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Hon. Beth M. Andrus
ORAL ARGUMENT SET
October 27, 2017 @ 11 a.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MARK ELSTER and SARAH PYNCHON, Plaintiffs, vs. THE CITY OF SEATTLE, Defendant.	No. 17-2-16501-8 SEA CITY OF SEATTLE'S RULE 12(b)(6) MOTION TO DISMISS

I INTRODUCTION AND RELIEF REQUESTED

In November 2015, Seattle's voters overwhelmingly approved Initiative I-122 ("Initiative") whose overarching goal is to "build[] honest elections . . . and prevent corruption" in local races for elected office. Two individual taxpayers seek to invalidate an important aspect of the Initiative that facilitates speech: The Democracy Voucher Program.[1] Far from being a so-called "political enrichment tax" that contravenes the First Amendment rights of individual taxpayers, the Program allocates funds in a viewpoint neutral manner that advances, not hinders, the First Amendment. The

[1] Given his participation in the Democracy Voucher Program, City Attorney Peter S. Holmes has chosen to ethically screen himself from this matter. Accordingly, City Attorney Holmes has not participated in this case in any respect.

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United States Supreme Court held as much over forty years ago in *Buckley v. Valeo*, 424 U.S. 1 (1976). While the campaign finance legal landscape may have changed since *Buckley*, one thing has not: Public financing of elections promotes, not hinders, the First Amendment. That holding from *Buckley* is as solid today as it was forty years ago. And this is particularly so here, where the program in question operates in an entirely neutral fashion. Indeed, from the perspective of the First Amendment, the Democracy Voucher Program promotes First Amendment values even more clearly than the program upheld in *Buckley*.

In the world of First Amendment campaign finance jurisprudence the nature of the challenge and the parties are critical. Thus, at the threshold, it is important to understand what this case is *not* about. This case is not about a candidate who is claiming the Program gives her opponent an unfair advantage, limits her access to the ballot, or inhibits the amount of money she may spend in support of her candidacy. This case is not about donors challenging contribution limits. This case is not about an advocacy group challenging limits on independent expenditures or coordinating political spending with a preferred candidate. This is not a case about forced association. Rather, this is a case about only whether a public financing scheme, which is funded by a tax on individuals who choose to own property in Seattle, violates the First Amendment. Because the Program does not implicate, much less violate, the First Amendment, Plaintiffs' Complaint should be dismissed.

II STATEMENT OF FACTS

Plaintiffs challenge only one aspect of the Initiative—the Democracy Voucher Program—which was passed in accordance with state and local law. Plaintiffs' challenge is that the Program violates the First Amendment because it requires them to pay a tax that facilitates speech that they may disagree with. *See generally* Complaint.

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The Initiative was filed with the City Clerk on April 3, 2015. *See* Appendix A.[2] On July 2, 2015, the City Clerk received a certificate of sufficiency from the King County Elections Director certifying that the Initiative had sufficient valid petition signatures. *See* Appendix B. Normally, one option for the City Council in response to an initiative petition is to adopt the initiative as an ordinance. Seattle Charter Article IV § 1.C. That option, however, was not available with the Initiative because in addition to containing other regulations relating to public participation in government, the Initiative proposed a system of public financing of City political campaigns funded by an additional property tax. RCW 42.17A.550 states that a local government must submit any proposal for public financing of local political campaigns to voters for their adoption and approval or rejection. The property tax increase proposed by the Initiative also required voter approval. *See* RCW 84.55.050. Thus, the Council sent the Initiative to the November 2015 ballot. *See* Appendix C.

The Initiative was approved by Seattle voters in November 2015. *See* Appendix D. The "Yes" votes were 115,994 (63.14% of the vote)—the "No" votes were 67,714 (36.86%). *Id.* The Initiative is now codified in Title 2 of the Seattle Municipal Code (SMC) entitled Honest Elections Seattle. SMC 2.04.600—690.

The purpose of the Initiative is stated as follows:

> This people's initiative measure builds honest elections in the City of Seattle ("City" or "Seattle") and prevents corruption, by: giving more people an opportunity to have their voices heard in our democracy; ensuring a fair elections process that holds our elected leaders accountable to us by strengthening voters' control over City government; banning campaign contributions by City contractors and entities using paid lobbyists; lowering campaign contribution limits; tightening prohibitions on lobbying by former elected officials (the "revolving door" problem); expanding requirements for candidates to disclose their financial holdings and interests; and increasing fines on violators of campaign rules. This measure also creates a Democracy Voucher campaign public

[2] Seattle asks the Court to take judicial notice of government documents posted on the internet by King County Elections and the Seattle City Clerk's Office. For the Court's convenience, the relevant portions of these documents are attached as Appendices A through D.

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> finance program ("Democracy Voucher Program" or "Program") to expand the pool of candidates for city offices and to safeguard the people's control of the elections process in Seattle.

SMC 2.04.600(a); I-122 Section 1.[3] While the Initiative enacted several regulatory changes to fulfill this purpose, Plaintiffs challenge only the Democracy Voucher Program.[4]

The Program is "vital to ensure the people of Seattle have an equal opportunity to participate in political campaigns and be heard by candidates, to strengthen democracy, fulfill other purposes of this subchapter and prevent corruption." SMC 2.04.620(a). The Program provides four $25 vouchers be given to each Seattle voter per city election, assignable to and redeemable by candidates who voluntarily agree to campaign spending and contribution limits. SMC 2.04.620; I-122 Section 1. The vouchers are funded in part by a property tax levy approved by the voters as part of the Initiative in accordance with RCW 84.55.050. I-122, Section 2. The levy will raise a maximum of $30,000,000 over its ten-year duration. *Id*. Initially, the vouchers can only be used for City Council and City

[3] A copy of the Initiative is attached to Plaintiffs' Complaint.

[4] The Initiative also made numerous other changes to Seattle's Election Code. For example, civil penalties for election law violations are increased from $10/day to $75/day and a $250-1000/day penalty is created for violations within 30 days before an election. *See* I-122, Section 3. Prior to the effective date of I-122, when reporting personal finances of candidates and their families, candidates needed only state the income bracket, and the top income bracket was described as "above $25,000." *See* I-122 amended SMC 2.04.165 to add more brackets, making "above $5,000,000" the top income bracket. I-122 also requires reporting market value of stock and a candidate's estimated net worth. *Id*, I-122, Section 4. I-122 reduced maximum campaign contributions from $700 to $500, and then provides for periodic adjustments for inflation. SMC 2.04.370; I-122, Section 5. Elected officials and candidates are prohibited from accepting or soliciting campaign contributions from anyone having at least $250,000 in contracts with the City in the last two years or who has paid at least $5,000 in the last 12 months to lobby the City. *See* SMC 2.04.601-.602. If technologically feasible, candidates are required to disclose electronic transfers into their accounts. *Id.* Compensated signature gatherers must display "PAID SIGNATURE GATHERER" on a sign, placard, or badge. SMC 2.04.606. Elected officials and their top-paid aides/employees are prohibited from lobbying the City for pay for three years after leaving the office/position. *See* SMC 2.04.607.

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Attorney elections. SMC 2.04.690; I-122 Section 1. Vouchers can be used for Mayoral elections starting in 2021. *See id.*

The program is voluntary. If candidates elect to participate, they must agree to lower contribution limits and to take part in at least three public debates. *See* SMC 2.04.630(b); I-122, Section 1. To qualify to receive democracy vouchers a candidate is required to collect a certain number of qualifying signatures and contributions from Seattle residents. *Id.* Nothing in the Initiative conditions the receipt of funds on the political party (or lack thereof) or the views and positions of the candidate. Candidates for City Council district and City Attorney races may receive no more than $150,000 from redeemed vouchers in an election cycle. *See* SMC 2.04.630(d); I-122, Section 1. Candidates for Council City-wide races may receive no more than $300,000 from redeemed democracy vouchers in an election cycle. *Id.* Candidates in mayoral races may receive no more than $800,000 from redeemed democracy vouchers in an election cycle. *Id.* All unspent funds received from the Program must be returned. *See* SMC 2.04.630(j); I-122, Section 1.

III STATEMENT OF ISSUES

1) Does the Democracy Voucher Program implicate the First Amendment? **No**.

2) Assuming the First Amendment is implicated, does the Democracy Voucher Program violate the First Amendment rights of people who choose to own property in Seattle? **No**.

IV EVIDENCE RELIED UPON

The City relies on Plaintiffs' Complaint, with its attachment, as well as documents that are subject to judicial notice and which are attached as Appendices hereto.

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V ARGUMENT

A. Plaintiffs lack taxpayer standing.

Plaintiffs bring this lawsuit based on the allegation that they pay taxes that fund candidates they disagree with, not on the fact that they are a candidate or that they intend to run for office in the future. *See*, Compl. ¶ 1. As such, Plaintiffs must demonstrate taxpayer standing. To do that, the party "[1] must be a taxpayer, [2] request that the attorney general take action, and [3] have the request denied before commencing her own action." *Huff v. Wyman*, 184 Wn.2d 643, 649, 361 P.3d 727 (2015) (alterations added). A review of Plaintiffs' Complaint demonstrates that they have not satisfied the second and third requirements. Nothing in the Complaint alleges that Plaintiffs made a request to the Attorney General, nor does it allege that the Attorney General denied any request that may have been made. Thus, Plaintiffs lack taxpayer standing and dismissal on this ground is appropriate.

B. The Democracy Voucher program does not implicate the First Amendment.

Plaintiffs' Complaint rests on a false premise—that the payment of a tax carries with it First Amendment consequences—and therefore their claims fail as a matter of law. Seattle has not restricted Plaintiffs' speech. It has not even compelled Plaintiffs to speak. It has simply taxed Plaintiffs for a plainly legitimate governmental purpose. No court has ever recognized any First Amendment right by taxpayers to invalidate a government program with which they disagree.

In this case, Plaintiffs are not required to support any specific candidate or be associated with any message or candidate they agree or disagree with. Thus, this is decidedly not a case where the government is requiring Plaintiffs to associate with a message they disagree with or engage in any specific act to which they object. *See, e.g.*, *Wooley v. Maynard*, 430 U.S. 705 (1977) (state may not compel individuals to display "Live Free or Die" on their license plates); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (compelled flag salute and Pledge of Allegiance in public schools

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violates the First Amendment).[5] As the Supreme Court explained in a similar context:

> The use of assessments to pay for advertising does not require respondent to repeat an objectionable message out of their own mouths, require them to use their own property to convey an antagonistic ideological message, force them to respond to a hostile message when they would prefer to remain silent, or require them to be publicly identified or associated with another's message. Respondents are not required themselves to speak, but are merely required to make contributions for advertising.

