

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to strengthening The City of Seattle’s policies for conducting City business with socially responsible banks, amending Sections 20.65.010, 20.65.030, and 20.70.040 of the Seattle Municipal Code; amending the revised City of Seattle Investment Policies adopted by Resolution 31525; requesting the Mayor and Director of Finance and Administrative Services to take certain actions, including not renewing the Contract for Bank Depository Services with Wells Fargo Bank beyond the initial term, endeavoring to enter into a voluntary debarment agreement with Wells Fargo Bank for a period of at least one year, and refraining from conducting banking, investment, or other business with Wells Fargo Bank for a period of at least one year when it is in the City’s discretion.

..body

WHEREAS, the financial security and stability of The City of Seattle’s deposits and investments is a priority of the Seattle City Council; and

WHEREAS, the Seattle City Council passed Resolution 31337 in 2011, committing the City to take steps to minimize economic insecurity and destructive disparities including reviewing its banking and investment practices to ensure that public funds are invested in responsible financial institutions that support our community; and

WHEREAS, the Seattle City Council passed Ordinance 124250 in 2013, adding Chapter 20.65 to the Seattle Municipal Code, requiring the Director of Finance and Administrative Services to consider certain socially responsible banking practices as bid criteria, utilizing socially responsible banking performance as an evaluation factor worth at least 15 percent, and requiring data and reporting about socially responsible banking practices in The City of Seattle’s banking contracts; and

WHEREAS, the Seattle City Council passed Resolution 31525 in 2014, adopting revised City of Seattle Investment Policies, including Policy 4, Social Policies, which guides the Director of Finance and Administrative Services to seek opportunities to conduct business with

1 institutions that by their charter, seek to benefit the common good and do not solely
2 pursue maximum profit when managing the City’s investments; and

3 WHEREAS, the Seattle City Council is aware of recent reports that senior management of Wells
4 Fargo Bank (“Wells Fargo”) directed employees to fraudulently create more than
5 2,000,000 unauthorized bank and credit card accounts during the past five years,
6 negatively affecting the credit ratings of millions of customers across the United States;
7 and

8 WHEREAS, those reports indicate Wells Fargo financially benefited from these illegally created
9 accounts and encouraged the continuation of these fraudulent practices by rewarding
10 managers and senior executives with multimillion-dollar bonuses; and

11 WHEREAS, it is also reported that senior management of Wells Fargo was aware of these
12 fraudulent practices, with Chief Executive Officer John Stumpf admitting in
13 Congressional testimony that he first learned about the unauthorized accounts in 2013;
14 and

15 WHEREAS, Wells Fargo has agreed to pay restitution and a total of \$185 million in penalties to
16 the Consumer Financial Protection Bureau, the Office of the Comptroller of the
17 Currency, and the City and County of Los Angeles – the largest penalties ever imposed
18 by the Consumer Financial Protection Bureau and the City and County of Los Angeles –
19 to settle claims related to these reports that it defrauded its customers; and

20 WHEREAS, in addition to the settlement, it is reported that Wells Fargo has terminated the
21 employment of more than 5,300 of the corporation’s lowest-paid workers, but has not
22 fired a single senior executive; and

1 WHEREAS, investigations into whether Wells Fargo’s misconduct also included additional
2 criminal or discriminatory acts are ongoing; and

3 WHEREAS, the Mayor of Seattle, joined by the City Council President and the Council Budget
4 Chair, recently authored a letter to Wells Fargo, directing the City to discontinue
5 negotiations with Wells Fargo as lender on the \$100 million bond financing for Seattle
6 City Light because of a loss of confidence that Wells Fargo is a trusted business partner
7 after the reports of these recent settlements and Wells Fargo’s dishonest business
8 practices; and

9 WHEREAS, Wells Fargo, pursuant to a competitive procurement in 2013, currently provides
10 services to The City of Seattle under the Contract for Bank Depository Services between
11 The City of Seattle and Wells Fargo with an initial contract term through December 31,
12 2018, including managing more than \$3 billion of Seattle’s operating account, including a
13 biweekly payroll of \$30 million for approximately 12,000 employees; and

14 WHEREAS, the Seattle City Council passed Resolution 31709 in 2016, proclaiming the City of
15 Seattle’s Support for the Standing Rock Sioux Tribe’s Opposition to the Construction of
16 the Dakota Access Pipeline; and

17 WHEREAS, Food and Water Watch reported on September 6, 2016 that Wells Fargo is one of
18 the largest contributors to the Dakota Access Pipeline, having invested \$467,000,000 in
19 project-level loans and revolving credit, which has enabled the repression and
20 intimidation against the nearly 200 Indian Nations, environmental organizations,
21 journalists and other non-violent demonstrators; and

