

CITY OF ALAMEDA RESOLUTION NO. _____

ESTABLISHING A CITY COUNCIL POLICY THAT A CITY COUNCIL OR CITY STAFF MEMBER WHO KNOWINGLY VIOLATES THE CITY CHARTER, AN APPLICABLE CRIMINAL STATUTE OR AN APPLICABLE ETHICAL CODE OF CONDUCT SHALL NOT BE ENTITLED TO REIMBURSEMENT FROM THE CITY FOR LEGAL OR OTHER FEES ARISING OUT OF THE VIOLATION

Whereas, in June 2019 the Alameda County Grand Jury issued a report concerning its investigation of the City's hiring process for a Fire Chief in 2017; and

Whereas, the investigation reviewed accusations of undue influence on the former City Manager during that hiring process, in violation of the City Charter; and

Whereas, the Grand Jury report states that the City itself undertook an investigation into these accusations and, as a result, two Council members hired personal attorneys to represent them in the City's investigation and had requested reimbursement from the City for their legal fees; and

Whereas, the Grand Jury made a recommendation that the Alameda City Council should adopt a policy stating that Council members who knowingly violate ethical codes of conduct or charter provisions may not seek reimbursement for related legal representation; and

Whereas, in response, City Council directed staff to return with necessary documents to formally adopt such a policy; and

Whereas, the City Council has considered at its regular meeting on December 5, 2019, a Policy, as recommended by the Grand Jury, but applicable not only to City Council members but also to City staff; and

Whereas, it is in the public's interest for the City Council to adopt this Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ALAMEDA AS FOLLOWS:

Section 1. The City Council adopts and approves the following Policy concerning reimbursing City Council members or City staff for legal or other fees when the City Council member or City staff member knowingly violates the City Charter or an ethical code of conduct:

No Council member nor City staff member shall be entitled to reimbursement from the City for legal or other fees incurred as a result of such person's knowing violation of the City Charter, an applicable criminal statute, or an applicable ethical code of conduct. "Knowing" is an expression of general, not specific, intent and a person knowingly commits a violation by intentionally engaging in the proscribed conduct; however, it is not required that the person intends to violate the law or an ethical code of conduct, or knows

that the conduct is proscribed. The City Council, excluding than any Council member who has a conflict of interest concerning such reimbursement, may decide whether the Council member or City staff member requesting or seeking reimbursement knowingly committed the violation or delegate such decision authority to the City Manager, the City Attorney or appointed Special Counsel.

Section 2. This Policy Shall be incorporated into the City's Code of Conduct, upon its adoption by the Council.

Section 3. The City Clerk shall certify to the adoption of this Resolution and thereafter this Resolution and Policy shall be in full force and effect.

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I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 3rd day of December 2019 by the following vote:

AYES

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have signed my name and affixed the seal of the City of Alameda this 4th day of December 2019.

Lara Weisiger, City Clerk,
City of Alameda

Approved as to form

Yibin Shen, City Attorney,
City of Alameda