Glickman v. Wileman Bros. & Elliot, Inc., 521 U.S. 457, 470-71 (1997) (citations omitted); *see also PruneYard Shopping Ctr. v. Robins*, 447 U.S. 74, 85-88 (1980) (rejecting property owner's First Amendment claim based on alleged right to exclude speech at private shopping mall).

The fact that the Program funds political speech is of no constitutional moment. The Court's decision in *Buckley v. Valeo*, *supra*, fully resolves any First Amendment issue. In *Buckley*, the Court considered, among other issues, a federal statute that created a system of public financing for presidential election campaigns. 424 U.S. at 85. This system was challenged by several individuals and entities, including minor parties and potential candidates. *Id.* at 7-8. The system at issue in *Buckley* provided public funding for presidential nominating conventions, and general and primary election campaigns, and the allocation of funds from the system drew distinctions between "major," "minor," and "new" political parties. *Id.* at 87-90 (explaining mechanics of the system). The challengers claimed, among other things, that the system violated the First Amendment and the Fifth Amendment on equal protection grounds. *Id.* at 90.

With respect to the First Amendment challenge, the Court held that public financing of campaigns "is a congressional effort, not to abridge, restrict, or censor speech, but rather to use public

[5] To the extent Plaintiffs claim that having to fund the Program itself violates the First Amendment because it requires them to fund a law they disagree with, *see* Compl. ¶ 52; that claim is easily dispatched. *See, e.g.*, *Johanns v. Livestock Mktg. Assoc.*, 544 U.S. 550, 559 (2005) ("Compelled support of government—even those programs of government one does not approve—is of course perfectly constitutional, as every taxpayer must attest.") (internal quotation omitted).

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money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people. Thus, [public financing of campaigns] furthers, not abridges, pertinent First Amendment values." 424 U.S. at 92; *see also Green Party of Conn. v. Garfield*, 616 F.3d 213, 227 (2d Cir. 2010) ("*Buckley* rejected the plaintiffs' First Amendment challenge out of hand[.]").[6] Thus, any claim that public financing of elections implicates, much less violates, the First Amendment is foreclosed by *Buckley*. As the Arizona Supreme Court held: "*Buckley* thus affirms the proposition that the public financing of political campaigns, in and of itself, does not violate the First Amendment, even though the funding may be used to further speech to which the contributor objects." *May v. McNally*, 55 P.3d 768, 771 (2002), *cert. denied*, *May v. Brewer*, 538 U.S. 923 (2003); *see also Libertarian Party of Indiana v. Packard*, 741 F.2d 981, 990 (7th Cir. 1984) ("the use of the public's tax dollars to finance qualifying political parties does not implicate taxpayers' first amendment rights."); *cf. Am. Party of Texas v. White*, 415 U.S. 767 (1974).

The fact that the program at issue in *Buckley* was a voluntary check off, as opposed to a tax levied on people who choose to own property, does not distinguish the Program from the one upheld in *Buckley*. *Buckley* strongly suggests that Congress, if it had chosen to do so, could have funded the

[6] *Butterworth v. Republican Party of Florida*, 604 So.2d 477 (Fla. 1992), is of no help to Plaintiffs. In that case, after recognizing that "publicly funding candidates advances the interests put forth by the State and does not abridge First Amendment values," the court concluded that "singling out political parties and associations to support the fund bears no relationship to the interest advanced." 604 So.2d at 480. Here, the Program is funded by a tax on individuals who choose to own property in the City of Seattle, and is not directed at any political party or association of individuals as was the case in *Butterworth*. *Id.* at 478-79 (noting that fund was funded in part by "a 1.5 percent assessment on all contributions," with certain exemptions, received by political parties and political committees). Likewise, *Vermont Society of Association Executives v. Milne*, 779 A.2d 20 (Vt. 2001), is equally unhelpful to Plaintiffs. *Milne* addressed a specific tax on lobbying expenditures, which violated the First Amendment because it singled-out First Amendment activities for special tax treatment. *Id.* at 31. The tax at issue here is not based on any First Amendment right to petition the government; but rather from the choice to own property in Seattle.

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system out of the general fund thus its ruling did not turn on the fact that the system was based on a voluntary check-off provision. 424 U.S. at 91-92; *see also May v. McNally*, 55 P.3d at 771 n.2 (Az. 2002); *Little v. Florida Dep't of State*, 19 F.3d 4, 5 (11th Cir. 1994) ("the holding of *Buckley* was not founded or dependent upon the characterization of the check-off as voluntary."); *Libertarian Party* at 990 ("this element of control in and of itself clearly is insufficient to implicate the first amendment"); *Bang v. Chase*, 442 F. Supp. 758, 768 (D. Minn. 1977) (per curiam; three-judge panel) (noting that *Buckley* held "that a tax check-off system which allows the taxpayer no choice as to where his contributions will go meets constitutional standards, a fortiori a system which affords the taxpayer some choice cannot be invalid"), *summarily aff'd sub nom.*, 436 U.S. 941 (1978).

In fact, one of the challenges to the scheme at issue in *Buckley* was that it offended the First Amendment because an individual could not specifically direct which candidates the funds went to and Plaintiffs press a similar challenge. *See* Compl. ¶¶ 57-58. *Buckley* rejected this claim because appropriating money out of the fund "is like any other appropriation from the general revenue" and the "fallacy" inherent in this argument is that "every appropriation made by Congress uses public money in a manner in which some taxpayers object." 424 U.S. at 91-92. Yet obviously, such an objection did not raise First Amendment concerns. Thus, consistent with the First Amendment, "Congress need not provide a mechanism for allowing taxpayers the means in which their particular tax dollars are spent." *Id.* at 92 n.125. Accordingly, the Program at issue here does not implicate, much less violate, the First Amendment.

C. No authority subsequent to *Buckley* draws its conclusions into doubt.

Plaintiffs seek to change the rule of *Buckley*. But there is no authority that gives this Court any reason to remake First Amendment law fundamentally. The cases Plaintiffs cite in support of their novel theory of the First Amendment, *see* Compl. ¶¶ 2, 50, have never been extended as far as

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Plaintiffs stretch them. And, in fact, the United States Supreme Court has refused to apply these cases in a related context, and the Arizona Supreme Court and U.S. Court of Appeals for the Seventh Circuit have both rejected their application in virtually identical contexts. Given all of this, even if the First Amendment is implicated by the tax in question, Plaintiffs' claims still fail as a matter of law.

1. *Abood* and its progeny.

Plaintiffs rely on a series of cases in which the Court has upheld the rights of citizens not to be compelled to associate either with a message or movement. These cases have nothing to do with a tax that supports viewpoint neutral political speech. The progenitor of these cases is *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), which was decided a Term after *Buckley*. *Abood* involved a challenge by nonunion public-school teachers to an agreement that required them, as a condition of employment, to pay a service fee equal in amount to union dues. *Id.* at 211-12. The teachers objected to paying the fee and claimed that union's use of the fees to engage in political speech violated their "freedom of *association* protected by the First and Fourteenth Amendments." *Id.* at 213 (emphasis added). The Court agreed and held that the First Amendment prohibited the forced contribution of fees "to the support of an ideological cause he may oppose as a condition of holding a job as a public school teacher." *Id.* at 235. Despite this ruling, the Court said: "We do not hold that a union cannot constitutionally spend funds for the expression of political views, on behalf of political candidates, or toward the advancement of other ideological causes not germane to it duties as a collective-bargaining representative," so long as the dues payers were not "coerced into doing so against their will by the threat of loss of governmental employment." *Id.*

Next came *Keller v. State Bar of California*, 496 U.S. 1 (1990). There, the Court held that while lawyers admitted to practice in California could be required to join the bar association and to fund activities "germane" to the bar's mission of "regulating the legal profession and improving the

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quality of legal services," *id.* at 13; the lawyers could not, however, be required to fund the political messages of the bar association itself. *See id.* at 16.

In *Knox v. SEIU, Local 1000*, the Court addressed the question of "whether the First Amendment allows a public-sector union to require objecting nonmembers to pay a special fee for the purpose of financing the union's political activities." 567 U.S. 298, 302 (2012). In resolving that question, the Court held only that "when a public-sector union imposes a special assessment or dues increase, the union must provide a fresh *Hudson*[7] notice and may not exact any funds from nonmembers without their affirmative consent." *Id.* at 322 (2012).

Lastly, in *Harris v. Quinn*, the Court addressed "whether the First Amendment permits a State to compel personal care providers to subsidize speech on matters of public concern by a union that they do not wish to join or support." 134 S. Ct. 2618, 2623 (2014). In ruling that the First Amendment did not allow such compulsion, the Court held that a "State may not force every person who benefits from [a union's] efforts to make payments to the group." *Id.* at 2638.

These cases have never been read to imply a general immunity from taxation for any speech related activity that a taxpayer opposes. To the contrary, we are all required to subsidize expressive activity we disagree with, whether we are Democrats during a Republican administration, or Republicans during a Democratic administration. As the Supreme Court has indicated: "*Abood*, and the cases that follow it, did not announce a broad First Amendment right not to be compelled to provide financial support for any organization that conducts expressive activities. Rather, *Abood* merely recognized a First Amendment interest in not being compelled to contribute to an organization whose expressive activities conflict with one's freedom of belief." *Glickman* 521 U.S. at 471 (1997)

[7] This refers to *Teachers v. Hudson*, which identified procedural requirements that unions must follow in order to collect fees from nonmembers. 475 U.S. 292, 302-311 (1986).

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(quotation omitted). In each of these dues cases, the scheme at issue worked both a form of "compelled speech and association," and it was that combination that imposed upon the First Amendment rights of those dissenting individuals. *Knox*, 567 U.S. at 310-11 (2012).

2. *Southworth*'s rejection of applying *Abood*.

Board of Regents of University of Wisconsin System v. Southworth, affirms this view. In that case, the Court rejected a First Amendment challenge to the imposition of "a mandatory student activity fee" that was used to fund student organizations who engaged in "political or ideological speech." 529 U.S. 217, 221 (2000). The Court held that the "First Amendment permits a public university to charge its students an activity fee used to fund a program to facilitate extracurricular student speech if the program is viewpoint neutral." *Id*.

