, policies and procedures. Rule 31(12) states that the City Council may censure any member "who willfully violates the rules of conduct contained in this Code of Ethics." (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.) In order to be able to censure a Councilmember, the City Council must adopt a fair policy and procedure for the process.

This procedure is intended to provide the process by which the City Council, acting as a whole, can censure any of its members who violate state or federal laws, City ordinances or policies.

B. **Censure Policy.** It is the Policy of the City Council that all its members shall abide by federal and state law, the City Charter, City legislation and City Council policies. Violation of such law or policy can subject the City to liability, affect the City's budget, resources, plans and timelines, injure the good name of the City and undermine the effectiveness of the City Council as a whole. Such conduct is deemed to be subject to City Council Censure.

Censure is a formal resolution of the City Council officially reprimanding one of its members. Censure serves to formally put a censured councilmember on notice of the Council's disapprobation of conduct that has violated laws or policies but carries no fine or suspension of the rights of the member as an elected official. Censure is an appropriate punitive measure when the violation of law or policy is deemed by the City Council to be a serious offense.

In order to protect the overriding principle of freedom of speech, the City Council shall not impose "censure" on any of its members for the exercise of the member's First Amendment rights no matter how distasteful the expression was to the Council, officials, employees or public. However, nothing herein shall be construed to prohibit the City Council from collectively expressing their strong disapproval of such remarks.

The City Council shall not impose "censure" on any of its members for the violation of any law while criminal charges are pending. However, when the criminal proceedings are final, the City Council need not be bound by the conclusion of the Court and may hold a "censure" hearing.

C. Procedure

1. A request to schedule a "censure" hearing may be submitted to the Rules and Legislation Committee in writing or made by a scheduling motion during a Council meeting by a member of the Council.
    a. The scheduling request must contain a brief description of the specific charges on which the proposed censure is based in the title of the item.
    b. A censure resolution setting forth specific charges and grounds for censure must be submitted to the City Clerk with the scheduling request at least forty-eight (48) hours prior to the Rules and Legislation Committee meeting at which it will be considered for scheduling.
    c. The City Clerk shall serve copies of the scheduling request and the censure resolution on the accused councilmember at least twenty-four (24) hours prior to the Rules and Legislation Committee meeting at which it will be considered for scheduling. The City Clerk shall deliver the scheduling request and censure resolution to the council office of the accused member, subject to execution of a proof of service. Service shall be accomplished by electronic mail or in person, as determined by the City Clerk.
2. The Rules and Legislation Committee shall:
    a. Schedule the matter for public hearing; or
    b. Refer the matter to the City Administrator for further investigation by an independent investigator, in consultation with the City Attorney, prior to scheduling the matter; or
    c. Not schedule the matter for public hearing.

3. Censure matters set for public hearing must be scheduled at least ten (10) calendar days in advance of the hearing date to give the accused member adequate time to prepare a defense.

4. The councilmember seeking censure of another councilmember is responsible for preparing and submitting to the City Clerk a censure resolution and report supporting censure in time for publication with the 10-day agenda packet for the meeting at which the matter will be heard. The City Clerk shall, at least 10 calendar days before the hearing, deliver copies of the resolution, report and other agenda materials to the council office of the accused member, subject to execution of a proof of service.

5. The accused member is responsible for preparing and submitting to the City Clerk for the agenda packet, reports, documents or other information opposing censure in time for the three (3) day supplemental agenda.

6. At the hearing, the member of the Council subject to the censure proceeding shall have the opportunity to rebut the allegations in the censure resolution and to question any known accusers if they agree to be questioned. Notwithstanding the foregoing, identities of persons who provided statements or information in confidence shall remain confidential. This includes, but is not limited to, persons who provided statements or information through a whistleblower program of the federal or state government or City of Oakland. The member subject to the charges may be represented and may have the representative speak or question on their behalf.

7. A decision to censure must be made by resolution and based on conduct found to have been negligent, willful or intentional. A decision to censure requires five (5) votes of the Council adopting a resolution: 1) finding there is substantial evidence in the record to support the specific charges alleged, 2) finding that the conduct supporting the censure was negligent, willful or intentional, and 3) approving censure.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE: DEC 19 2023

AYES - [redacted], GALLO, JENKINS, KALB, KAPLAN, [redacted], [redacted], AND PRESIDENT FORTUNATO BAS -5

NOES -0-

ABSENT -0-

ABSTENTION -0-

3 Excused - Fife, Ramachandran, Reid

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

3300619v15