22 WHEREAS, the Seattle City Council finds that Wells Fargo’s investment in the Dakota Access
23 Pipeline and recent misconduct and dishonest business practices are contrary to The City

1 of Seattle’s strong commitment to conducting its business with socially responsible
2 banks, and sets forth a framework to ensure that The City of Seattle does not engage in
3 business with a banking institution that has a demonstrated pattern of dishonest or unfair
4 business practices including deceiving, defrauding, and duping its customers; NOW
5 THEREFORE,

6 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

7 Section 1. Subsection 20.65.010.A of the Seattle Municipal Code, which section was
8 enacted by Ordinance 124250, is amended as follows:

9 **20.65.010 Socially ((~~Responsible Banking~~)) responsible banking**

10 A. The Director of Finance and Administrative Services, in selecting qualified
11 ((~~depositories~~)) financial institutions for City moneys per ((~~SMC~~)) Section 3.39.020, shall have
12 the power and duty to:

13 1. Require that prospective bidders provide the City with data on their
14 socially responsible banking practices, including for public depository bidders, the practices
15 described in Section 20.65.020 and for all bidders, whether they have engaged in dishonest or
16 unethical business practices within the last five years, including but not limited to any orders,
17 findings, or settlements with any public or private regulatory or disciplinary body with
18 jurisdiction involving discriminatory, unfair, deceptive, or abusive acts or practices or
19 applicable consumer protection laws or regulations;

20 2. Utilize socially responsible banking performance as a factor worth at
21 least 15 ((~~%~~)) percent of the total point value in determining the winning bid;

22 3. Accept bids for depository services only from financial institutions that
23 have received a rating of “Outstanding” in their most recent Community Reinvestment Act

1 review by the Office of the U.S. Comptroller of the Currency or the U.S. Federal Reserve
2 Bank; ~~((The))~~ the Director may waive this requirement, with written notice to the City Council,
3 in the event that no qualified bidders apply, the federal program is no longer applicable, or to
4 satisfy a compelling City need;

5 4. Include in contracts for depository services a statement of work that
6 provides a framework for ~~((Socially Responsible Banking))~~ socially responsible banking;

7 5. Establish relevant reporting criteria and timeframes to validate the
8 statement of work.

9 * * *

10 Section 2. Section 20.65.030 of the Seattle Municipal Code, which section was enacted
11 by Ordinance 124250, is amended as follows:

12 **20.65.030 Reporting**

13 A. Any ~~((Banking))~~ depository banking contract must include a requirement that
14 the bank provide the following reporting:

15 1. Residential lending information – The bank will provide the total number
16 and the total dollar amount of residential loans for one- to four-family dwellings applied for
17 and originated during the previous calendar year in each of the following categories listed in
18 this subsection 20.65.030.A.1. The data shall be provided for the entire City by zip code. For
19 home loans, fixed-rate loans shall be reported separately from adjustable-rate loans.

20 a. Home purchase loans, both federally insured and conventional
21 loans;

22 b. Refinancings of home loans;

23 c. Home improvement loans;

- 1 d. Home equity loans;
- 2 e. Multi-family loans;
- 3 f. Loans to non-occupant owners of single-family housing;
- 4 g. Modifications of distressed loans and the type of modification,
5 including interest rate reductions, forbearance, principal reduction, or repayment plans in
6 which the outstanding loan amount increases, and an indication of whether the modification
7 was executed under the federal Home Affordable Modification Program (HAMP), another
8 federal program, or the institution’s own modification program.

9 h. Short sales, deeds in lieu, and other mechanisms besides loan
10 modifications that avoid foreclosure.

11 i. Defaults and delinquencies on home loans.

12 2. Small business lending information – The bank will provide the total
13 number and the total dollar amount of small business loans originated during the previous
14 calendar year for the entire City by zip code, and for minority- and women-owned business
15 enterprises in the entire City. Loans to small businesses with annual revenues above \$1 million
16 ((dollars)) shall be reported separately from loans to small businesses with annual revenues
17 under \$1 million. The bank may use data reporting procedures mandated by the federal
18 Community Reinvestment Act for reporting small business loans.

19 3. Community development loans and investments – The bank will provide
20 the number and dollar amount of community development loans and investments including
21 loans and investments for affordable housing, small business development, economic
22 development, and community facilities for the entire City by zip code or neighborhood. The
23 bank may use definitions of community development found in federal Community

1 Reinvestment Act regulations. For each loan and investment, the bank will indicate if the loan
2 or investment was for affordable housing, small business development, economic development,
3 community facilities, and other such categories requested by the Director.