At issue in *Southworth* was a mandatory activity fee that "amounted to $331.50 per year," which was "segregated from the University's tuition charge." *Id.* at 222. The fee funded, among other things, such groups as the "College Democrats," the "College Republicans," and activities such as "displaying posters and circulating newsletters throughout the campus, to hosting campus debates and guest speakers, and to what can best be described as political lobbying." *Id.* at 223. Several students alleged that the imposition of the fee, without any ability to opt-out of funding organizations "that engage in political and ideological expression offensive to their personal beliefs," "violated their rights of free speech, free association, and free exercise under the First Amendment." *Id.* at 227.

At the outset, the Court recognized the unremarkable proposition that:

> It is inevitable that government will adopt and pursue programs and policies within its constitutional powers but which nevertheless are contrary to the profound beliefs and sincere convictions of some of its citizens. The government, as a general rule, may support valid programs and policies by taxes or other exactions binding on protesting parties.

Southworth at 229; *see also United States v. Lee*, 455 U.S. 252, 260 (1982) ("The tax system could

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not function if denominations were allowed to challenge the tax system because tax payments were spent in a manner that violates their religious belief."). Like the Plaintiffs' here, the objecting students relied on *Abood* to argue that compelling them to fund speech with which they disagreed violated the First Amendment. "While those precedents identify the interests of the protesting students, the means of implementing First Amendment protections adopted in those decisions are neither applicable nor workable in the context of extracurricular student speech at a university." *Southworth* at 230.

In rejecting the application of *Abood* and its progeny, the Court noted that the "standard of germane speech as applied to student speech at a university is unworkable, however, and gives insufficient protection both to the objecting students and to the University program itself." *Southworth* at 231. This was so because the fee at issue was designed "to stimulate the whole universe of speech and ideas." *Id.* at 232. And although it was "inevitable that the fees will result in subsidies to speech which some students find objectionable and offensive to their personal beliefs," the Court refused to "impose" any requirement that a student be able to opt out of the system or to allow students to direct the specific groups to which their respective fees should go. *Id.* at 232. That said, the Court did note that "University must provide some protection to its students' First Amendment interests" and it found that "protection for objecting students [in] the requirement of viewpoint neutrality *in the allocation* of funding support." *Id.* at 233 (emphasis added). In other words, so long as the money in the fund was allocated in a viewpoint neutral manner, the objecting students' First Amendment interests were adequately protected.

3. Viewpoint neutrality adequately protects whatever First Amendment interests may be at stake in this case.

There is no authority for this Court rejecting *Southworth*, and radically extending the reach of the *Abood* line of cases. The funding of political speech through a tax is not forced association with

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any message or candidate.[8] As the Seventh Circuit explained:

> As we interpret *Buckley*, the reason the government constitutionally may be allowed to use public funds to finance political parties is that the funds *are not considered to be contributing to the spreading of a political message, but rather are advancing an important public interest*, the facilitation of public discussion and participation in the electoral process, goals vital to a self-governing people. In contrast, the fees at issue in *Abood* were being used to support the particular partisan viewpoints of one private organization.
>
> [. . .]
>
> According to *Buckley*, [Plaintiffs'] money would be going to facilitate and enlarge public discussion and participation in the electoral process, that these [Plaintiffs] may have a different view does not create in them the type of first amendment rights afforded to dissenters in a case such as *Abood*.

Libertarian Party, 741 F.2d at 989-90 (emphasis added; citations and quotations omitted).

In *Abood* and its progeny, the objecting party had to directly fund the very organization with whom they disagreed. Thus, the funds were directly traceable from the individual to the very organization they opposed, which sharpened associational concerns. Here, in sharp contrast, Plaintiffs do not directly fund any candidate with whom they disagree. Rather, they merely pay a tax, which then goes into a fund, which is then neutrally distributed to qualifying candidates who elect to participate in the Program. This lack of directness is constitutionally significant because there is no "clear connection between fee payer and offensive speech that loomed large in our decisions in the union and bar cases[.]" *Bd. of Regents of Univ. of Wis. Sys. v. Southworth*, 529 U.S. at 240 (Souter, J., concurring); *see also PruneYard*, 447 U.S. at 87 (1980) (noting that First Amendment was not violated where "views expressed by members of the public . . . will not likely be identified with those

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[8] Interestingly, Plaintiffs' counsel in this case conceded in *May v. McNally*, *supra*, that "tax dollars . . . may be spent on expressive activity without violating taxpayers' First Amendment rights[.]" 55 P.3d at 773; *see also* 2002 WL 32881004, at * 3 (July 22, 2002) (Amicus Brief of Pacific Legal Foundation). There, the Pacific Legal Foundation argued that only assessments, not taxes, "implicate First Amendment rights of people who must pay them." *Id.*

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of the owner."). What is more, unlike the *Abood* cases, the Program's aim is to broaden public discourse by providing a mechanism to allow more, not less, participation in the political process by residents of Seattle, which, as explained above, is completely appropriate under *Buckley*.

The irrelevance of *Abood* to the issues in this case is underscored by the Arizona Supreme Court's decision in *May v. McNally*, 55 P.3d 768 (Ariz. 2002). In *May*, the court addressed whether a ten-percent surcharge on civil and criminal fines that helped fund Arizona's public-financing scheme for political campaigns violated the First Amendment. 55 P.3d at 770. The challenger in that case was an Arizona state legislator who refused to pay the ten-percent surcharge on a parking ticket on the grounds "that doing so would violate his First Amendment right to free speech because the money might be used to fund the campaigns of candidates whose views he might oppose." *Id.* Relying on *Buckley*, the court initially determined "that the public financing of political candidates, in and of itself, does not violate the First Amendment, even though the funding may be used to further speech to which the contributor objects." *May* at 771.

The court also went on to address why *Abood* and its progeny did not apply, concluding that the viewpoint neutrality requirement announced in *Southworth* was more appropriate given the purpose of the program at issue. It said:

> While a university is certainly one venue in which the free and open exchange of ideas is encouraged, it is not the only one. Encouraging public debate in the political arena is at least as compelling a public purpose as encouraging speech on a university campus. Moreover, limiting *Southworth* to a university setting overlooks the thrust of the Court's analysis: If the government seeks to facilitate or expand the universe of speech and accomplishes its goal in a viewpoint neutral way, the question whether speech is germane is simply inapposite.
>
> We find the *Southworth* approach better suited than the *Abood* line of cases for analyzing the constitutionality of the Clean Elections Act. The university's goals in *Southworth* and the government's goals in funding clean elections are similar: Both seek to facilitate free speech. Moreover, both funding systems protect free speech rights by requiring viewpoint neutrality in the allocation of funds and attenuating the connection

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> between the payers of funds and the message communicated. The principles of *Buckley*—that government may use public funds to finance political speech—and *Southworth*—that viewpoint neutrality in the allocation of funds adequately safeguards First Amendment rights—support the conclusion that collecting a surcharge on civil and criminal fines to fund political campaigns does not violate the First Amendment.

May at 772-73. The principle that viewpoint neutrality can adequately protect First Amendment rights in cases not involving forced association has not been undermined by *Knox* or *Harris* and applies here. *Harris*, 134 S. Ct. at 2644 ("Our decision today thus does not undermine *Southworth*."); *see also id*. at 2652 (Kagan, J., dissenting) (noting application of *Abood* was unique to union context).

D. The Democracy Voucher Program is viewpoint neutral.

Viewpoint neutrality requires that government "abstain from regulating speech when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 829 (1995). Thus, if a program or restriction on speech favors one viewpoint or another, it is likely unconstitutional because viewpoint discrimination is "an egregious form of content discrimination." *Id.*[9]

The Democracy Voucher Program is viewpoint neutral in its *allocation of funds*, which is the constitutional touchstone. It does not provide funds only to Democrats or Republicans, but to all qualifying candidates. It does not provide funds only to candidates that are pro-tenant or pro-renter, but to all qualifying candidates. What is more, the recipient of such funds is under no restrictions

[9] Any claim that the law "discriminates based on content," misses the doctrinal mark. Compl. ¶ 52. The Court's content-based jurisprudence focusses on *regulations of speech* that draws distinctions "based on a message [and] defining *regulated speech* by a particular subject matter." *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2227 (2015) (plurality) (emphasis added). At base, content-based restrictions are impermissible because they are "based on the message the speaker conveys" or because the government disagrees "with the message the speech conveys." *Id.* (quotations and alterations omitted). Here, no speech is being regulated, let alone regulated in a content-based manner. *Id.* at 2233 (content-based laws "limit[] speech based on its 'topic' or 'subject'") (Alito, J. concurring). Indeed, as explained above, far from regulating or limiting speech, public financing of campaigns facilitates speech. *See supra* Part IV.B (discussing *Buckley*).

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whatsoever in their freedom to say whatever they want in the heat of a campaign. For example, if a voucher recipient wanted to run on a platform that the Democracy Voucher Program was bad policy or unconstitutional, nothing would prevent her from doing so. Here, as in Arizona, Program funds are allocated "to all qualifying candidates, regardless of party, position, or message, and thus the surcharge payers are not linked to any specific message, position, or viewpoint. The viewpoint of the disposition of the funds distinguishes this case from *Abood*" and its progeny. *May*, 55 P.3d at 772 (Ariz. 2002). Under viewpoint neutrality, allocation of the funds is dispositive.

Indeed, Plaintiffs' Complaint does not even adequately allege that only favored viewpoints can participate in the program. If anything, Plaintiffs' Complaint supports the opposite conclusion. The Complaint does not allege that their preferred candidate—Sara Nelson—could not muster sufficient enough support to receive funds under the program, rather the Complaint alleges only that certain candidates "have declined to participate because of ethical and constitutional objections to the program." *See* Compl. ¶ 41; *see also id.* at ¶¶ 57-58. Even assuming this is true, this was a choice Plaintiffs' preferred candidate chose to make, and Plaintiffs' cannot create a constitutional claim over a choice that was completely beyond the City's control.[10] At base, the law is completely neutral as to who receives funds. No candidate is required to participate in the program, and no candidate is prevented from participating in the program if they receive a basic threshold of support.

As *Buckley* acknowledged, public funding schemes like this one do not in any way prohibit

[10] To the extent Plaintiffs' challenge any impact the Democracy Voucher Program has on *candidates*, as opposed to individuals who chose to own property in Seattle, Plaintiffs lack standing to bring such a challenge because neither of them are actual candidates, nor do they allege either intends to run for office. Under Washington law, it is "clear that a person may not urge the unconstitutionality of a statute *unless he is harmfully affected by the particular feature* of the statute alleged to be violative of the constitution." *See, e.g.*, *Amunrud v. Bd. of Appeals*, 124 Wn. App. 884, 892, 103 P.3d 257 (2004) (quoting *State v. Rowe*, 60 Wn.2d 797, 799, 376 P.2d 446 (1962)) (emphasis added; alteration omitted).

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candidates who choose not to participate from raising "money from private sources[.]" 424 U.S. at 99. Nor do they impact voters' rights because

> the denial of public financing to some Presidential candidates *is not restrictive of voters' rights* and less restrictive of candidates. [The funding mechanism] does not prevent any candidate from getting on the ballot or any voter from casting a vote for the candidate of his choice; the inability, if any, of minor-party candidates to wage effective campaigns will derive not from lack of public funding but from their inability to raise private contributions.

424 U.S. at 94-95 (emphasis added). The same is true here. No candidate is prevented from participating in the Program, and the lack of participation in the Program by a preferred candidate does not harm the First Amendment rights of any voter or individual whose tax dollars flow into the Program. As with the compelled funding of Arizona's Clean Elections Law upheld in *May*, "the safeguard of viewpoint neutrality *in the allocation of funds* suffices to mitigate any First Amendment concerns." 55 P.3d at 431 (emphasis added); *see also Southworth*, 529 U.S. at 233 (2000) ("The proper measure, and the principle standard of protection for objecting students, we conclude, is the requirement of viewpoint neutrality in the *allocation of funding* support.") (emphasis added).

* * *

In summary, the Democracy Voucher Program, like the program in *Southworth*, (1) serves the compelling governmental interests of promoting discussion of, and participation in, the electoral process and preventing corruption and (2) adequately protects whatever First Amendment rights are at stake because it allocates money in a viewpoint neutral manner, which attenuates any connection between a taxpayer and any message candidates may communicate.

VI CONCLUSION

For the foregoing reasons, the City respectfully requests that this Court dismiss Plaintiffs' Complaint with prejudice. An appropriate order will be provided with the City's Reply.

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CERTIFICATE OF COMPLIANCE

I certify that this Motion to Dismiss contains 6,284 words in compliance with the Local Civil Rules of the King County Superior Court as amended September 1, 2016.

DATED this 12th day of September, 2017.

OFFICE OF THE SEATTLE CITY ATTORNEY

By: */s/ Michael Ryan*
Michael Ryan, WSBA# 32091
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Attorneys for Defendant City of Seattle

By: */s/ Lester Lawrence Lessig*
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Co-Counsel for Defendant City of Seattle

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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the Notice for Hearing and the City of Seattle's Rule 12(b)(6) Motion to Dismiss was served on all counsel of record as noted below:

Attorneys for Plaintiffs: Ethan W. Blevins Wencong Fa PACIFIC LEGAL FOUNDATION 10940 33rd Place NE, Suite 210 Bellevue, WA 98004 (425) 576-0484 / (916) 419-7111	☑ By E-mail/King County E-Service Filing Notification: EBlevins@pacificlegal.org WFa@pacificlegal.org

DATED this 12th day of September, 2017.

/s/ Lisë M.H. Kim
Lisë M.H. Kim, Legal Assistant
E-mail: lise.kim@seattle.gov

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City of Seattle Legislative Department
Office of the City Clerk

Monica Martinez Simmons, City Clerk

Via E-Mail and USPS

April 3, 2015

Cleveland Stockmeyer, PLLC
8056 Sunnyside Ave. N.
Seattle, WA 98103

SUBJECT: *Proposed Initiative Measure No. 122, relating to a "Democracy Vouchers" program for public finance of local campaigns*

Dear Mr. Stockmeyer:

This notice acknowledges the receipt and filing of the subject proposed initiative measure with the Office of the City Clerk on Friday, April 3, 2015, at 11:13 a.m. An identification number was issued to the initiative measure upon filing and provided for your record.

The submitted petition has been reviewed for compliance with the appropriate formatting requirements. As provided for in SMC 2.08.040, the petition is in acceptable form.

Please be advised the proposed initiative measure was transmitted to the City Attorney's Office for review and preparation of a ballot title. The Office of the City Clerk will be in contact with you in writing and by telephonic notification no later than the end of business on Friday, April 10, 2015, for the purpose of transmitting the final ballot title for the initiative measure.

Should you have any questions regarding the process or the information contained herein, please contact me at 206-684-8361 or by email at monica.simmons@seattle.gov.

Sincerely,

Monica Martinez Simmons
City Clerk

600 4th Avenue Floor 3, PO Box 94728, Seattle, Washington 98124-4728
(206) 684-8344 Fax: (206) 386-9025 TTY: (206) 233-0025
email: clerk@seattle.gov
Accommodations for people with disabilities provided upon request. An equal opportunity employer

Appendix A

King County

Department of Elections
Sherril Huff, Director

FILED
CITY OF SEATTLE
2015 JUL -2 AM 10: 52
CITY CLERK

King County
Department of Elections

CERTIFICATE OF SUFFICIENCY

THIS IS TO CERTIFY that the petition, originally submitted on June 3, 2015 to the King County Elections Department, regarding the City of Seattle Proposed Initiative Measure Number 122, has been examined and the signatures thereon carefully compared with the registration records of the King County Elections Department, and as a result of such examination, found the signatures to be sufficient under the provisions of the Revised Code of Washington 35.21.005.

Dated this 23rd day of June 2015

Sherril Huff, Director

Appendix B

SEATTLE CITY COUNCIL

Legislative Summary

Res 31601

Record No.: Res 31601 **Type:** Resolution (Res) **Status:** Passed at Full Council

Version: 1 **In Control:** Full Council

File Created: 07/16/2015

Final Action: 07/20/2015

Title: A RESOLUTION regarding a voter-proposed Initiative Measure concerning public participation in government, including creation of a publicly-financed election campaign program and regulation of campaign donations and lobbying; authorizing the City Clerk and the Executive Director of the Ethics and Elections Commission to take those actions necessary to enable the proposed Initiative to appear on the November 3, 2015 election ballot and the local voters' pamphlet; requesting the King County Elections' Director to place the proposed initiative on the November 3, 2015 election ballot; providing for the publication of such initiative; and repealing Resolution 31600.

Notes:

Sponsors: Burgess

Attachments: Att A - Initiative Measure No.122

Drafter:

Date

Filed with City Clerk:

Mayor's Signature:

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	07/16/2015	sent for review	Council President's Office			
	Action Text:	The Resolution (Res) was sent for review. to the Council President's Office					
	Notes:						
1	Council President's Office	07/16/2015	sent for review	Full Council			
	Action Text:	The Resolution (Res) was sent for review. to the Full Council					
	Notes:						
1	Full Council	07/20/2015	adopted				Pass
	Action Text:	The Resolution (Res) was adopted by the following vote and the President signed the Resolution:					

Appendix C

Notes:

In Favor:	8	Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Councilmember Rasmussen, Councilmember Sawant
Opposed:	1	Councilmember Okamoto

Lish Whitson/ems
LEG Initiative 122 RES
July 17, 2015
D2b

CITY OF SEATTLE

RESOLUTION 31601

A RESOLUTION regarding a voter-proposed Initiative Measure concerning public participation in government, including creation of a publicly-financed election campaign program and regulation of campaign donations and lobbying; authorizing the City Clerk and the Executive Director of the Ethics and Elections Commission to take those actions necessary to enable the proposed Initiative to appear on the November 3, 2015 election ballot and the local voters' pamphlet; requesting the King County Elections' Director to place the proposed initiative on the November 3, 2015 election ballot; providing for the publication of such initiative; and repealing Resolution 31600.

WHEREAS, proponents of reducing the influence of money in government; ensuring accountability; preventing corruption; and creating a program for public financing of elections have submitted to the Office of the City Clerk a petition bearing a sufficient number of signatures to qualify the proposed Initiative filed in Clerk File 319323 ("City of Seattle Initiative Measure No. 122") for placement on the November 3, 2015 election ballot; and

WHEREAS, Article IV of the City Charter specifies that it shall be the duty of the City Council to submit an initiative bearing a sufficient number of signatures to the voters of the City for their ratification or rejection; and

WHEREAS, RCW 42.17A.550 states that a local government must submit any proposal for public financing of local political campaigns to voters for their adoption and approval or rejection; and

WHEREAS, the City Council on July 13, 2015 adopted Resolution 31600 to place Initiative Measure No. 122 on the ballot; and

WHEREAS, Resolution 31600 contained some non-substantive errors, including incorrectly referring to the initiative, in the title of the resolution, as a Charter amendment; and

WHEREAS, that reference might confuse the public when the resolution is included in the local voters pamphlet; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:

Section 1. The City Clerk is authorized and directed to take those actions necessary to place City of Seattle Initiative Measure No. 122 filed in Clerk File 319323, a copy of which is attached as attachment A, on the November 3, 2015 election ballot, including but not limited to publishing the proposed initiative measure as provided by the City Charter.

Section 2. The Executive Director of the Ethics and Elections Commission is authorized and requested to take those actions necessary to place information regarding City of Seattle Initiative Measure No. 122 in the November 3, 2015 voters' pamphlet.

Section 3. The Director of Elections of King County, Washington, as ex officio supervisor of elections, is requested to place City of Seattle Initiative Measure No. 122 on the November 3, 2015 election ballot, with the following ballot title approved by the Seattle City Attorney:

THE CITY OF SEATTLE
INITIATIVE MEASURE NUMBER 122

The City of Seattle Initiative Measure Number 122 concerns public participation in government, including publicly-financed election campaigns, and lobbying.

If enacted, the measure would limit election campaign contributions from entities receiving City contracts totaling $250,000 or more, or from persons spending $5,000 or more for lobbying; require 24-hour reporting of electronic contributions; require paid signature gatherer identification; limit lobbying by former City officials; create a voluntary program for public campaign financing through $100 vouchers issued to registered voters funded by ten years of additional property taxes, with $3,000,000 (approximately $0.0194/$1000 assessed value) collected in 2016.

Should this measure be enacted into law?

Yes .....☐

No .....☐

Those in favor shall vote "Yes;" those opposed shall mark their ballots "No."

Section 4. Resolution 31600 is repealed.

Adopted by the City Council the 20th day of July, 2015, and signed by me in open session in authentication of its adoption this 20th day of July, 2015.

President _____ of the City Council

Filed by me this 21st day of July, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

Attachment A: Initiative Measure No. 122

Please return signed petitions to/Contact us at:

Honest Elections Seattle Initiative No. 122

PO Box 20664, Seattle, WA 98102 -- tel.: (206) 436-0292
e mail: info@honestelectionsseattle.org -- website: honestelectionsseattle.org

INITIATIVE PETITION FOR SUBMISSION TO THE SEATTLE CITY COUNCIL. To the City Council of The City of Seattle: We, the undersigned registered voters of The City of Seattle, State of Washington, propose and ask for the enactment as an ordinance of the measure known as Initiative Measure No. 122, entitled:

THE CITY OF SEATTLE INITIATIVE MEASURE NUMBER 122

The City of Seattle Initiative Measure Number 122 concerns public participation in government, including publicly-financed election campaigns, and lobbying.