4 4. Consumer loan data – The number and dollar amount of consumer loans
5 for the entire City by zip code. Price information shall be reported in a manner similar to Home
6 Mortgage Disclosure Act (HMDA) data.

7 5. Checking, savings, and loan products – Information on selected
8 checking, savings, prepaid card, small dollar loan, and other products marketed to Seattle
9 residents, including information on fees, interest, and features.

10 6. Other – Narrative descriptions will be required to describe efforts to
11 meet all other items set forth in the statement of work.

12 B. All banking contracts must include a requirement that the bank provide
13 the following reporting:

14 1. Unfair business practices and consumer protection – The bank will
15 provide prompt notice of any claims, settlements, pending investigations or reasonable
16 likelihood of claims that it has engaged in any dishonest or unethical business practices or
17 practices that may violate any rule or regulation of a public or private regulatory or
18 disciplinary body with jurisdiction involving discriminatory, unfair, deceptive, or abusive acts
19 or practices or applicable consumer protection laws or regulations, and including a description
20 of corrective action efforts, if any.

21 * * *

22 Section 3. Section 20.70.040 of the Seattle Municipal Code, enacted by Ordinance
23 121723, is amended as follows:

1 **20.70.040 Grounds for Debarment.**

2 Pursuant to Section 20.70.030, the Director may issue an Order of Debarment that prevents a
3 Contractor from entering into any Contract with the City or from acting as a subcontractor on
4 any Contract with the City after determining that any of the following reasons exist:

5 A. The Contractor has received overall performance evaluations of deficient,
6 inadequate, or substandard performance on three (3) or more City Contracts.

7 B. The Contractor has failed to comply with City ordinances or Contract terms,
8 including but not limited to, ordinance or Contract terms relating to small business utilization,
9 discrimination, prevailing wage requirements, equal benefits, socially responsible banking, or
10 apprentice utilization.

11 C. The Contractor has abandoned, surrendered, or failed to complete or to perform
12 work on or in connection with a City Contract.

13 D. The Contractor has failed to comply with Contract provisions, including but not
14 limited to quality of workmanship, timeliness of performance, and safety standards.

15 E. The Contractor has submitted false or intentionally misleading documents, reports,
16 invoices, or other statements to the City in connection with a Contract.

17 F. The Contractor has colluded with another contractor to restrain competition.

18 G. The Contractor has committed fraud or a criminal offense in connection with
19 obtaining, attempting to obtain, or performing a Contract for the City or any other government
20 entity.

21 H. The Contractor has been the subject of a final enforcement action, order,
22 finding, or settlement with any public or private regulatory or disciplinary body with
23 jurisdiction involving discriminatory, unfair, deceptive, or abusive acts or practices or

1 applicable consumer protection laws or regulations within the last two years and has not taken
2 corrective action.

3 ((H-)) I. The Contractor has failed to cooperate in a City debarment investigation.

4 ((I-)) J. The Contractor has failed to comply with ((SMC Ch-)) Chapter 14.04, ((SMC
5 Ch-)) 14.10, ((SMC Ch-)) 20.42, or ((SMC Ch-)) 20.45, or other local, state, or federal non-
6 discrimination laws.

7 Section 4. Exhibit A to Resolution 31525 is amended as follows:

8 * * *

9 **Policy 4. Social Policies.** A City social policy will take precedence over furthering the City’s
10 financial objectives when expressly authorized by City Council ordinance or
11 resolution, except where otherwise provided by law or trust principles. In managing
12 its investments, the City shall seek opportunities to conduct business with institutions
13 ((;)) that, by their charter and ongoing business practices, seek to benefit the common
14 good, engage in fair business practices, and do not solely pursue maximum profit.

15 When two or more investment institutions offer essentially the same maturity, yield,
16 quality, and liquidity, it will be the intent of the City to give priority to:

- 17 a. The institution based in Seattle, then
18 b. Other financial institutions in the State of Washington, and then
19 c. Other financial institutions.

20 Section 5. The City Council strongly encourages and requests the Mayor and Director of
21 Finance and Administrative Services, pursuant to their authority under Section 3.39.020 and
22 Chapter 20.70 of the Seattle Municipal Code:

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Edward B. Murray, Mayor

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Filed by me this _____ day of _____, 2016.

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Monica Martinez Simmons, City Clerk

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(Seal)