If enacted, the measure would limit election campaign contributions from entities receiving City contracts totaling $250,000 or more, or from persons spending $5,000 or more for lobbying; require 24-hour reporting of electronic contributions; require paid signature gatherer identification; limit lobbying by former City officials; create a voluntary program for public campaign financing through $100 vouchers issued to registered voters funded by ten years of additional property taxes, with $3,000,000 (approximately $0.0194/$1000 assessed value) collected in 2016.

Should this measure be enacted into law?

Yes ☐

No ☐

Those in favor shall vote, "Yes;" those opposed shall mark their ballots "No."

a full, true and correct copy of which is included herein, and we petition the Council to enact said measure as an ordinance, and, if not enacted within forty-five (45) days from the time of receipt thereof by the City Council, then to be submitted to the qualified electors of The City of Seattle for approval or rejection at the next regular election or at a special election in accordance with Article IV, Section 1 of the City Charter; and each of us for himself or herself says: I have personally signed this petition; I am a registered voter of The City of Seattle, State of Washington, and my residence address is correctly stated

WARNING: Ordinance 94269 provides as follows: "Section 1. It is unlawful for any person 1. To sign or decline to sign any petition for a City initiative, referendum, or Charter amendment, in exchange for any consideration or gratuity or promise thereof; or 2. To give or offer any consideration or gratuity to anyone to induce him or her to sign or not to sign a petition for a City initiative, referendum, or Charter amendment; or 3. To interfere with or attempt to interfere with the right of any voter to sign or not to sign a petition for a City initiative, referendum, or Charter amendment by threat, intimidation or any other corrupt means or practice; or 4. To sign a petition for a City initiative, referendum, or Charter amendment with any other than his or her true name, or to knowingly sign more than one (1) petition for the same initiative, referendum, or Charter amendment measure, or to sign any such petition knowing that he or she is not a registered voter of The City of Seattle." "Section 2. Any person violating any of the provisions of this ordinance shall upon conviction thereof be punishable by a fine of not more than Five Hundred Dollars ($500) or by imprisonment in the City Jail for a period not to exceed six (6) months, or by both such fine and imprisonment.

(*Only Registered Seattle Voters Can Sign This Petition*)

Petitioner's Signature	Printed Name	Residence Address Street & Number	Date Signed
1			
2			
3			
4			
5			
6			
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AN ACT relating to reducing the influence of money, ensuring accountability, and preventing corruption in City of Seattle government.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF SEATTLE:

Section 1. A new Subchapter VIII titled, "Honest Elections Seattle," is added to the Seattle Municipal Code, Chapter 2.04 - ELECTION CAMPAIGN CONTRIBUTIONS, as follows:

NEW SECTION 2.04.600 – Purpose and Authority. (a) Purpose. This people's initiative measure builds honest elections in the City of Seattle ("City" or "Seattle") and prevents corruption, by: giving more people an opportunity to have their voices heard in our democracy; ensuring a fair elections process that holds our elected leaders accountable to us by strengthening voters' control over City government; banning campaign contributions by City contractors and entities using paid lobbyists; lowering campaign contribution limits; tightening prohibitions on lobbying by former elected officials (the "revolving door" problem); expanding requirements for candidates to disclose their financial holdings and interests; and increasing fines on violators of campaign rules. This measure also creates a Democracy Voucher campaign public finance program ("Democracy Voucher Program" or "Program") to expand the pool of candidates for city offices and to safeguard the people's control of the elections process in Seattle. (b) Authority of the People. The People have vested legislative powers of the City in a Mayor and City Council, but reserved to themselves independent of the Mayor and the City Council the power to propose for themselves measures dealing with any matter within the realm of local affairs or municipal business. That power includes the use of an initiative petition to submit to the qualified electors of the city a measure as authorized by RCW 84.55.050 to exceed the limitations of regular property taxes contained in RCW Chapter 84.55, as it now exists or may hereinafter be amended. The authority of the people to adopt this measure is also specifically authorized and reserved to the electors of the City of Seattle by RCW 42.17A.550, which allows a city to use locally derived public funds (whether from taxes, fees, penalties or other sources) to publicly finance local political campaigns, if the proposal to do so is submitted to City of Seattle voters for their adoption and approval, or rejection.

NEW SECTION 2.04.601 – No Campaign Contributions from City Contractors or their PACs.
No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly accept any contribution directly or indirectly from any entity or person who in the prior two years has earned or received more than $250,000, under a contractual relationship with the City. No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly solicit a contribution for himself or herself or for any political party, political committee, campaign committee or public office fund, directly or indirectly from any entity or person who in the prior two years has earned or received more than $250,000, under a contractual relationship with the City. If the first sentence of this section is invalidated then no Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly accept any contribution of more than $250 in one calendar year, directly or indirectly, from any entity or person who in the prior two years has earned or received more than $250,000, under a contractual relationship with the City. If the second sentence of this section is invalidated then no Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly solicit a contribution of more than $250, for himself or herself or for any political party, political committee, campaign committee or public office fund, directly or indirectly from any entity or person who in the prior two years has earned or received more than $250,000, under a contractual relationship with the City. In all cases such a candidate or office holder may solicit and accept assignment of Democracy Vouchers without such solicitation or assignment being considered a violation of this section. If any part of this section is held invalid the remainder shall be construed to effect the anticorruption purposes of this section to the maximum extent allowable.

NEW SECTION 2.04.602 – No Campaign Contributions From Regulated Corporations/Industries that Hire Lobbyists. No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly accept any contribution directly or indirectly from any entity or person who during the past 12 month period has paid $5,000 or more to a lobbyist or lobbying entity (as such terms are defined in SMC 2.06.010) for lobbying the City of Seattle. No Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly solicit a contribution, for himself or herself or for any political party, political committee, campaign committee or public office fund, from any entity or person who during the past 12 month period has paid $5,000 or more to a lobbyist or lobbying entity (as such terms are defined in SMC 2.06.010) for lobbying the City of Seattle. If the first sentence of this section is invalidated, then no Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly accept any contribution of more than $250 in any one calendar year, directly or indirectly from any entity or person who during the past 12 month period has paid $5,000 or more to a lobbyist or lobbying entity (as such terms are defined in SMC 2.06.010) for lobbying the City of Seattle. If the second sentence of this section is invalidated, then no Mayor, City Council member or City Attorney or any candidate for any such position shall knowingly solicit a contribution of more than $250, for himself or herself or for any political party, political committee, campaign committee or public office fund, from any entity or person who during the past 12 month period has paid $5,000 or more to a lobbyist or lobbying entity (as such terms are defined in SMC 2.06.010) for lobbying the City of Seattle. In all cases such a candidate or office holder may solicit and accept assignment of Democracy Vouchers without such solicitation or assignment being considered a violation of this section. If any part of this section is held invalid the remainder shall be construed to effect the anticorruption purposes of this section to the maximum extent allowable.

NEW SECTION 2.04.605 – Expedited Reporting of Electronic Contributions. To ensure the Seattle Ethics and Elections Commission ("SEEC") creates an electronic reporting system that increases transparency, does not discriminate against low budget campaigns, and takes advantage of advances in information technology, all candidates for City of Seattle electoral offices shall report to the Seattle City Clerk any campaign contribution made electronically upon deposit into a candidate's account; provided that this provision shall take effect only after SEEC shall have determined that there are two or more electronic payment processing companies that have the capacity to report contributions to the SEEC as soon as the contribution is transferred to the candidate's account. To give campaigns time to prepare for this section, SEEC shall establish the effective date of this section by rule published reasonably in advance of the election cycle in which campaigns shall comply. SEEC shall ensure that before a contribution is required to be publicly disclosed as received by a campaign it shall have reasonable opportunity to reject or return undesired or illegal contributions.

NEW SECTION 2.04.606 – Signature Gatherers Must Disclose if Paid for Signatures. Any person or entity that is a compensated or paid signature gatherer for any City of Seattle ballot measure, initiative, referendum, or charter amendment shall disclose to each person from whom a signature is sought, in writing via a conspicuous, legible sign, placard, or badge, stating "PAID SIGNATURE GATHERER."

NEW SECTION 2.04.607 - Three-year Ban on Mayor, Councilmember, City Attorney or Top Staff Paid Lobbying. A former Mayor, City Council member, City Attorney, or City Department head or the highest paid aide or employee directly reporting to any of the foregoing, may not, during the period of three years after leaving City office or position, participate in paid lobbying as defined in SMC 2.06.010. If the foregoing sentence is invalidated, then a former Mayor, City Council member, City Attorney, or City Department head or the highest paid aide or employee directly reporting to any of the foregoing, may not, during the period of two years after leaving City office or position, participate in paid lobbying as defined in SMC 2.06.010.

NEW SECTION 2.04.620 - The Right to $100 in Democracy Vouchers, For Assignment to Qualified Candidates. (a) Democracy Vouchers. Democracy Vouchers are vital to ensure the people of Seattle have equal opportunity to participate in political campaigns and be heard by candidates, to strengthen democracy, fulfill other purposes of this subchapter and prevent corruption.
(b) Issuance of Democracy Vouchers. On the first business day in every municipal election year, SEEC shall mail to each person who was by the previous November 15th, duly registered to vote in the City of Seattle, at his or her address in the voter registration records, $100 in vouchers ("Democracy Vouchers") consisting of four Democracy Vouchers of $25 each, except that SEEC may deliver Democracy Vouchers online or in other manners if the person receiving same elects other manner of delivery as provided in this subchapter. Thereafter SEEC shall regularly issue $100 in Democracy Vouchers to any person becoming a duly registered City of Seattle voter after the previous November 15th, up until October 1st of the election year. To be consistent with federal law, any adult natural person who resides more than 30 days in the City of Seattle, and who is a registered voter, or is eligible to vote under local, state or federal law, or who is eligible under federal law to donate to a political campaign, but who has not received any Democracy Vouchers in the election cycle, may opt in to the Program and obtain an equivalent number of Democracy Vouchers by application to SEEC. Any eligible adult may request Democracy Vouchers be mailed or emailed to an address other than that indicated in the voter registration records, or be delivered at SEEC offices, as soon as SEEC shall have developed a secure system for such distributions of Democracy Vouchers, including distribution online, in person, or to an address not listed in voter registration records. No resident outside Seattle, no corporation or other non-human entity, no person under the age of 18 years, and no person ineligible to make political contributions under federal law, may receive a Democracy Voucher.
(c) Form of Democracy Vouchers. Each $25 Democracy Voucher shall state the holder's name, a unique voucher identification number, the election year, and words of assignment with blank spaces for the holder to designate a candidate and sign the holder's name, and may include information SEEC deems helpful for verifying signatures such as the voter identification number and barcode, in substantially the following form:

$25	**1 of 4**	**Democracy Voucher for 20xx Election**	**Jane Q. Public**

On [insert date] _____, 20xx, I, Jane Q. Public, a resident of the City of Seattle, assigned this Democracy Voucher to a candidate for mayor, city attorney or city council named _____.

I attest that I obtained this Democracy Voucher properly and make this assignment freely, voluntarily and without duress or in exchange for any payment of any kind for this assignment, and not for any consideration of any kind, and that I am aware that assignment does not guarantee availability of funds and is irrevocable. Assignment is complete upon delivery to Seattle Ethics and Elections Commission, the named candidate, or her or his registered representative. Sale/transfer for consideration of this Democracy Voucher is strictly prohibited. Voucher may be redeemed only by qualifying candidates and only if such candidate has complied with additional contributions and spending limits and if funds are available.
Signed: _____ on _____, 20xx.

Jane Q. Public	voter ID and bar code	**Voucher ID #123,456,789**

(d) Assignment of Democracy Vouchers. Vouchers are only transferable or assignable as stated herein. Any person properly obtaining and holding a Democracy Voucher may assign it by writing the name of the assignee candidate, and signing the holder's name on and dating the Voucher where indicated thereon, and delivering the signed and dated Voucher to the candidate, or to SEEC, or to any candidate's representative who shall be registered for this purpose with SEEC. Delivery may be by mail, in person (by any person the holder requests to deliver the voucher), or electronically via a secure SEEC online system. SEEC shall establish a secure online system for delivery of Democracy Vouchers (without prejudice to any eligible person's right to receive Democracy Vouchers in the mail at his or her option) no later than prior to the 2017 election cycle, unless SEEC determines this target date is not practicable; and in any event no later than the 2019 election cycle.
(e) Limitations on Assignment. A person may only assign a Voucher to a candidate who has chosen to participate in the Seattle Democracy Voucher Program and who has filed a signed statement of participation and pledge with SEEC as described below. No Democracy Voucher may be assigned after the last business day in November following the election, or to any candidate filing for participation who then fails to qualify or becomes unqualified for the position sought or for the Program. A candidate or registered candidate representative may seek assignment in person or through representatives or by assisting a voter to access the SEEC secure online system. A valid assignment is irrevocable. A person may assign any number of his or her Democracy Vouchers to the same candidate in a given year. Assignment or transfer for cash or any consideration is prohibited. Offering to purchase, buy or sell a Democracy Voucher is prohibited. No person may give or gift a Democracy Voucher to another person, except by assigning it to a candidate as provided herein. Democracy Vouchers have no cash value and are not assets, income or property of the holder. A Democracy Voucher may not be assigned by proxy, power of attorney or by an agent.
(f) Assignor Assumes Certain Risks. A Democracy Voucher expires if the holder is no longer resident in the City of Seattle, or no longer or not eligible to make political contributions under federal law, if such circumstances take place prior to the assignment to a qualified candidate. The holder of a Democracy Voucher assumes the risk that he or she may change his or her mind after assignment, or that the Democracy Voucher may not have use or be redeemed due to any contingency, including but not limited to unavailability of Program funds; the assignee candidate reaching the "Campaign Spending Limit" (described and defined below); a candidate's death, disqualification, dropping out, failure to redeem or use the Democracy Voucher; a candidate's not qualifying or violating the terms of qualification; or otherwise.

NEW SECTION 2.04.630 - Candidates to Qualify By Showing Grass Roots Support and Agreeing to New Campaign and Contribution Limits; Redemption of Democracy Vouchers; New Limits on Use of Funds.
(a) Only Qualified Candidates Redeem Democracy Vouchers. Only a candidate who has filed with SEEC for participation in the Seattle Democracy Voucher Program may receive assignment of a Democracy Voucher. Only a candidate certified as qualified by SEEC may redeem a Democracy Voucher. Only a person eligible for and seeking the office of Mayor, City Attorney or City Council shall be eligible to file for Program participation.
(b) Requirements for Program. To seek qualification, the candidate shall file with SEEC, on or after July 1st the year before an election year and within two weeks after filing a declaration of candidacy, a sworn statement attesting to his or her intent to participate, asserting that the candidate shall timely file or has filed a declaration of candidacy for the office indicated, and that the candidate shall comply with Program requirements and applicable campaign laws. Such Program requirements are that the candidate: shall take part in at least three public debates for primary and general elections each (as defined by SEEC, and SEEC may waive or reduce the number of debates, if a qualifying candidate makes all reasonable efforts to participate in debates and similar public events); shall comply with campaign laws and spending and contribution limits; and, the candidate shall not knowingly solicit money for or on behalf of any political action committee, political party, or any organization that will make an independent expenditure for or against any City of Seattle candidate within the same election cycle (for the purposes of this section, appearing as a featured speaker at a fundraising event for a committee or entity shall constitute soliciting money for such committee or entity). Further Program requirements are that a candidate for Mayor shall not solicit or accept total contributions from any individual or entity in excess of a total of $500 during one election cycle, and a candidate for City Attorney or City Council shall not solicit or accept total contributions from any individual or entity in excess of a total of $250 during one election cycle (including any contribution used to qualify for Democracy Vouchers, but excluding the value of Democracy Vouchers assigned to such candidate) (subject to exceptions provided herein).

(c) Qualifying Contributions. To qualify for the Democracy Voucher Program, candidates shall show they have received at least the following numbers of "Qualifying Contributions" of at least $10 but not more than the Program contribution limit for the office sought provided in SMC 2.04.630(b) from individual adults (18 years of age or older), who are human natural persons residing in the City of Seattle, and eligible under federal law to make political contributions: Mayoral candidates, at least 600; City Attorney candidates, at least 150; at-large City Council candidates, at least 400; and district City Council candidates, at least 150 (of which at least 75 shall be from individuals residing in the district sought to be represented by the candidate). SEEC shall maintain a list of qualified candidates and make it readily accessible to the public, including by publishing it on SEEC's website.
(d) Campaign Spending Limit. Participating candidates shall comply with all campaign laws and not exceed the following "Campaign Spending Limits" (defined as (i) money spent to date (equal to prior expenditures, plus debts and obligations), and the value of any in kind donations reported, plus (ii) cash on hand and (iii) the value of unredeemed Vouchers on hand which the candidate shall have allocated to the primary or general election): Mayor $400,000 for the primary election, and $800,000 total (for both primary and general election); City Attorney, $75,000 for the primary election, and $150,000 total; at-large City Council, $150,000 for the primary election, and $300,000 total; district City Council, $75,000 for the primary election and $150,000 total.
(e) Further Limits on Redemption. A qualified candidate may collect Democracy Vouchers for the general election before the primary election takes place and allocate same to the general election without such Vouchers counting against the Campaign Spending Limit for the primary election, but may not redeem Vouchers for the general election unless such candidate advances to the general election.
(f) Remedies for Exceeding Campaign Spending Limit. If a qualified candidate demonstrates to SEEC that he or she has an opponent (whether or not participating in the Program) whose campaign spending has exceeded the Campaign Spending Limit for the position sought as indicated above, where SEEC deems the excess material it shall allow such candidate to choose to be released from the Campaign Spending Limit and campaign contribution limits for the Program, in which case SEEC shall allow such candidate to redeem his or her Democracy Vouchers received theretofore or thereafter up to the amount of the Campaign Spending Limit only, then allow such candidate to engage in campaign fundraising without regard to any Program requirements. SEEC shall also release a qualifying candidate from the Campaign Spending Limit to the extent that it is shown (on application of a Seattle candidate or citizen) that said qualified candidate faces independent expenditures as defined in SMC 2.04.010 adverse to the candidate or in favor of an opponent and the sum of such independent expenditures plus said candidate's opponent's campaign spending materially exceeds the Campaign Spending Limit for that office.
(g) Loss of Qualification. A candidate loses qualification for the Program by publicly announcing withdrawal, abandoning the race, failing to advance to the general election, or if SEEC finds sufficient material violations of election laws or Program requirements such as violation of spending or contribution limits, or fraudulent or attempted fraudulent assignment of Democracy Vouchers.
(h) Redemption of Vouchers. SEEC shall redeem Democracy Vouchers only after verifying the assignment by ensuring the Voucher was issued to an eligible person, and verifying the signature written in the words of assignment, and only if redemption shall not put the candidate over the Campaign Spending Limit and only if Program funds are available. To verify signatures SEEC may employ the division of King County Records and Elections which verifies signatures for initiative petitions or mail-in ballots. SEEC shall redeem Democracy Vouchers on published regular redemption dates that shall be no less frequent than twice a month and may redeem Vouchers on other dates notified in advance if SEEC deems it practicable. SEEC shall not redeem any Democracy Voucher received by SEEC after the first business day in the month of December after the general election.
(i) Limits on Use of Voucher Proceeds. Candidates shall use Democracy Voucher proceeds only for campaign costs or debts for the relevant office and election cycle, and may not use such proceeds after a reasonable period (to be set by SEEC) following the election to pay campaign debts. Candidates shall not use Democracy Voucher proceeds for any cash payments or in violation of any law; nor to pay the candidate (except to repay or reimburse a loan to his or her political committee or campaign in an amount not greater than that provided in RCW 42.17A.445(3) or WAC 390-05-400) or pay a member of the candidate's immediate family as defined in RCW 4.16.030; pay any entity in which the candidate or an immediate family member holds a ten percent or greater ownership interest; pay any amount over fair market value for any services, goods, facilities or things of value; pay any penalty or fine; or pay any inaugural costs or office funds cost.
(j) Return of Democracy Voucher Proceeds. A candidate who has redeemed a Democracy Voucher, then withdraws, dies, becomes ineligible, loses qualification, or is eliminated in any primary or general election or wins a general election, shall within a reasonable period, as defined by SEEC, pay all debts and obligations, account to SEEC and restore to SEEC and the Program "Unspent Democracy Voucher Proceeds." SEEC shall define "Unspent Democracy Voucher Proceeds" by rule.
NEW SECTION 2.04.658 - Transparency. Assigning a Democracy Voucher is a public act and recipients of Democracy Vouchers shall expect same to be public and made public and shall have no expectation of privacy in registering to obtain Democracy Vouchers or in assigning same. All Democracy Voucher holders are on notice the process is public and transparent, except that SEEC shall not publish mail, email or other addresses to which Democracy Vouchers are sent. SEEC shall make transparent at its offices and on its website all assignments and redemptions of Democracy Vouchers including recipient name, Democracy Voucher identification number and suffix, date assigned, to whom assigned, when redeemed and amount redeemed. SEEC shall provide other necessary means to make the Seattle Democracy Voucher process and Program open and transparent so that each Democracy Voucher recipient and the media and public may track assignments of Democracy Vouchers to assist in exposing any potential forgery, fraud, or misconduct regarding same. If a Democracy Voucher recipient believes that his or her Democracy Voucher was lost, stolen or fraudulently or improperly assigned or redeemed, SEEC shall require a notarized declaration or affidavit or additional process in its judgment to find the relevant facts then provide relief it deems appropriate including Democracy Voucher replacement, cancellation of assignment or reimbursement of any improperly obtained Program funds. SEEC shall promulgate rules and regulations for such proceedings and cases where it receives duplicate copies of the same Democracy Voucher and shall ensure that any Democracy Voucher recipient may attempt to show, without any filing fee or charge, the facts of loss, theft, destruction or forgery of or duress in or other improper acts concerning or in the assignment of the Democracy Voucher. Such process shall include procedures through mails or in person and shall include an online process when and if SEEC develops same. SEEC shall also provide forms, and for in-person procedures, a notary at SEEC offices during normal business hours for this purpose, without charge. In all cases, no Democracy Voucher assignment shall be deemed invalid or revocable simply because the assignor changes opinion or changes his or her mind, gets new information from or about any candidate or campaign, or based on any allegation of misstatement or misinformation by any candidate or any person, or any other source, or for any reason other than duplicate voucher or forgery, threats, coercion, or physical duress, shown by clear and convincing evidence. SEEC shall issue regulations providing remedies and consequences for such acts, which may include, for sufficient material violation of Program requirements, campaign laws, or any acts of intentional forgery, threats, duress, or coercion in obtaining assigned Democracy Vouchers, an order requiring a candidate to return to the Program any proceeds of Democracy Vouchers or disqualifying a candidate from the Program.
NEW SECTION 2.04.690 - Transition; SEEC Administration Authority; Penalties; Crimes; Severability.
(a) Transition. To allow accumulation of Program funds, in the 2017 election only and notwithstanding other provisions of this subchapter, no Mayoral candidate shall be eligible to participate in the Program or receive or redeem Democracy Vouchers.
(b) SEEC to administer. SEEC shall implement and administer the Program, Program funds, and provisions in this subchapter including issuing and promulgating appropriate regulations, forms, rules, information packets, procedures, and enforcement mechanisms. SEEC shall through rule making carry out the provisions of this subchapter including but not limited to making regulations, defining terms, establishing other rules or promulgating any other administrative regulations or guidelines not inconsistent with the provisions of this subchapter. Anything herein said to be done by SEEC, other than such rule making, shall be done by its Executive Director or another person indicated in SEEC regulations or a duly approved printer or contractor. Prior to each election cycle, SEEC shall inform the public about Democracy Vouchers and the Program. SEEC shall publish appropriate guidebooks for candidates and Democracy Voucher recipients, and all forms, instructions, brochures and documents necessary and proper for this Program, which shall include key documents accessible to those with visual or other disability, and translations into languages other than English spoken by a significant number of Seattle residents, which shall be presumed initially to include Spanish, Vietnamese, Cantonese, Mandarin, Somali, Tagalog, Korean, Cambodian, Amharic, Oromo, Tigrinya, Laotian, Thai, and Russian. Prior to each election cycle, SEEC may reasonably adjust the Campaign Spending Limits, the dollar amounts for and numbers of qualifying contributions, the contribution limits per contributor provided in SMC 2.04.630(b) (but SEEC shall not set a contribution limit for qualifying candidates that exceeds the contribution limit specified for candidates in SMC 2.04.370, or the number or value of Democracy Vouchers provided to each eligible person, in order to account for inflation or deflation, and ensure the goals and purposes of the Program including democracy and accountability, high rates of candidate participation, heavy utilization of vouchers by those who have not previously donated to Seattle political campaigns,, and high public satisfaction with the Program. After each election cycle SEEC shall review the Program and submit reports to the public and City Council. Promptly after the effective date of this measure, SEEC shall project Program revenue, expenditures, and Democracy Voucher Program Funds ("Program Funds") balances from 2016 through at least 2021, and shall revise and update such projections regularly, and at all times shall manage Program Funds as a fiduciary, ensuring proper accumulation and distribution of funds, during nonelection and election years, to achieve Program purposes and goals. In making such projections and administering this Program, SEEC shall consider all relevant circumstances including differing Campaign Spending Limits for different offices, differing funding needs in mayoral and non-mayoral election years, and the need to manage the Program and funds to seek to ensure participation by candidates. SEEC before January 1st of each municipal election year shall manage and prudently conserve Program Funds, by considering and projecting Program Funds availability and disbursements for that year and publicizing such projections which shall include and consider needs of participating candidates, needs for conservation of funds for future years or reserve accumulation, prudent operating cost and cost of administration, and prudent conservation of public resources. To assure candidates that ample funds will be available for Voucher redemptions and to assure the public that Voucher fund redemptions will be prudently managed, by January 1st of each municipal election year, SEEC shall publish an "Available Program Funds Limit" for that year for Voucher redemptions. In setting the Available Program Funds Limit, SEEC shall use its best efforts to reasonably project and ensure that adequate Program Funds are available for that election year consistent with this subchapter, its goals and purposes and all reasonably foreseeable circumstances and contingencies and shall set aside at least an amount needed for six primary and two general election candidates for each position in that year's election to qualify and spend their respective Campaign Spending Limit using Democracy Vouchers only (rather than private contributions, except for private contributions used to qualify). During any municipal election year, as soon as SEEC receives or reasonably believes it shall receive Democracy Vouchers for redemption in excess of the Available Program Funds Limit for that year, then Program Funds shall be deemed unavailable and SEEC shall publicly announce same and set a prompt deadline date for Democracy Voucher delivery, following which SEEC shall consider Democracy Vouchers received and available Program Funds and shall allocate remaining available Program Funds proportionately per unredeemed verified Democracy Vouchers on hand, pro rata among all participating candidates for all offices without discrimination. If any special election is called, SEEC shall set aside Program Funds for such election in an amount it deems appropriate, and shall be empowered to act and change, alter, or modify or set and implement standards, procedures, limits and deadlines as similar as may be practicable to those provided in this subchapter as SEEC deems proper and necessary for such special election, taking care to not unduly prejudice accumulation of funds for the Program.
(c) Penalties. No penalty provision in this subchapter shall diminish any other penalty or remedy under any other law. Participating candidates who make expenditures in excess of the Campaign Spending Limit shall be subject to a civil penalty of twice the amount of the expenditure in excess of such limit, unless SEEC determines that the overspending is insignificant or trivial. All enforcement, administrative and other powers, procedures, rights, duties, remedies, process, civil penalties and other provisions in SMC 2.04.060, 2.04.070, 2.04.075, 2.04.090, 2.04.500, 2.04.510, 2.04.520, 2.16.010 and 2.16.020, relating to violations of election campaign contributions laws or initiative laws, shall apply in case of violations of this subchapter, and all penalties, remedies or consequences applicable to violations of SMC 2.04 or 2.06 shall be applicable for any violation of this subchapter, including but not limited to an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, sanctions up to $5,000 for each violation.
(d) Crimes. A person is guilty of trafficking in a Democracy Voucher if the person knowingly purchases, buys, or pays consideration for any Democracy Voucher or knowingly sells, conveys for consideration or receives consideration for any Democracy Voucher; or attempts same. A person is guilty of theft of a Democracy Voucher if he or she steals (defined as when one knowingly obtains or exerts unauthorized control over with intent to deprive the proper holder or recipient thereof) or attempts to steal, a Democracy Voucher. A person is guilty of the crime of forgery of a Democracy Voucher if, with intent to injure or defraud, he or she attempts to falsely make, complete, or alter a Democracy Voucher or its assignment or possess, utter, offer, dispose of, or put off as true a Democracy Voucher or written assigned Democracy Voucher that he or she knows is forged. For purposes of this section, "falsely alter" means to change, without authorization by the holder or recipient of the Voucher entitled to grant it, a Democracy Voucher by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner; to "falsely complete" means to make a Democracy Voucher assignment complete by adding or inserting matter, including but not limited to a forged signature, without the authority of the person entitled to assign the Voucher; to "falsely make" means to make or draw a complete or incomplete Democracy Voucher which purports to be authentic, but which is not authentic either because the ostensible maker is fictitious or because, if real, he or she did not authorize the making or drawing or signing thereof; and "forged" or "forgery" means a Democracy Voucher which has been falsely made, completed, or altered. A person is guilty of possession of a stolen Democracy Voucher if he, she or it, being other than the recipient of a proper assignment of a Democracy Voucher, knowingly receives, retains, possesses, conceals or disposes of another's Democracy Voucher knowing that it has been stolen and withholds or appropriates the same to the use of any person other than the true owner or person entitled thereto. A person is guilty of trafficking in a stolen Democracy Voucher if the person attempts to traffic in a stolen Democracy Voucher, meaning to sell, transfer, distribute, dispense, or otherwise dispose of such stolen Democracy Voucher pertaining to another person, or to buy, receive, possess, or obtain control of same with intent to sell, transfer, distribute, dispense, or otherwise dispose of the property to another person. The crimes of trafficking in a Democracy Voucher, theft or forgery of a Democracy Voucher, possession of a stolen Democracy Voucher, or trafficking in a stolen Democracy Voucher, are each a gross misdemeanor punishable by a fine not to exceed $5,000 or, by imprisonment for a term of up to 364 days, or both, or as otherwise provided by State law. In this subsection the term "person," "he," "she" or "actor" include any natural person, and, in addition, a corporation, a joint stock association, an unincorporated association or a political committee. In cases of all crimes defined by this subsection the Court may also require restitution to the Program of all costs of prosecution, including attorneys fees, as well as any amounts misappropriated or the face value of Democracy Vouchers misused and in case of crimes by a candidate or political committee the Court also may require return of all funds received from the Program in that election cycle consistent with equity, due process and proportional justice and or may disqualify such political committee or candidate from participating in the Program for that election cycle.
(e) Severability and captions. Provisions of this subchapter and its sections are separate and severable. The invalidity of any part or its application to any circumstance, shall not affect the validity of other parts or application to other circumstances. Captions provided are not substantive. The City Clerk may renumber or reformat this subchapter, this ordinance or these sections, for proper codification in the Seattle Municipal Code, without changing the substance.

Section 2. Funding; Lift of Levy Lids for Regular Property Taxes – Submittal and Amount.
To allow funding of the Seattle Democracy Voucher Program, provided in Section 1 above, the qualified electors of the City of Seattle hereby resolve to allow funding through a levy lift under RCW 84.55.050 and resolve that the City's legislative authority may fund the Program pursuant to that authorization or alternatively through the general fund or any other lawful source of funds of its choosing. The taxes authorized in this section may be levied for collection in 2016 through 2025, raising up to $30,000,000 in aggregate over a period of up to ten years. The City shall not levy more than $3,000,000 (about 2.5 cents per $1,000 of assessed value) for this purpose in the first year, and in each subsequent year, in addition to the maximum amount of regular property taxes it would have been limited to by RCW 84.55.010 in the absence of voter approval under this ordinance, plus other authorized lid lifts. In 2016, total City regular property taxes collected would not exceed $3.60 per

$1,000 of assessed value. Proceeds from the tax authorized in this section shall be used only to fund the Seattle Democracy Vouchers Program as provided in Section 1 of this measure, and any amendments thereto adopted by future Council ordinance. Pursuant to RCW 84.55.050(5), the maximum regular property taxes that may be levied in 2025 for collection in 2026 and in later years shall be computed as if the levy lid in RCW 84.55.010 had not been lifted under this ordinance. The tax authorized in this section shall not be collected to the extent the City allocates funds sufficient to establish and pay for the Program from other sources. Program funds including but not limited to any proceeds from the levy authorized herein, interest or earnings thereon, any amounts returned from candidates, and other funds allocated for the Program, shall be used for purposes of this ordinance and Program funds may be temporarily deposited or invested in such manner as may be lawful for the investment of City money, and interest and other earnings shall be used for the same purposes as the proceeds.

Section 3. SMC 2.06.130 - Civil Remedies and Sanctions, is amended as follows:
Upon determining pursuant to SMC 2.04.060 through SMC 2.04.090 that a violation of this chapter has occurred, the Commission may issue an order requiring the party to take particular action in order to comply with the law, and in addition, or alternatively, may impose sanctions up to Five Thousand Dollars ($5,000) per violation. Any person who fails to file a properly completed registration or report within the time required by this chapter may also be subject to a civil penalty of ~~Ten Dollars ($10)~~ Seventy Five Dollars ($75) per day for each day each such delinquency continues except that during the last 30 days before any election such fine shall be at least Two Hundred Fifty Dollars ($250) per day and up to $1,000 per day in the discretion of SEEC, for each day such delinquency continues.

Section 4. SMC 2.04.165 - Reports of personal financial affairs, is amended as follows:
A. The following shall file a statement of financial affairs:
1. Every candidate shall within two weeks of becoming a candidate file with the City Clerk a statement of financial affairs for the preceding twelve months.
2. Every elected official and every candidate for a future election shall after January 1st and before April 15th of each year file with the City Clerk a statement of financial affairs for the preceding calendar year, unless a statement for that same twelve month period has already been filed with the City Clerk. Any elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.
3. Every person appointed to a vacancy in an elective office shall within two weeks of being so appointed file with the City Clerk a statement of financial affairs for the preceding twelve months.
4. A statement of a candidate or appointee filed during the period from January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of the statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year.
5. No individual may be required to file more than once in any calendar year.
6. Each statement of financial affairs filed under this section shall be sworn as to its truth and accuracy.
B. The statement of financial affairs report shall contain the following:
1. The statement of financial affairs required by this chapter shall disclose for the reporting individual and each member of his or her immediate family:
a. Occupation, name of employer, and business address; and
b. Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest that exceeded $5,000 at any time during the reporting period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded $500 during the reporting period; the name, address, and nature of the entity; and the nature and highest value of each such direct financial interest during the reporting period; and
c. The name and address of each creditor to whom the value of $500 or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt; provided, that debts arising out of a "retail installment transaction" as defined in Chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and
d. Every public or private office, directorship, and position held as trustee; and
e. All persons for whom any legislation, rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation; provided, that for the purposes of this subsection, "compensation" does not include payments made to the person reporting by the governmental entity for which such person serves as an elected official for his or her service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and
f. The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of $500 or more; the value of the compensation; and the consideration given or performed in exchange for the compensation; and
g. The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten (10) percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) with respect to a governmental unit in which the official seeks or holds any office or position, if the entity has received compensation in any form during the preceding twelve months from the governmental unit, the value of the compensation and the consideration given or performed in exchange for the compensation; (ii) the name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which the entity has received compensation in any form in the amount of $2,500 or more during the preceding twelve months and the consideration given or performed in exchange for the compensation; provided, that the term "compensation" for purposes of this subsection B1gii does not include payment for water and other utility services at rates approved by the Washington State Utilities and Transportation Commission or the legislative authority of the public entity providing the service; provided, further, that with respect to any bank or commercial lending institution in which is held any office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of the bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by the bank or commercial lending institution from the government entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by the bank or commercial lending institution if the interest exceeds $600; and
h. A list, including legal or other sufficient descriptions as prescribed by the Commission of all real property in The State of Washington, the assessed valuation of which exceeds $2,500 in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for that interest; and
i. A list, including legal or other sufficient descriptions as prescribed by the Commission, of all real property in The State Of Washington, the assessed valuation of which exceeds $2,500 in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for that interest, and the name and address of the person furnishing the consideration; and
j. A list, including legal or other sufficient descriptions as prescribed by the Commission, of all real property in The State of Washington, the assessed valuation of which exceeds $2,500 in which a direct financial interest was held; provided, that if a description of the property has been included in a report previously filed, the property may be listed, for purposes of this provision, by reference to the previously filed report; and
k. A list, including legal or other sufficient descriptions as prescribed by the Commission, of all real property in The State of Washington, the assessed valuation of which exceeds $5,000, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm, or enterprise a ten (10) percent or greater ownership interest was held; and
l. A list of each occasion, specifying date, donor, and amount, at which food and beverage in excess of $50 was accepted from a source other than the City provided all or portion; and
m. A list of each occasion, specifying date, donor, and amount, at a source other than the City paid for or otherwise provided all or a portion of the travel or seminars, educational programs or other training; and
n. Such other information as the Commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the Commission shall prescribe by rule.
2. Where an amount is required to be reported under subsections B1a through m of this section, it shall be sufficient to comply with the requirement to report whether the amount is less than $1,000, at least $1,000 but less than $5,000, at least $5,000 but less than $10,000, at least $10,000 but less than $25,000, or at least $25,000 but less than $100,000, at least $100,000 but less than $200,000, at least $200,000 but less than $1,000,000, at least $1,000,000 but less than $5,000,000, or $5,000,000 or more. An amount of stock shall be ~~may be~~ reported by ~~number of shares instead of by~~ market value at the time of reporting. Each person reporting shall also report his or her reasonably estimated net worth. No provision of this subsection may be interpreted to prevent any person from filing more information or more detailed information than required.
3. Items of value given to an official's or employee's spouse or family member are attributable to the official or employee, except the item is not attributable if an independent business, family, or social relationship exists between the donor and the spouse or family member.
C. Concealing Identity of Source of Payment is Prohibited—Exception. No payment shall be made to any person required to report under this chapter and no payment shall be accepted by any such person, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the payment or in any other manner so as to effect concealment except that the Commission may issue categorical and specific exemptions to the reporting of the actual source when there is an undisclosed principal for recognized legitimate business purposes.

Section 5. SMC 2.04.370 - Mandatory limitations on contributions, is amended as follows:
A. No person shall make a contribution to any candidate for Mayor, member of the City Council, or City Attorney of the City, except in the election cycle for that candidate as defined in Section 2.04.010
B. No person shall contribute more than $~~500~~700 to any candidate for Mayor, member of the City Council, or City Attorney of the City, in any election cycle.
C. A candidate for Mayor, member of the City Council, or City Attorney of the City, may only accept or receive a campaign contribution during an election cycle as defined in Section 2.04.010
D. No candidate for Mayor, member of the City council or City Attorney of the City shall solicit or receive campaign contributions of more than $~~500~~700 from any person in any election cycle.
E. The limitations imposed by this section 2.04.370 shall not apply to:
1. A candidate's contributions of his or her own resources to his or her own campaign or contributions to the candidate's campaign by the candidate or the candidate's spouse or state registered domestic partner of their jointly owned assets;
2. Independent expenditures as defined by this Chapter 2.04
3. The value of in-kind labor; and
4. Contributions consisting of the rendering of clerical or computer services on behalf of a candidate or an authorized political committee, to the extent that the services are for the purpose of ensuring compliance with City, county, or state election or public disclosure laws.
F. The limitations imposed by this section shall apply to contributions of the candidate's spouse's or state registered domestic partner's separate property.
G. The limitations in this section shall be adjusted commencing before the 2019 election cycle, and prior to each election cycle thereafter, by SEEC to account for inflation or deflation using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the period since the effective date of this measure or the prior adjustment, as calculated by the United States Department of Labor. The declaration of the Washington State Department of Labor and Industries each September 30 regarding the rate by which Washington State's minimum wage rate is to be increased effective the following January 1, shall be the authoritative determination of the rate or percentage of increase or decrease to be adjusted, except that SEEC may round the new figure up or down, to the nearest $5 or $10 increment, as it deems proper.

Section 6. The provisions of Seattle Municipal Code sections 2.04.400, 2.04.410, 2.04.420, 2.04.430, 2.04.440, 2.04.450, 2.04.460 and 2.04.470 are repealed.

Sponsor Information: Honest Elections Seattle Initiative
PO Box 20664, Seattle, WA 98102
tel.: (206) 436-0292
e mail: info@honestelectionsseattle.org
website: honestelectionsseattle.org

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STATE OF WASHINGTON -- KING COUNTY

--ss.

327178 No.

CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:31598 & 31601 TITLE

was published on

08/06/15

The amount of the fee charged for the foregoing publication is the sum of $62.00 which amount has been paid in full.

Subscribed and sworn to before me on

08/06/2015

Notary public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on July 20, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Contact: Office of the City Clerk at (206) 684-8344.

Resolution 31598

A RESOLUTION affirming the human right to privacy and expressing a desire that the policies and products of the City's privacy initiative be consistent with the right to privacy as described in the Universal Declaration of Human Rights and the applicable international human rights framework.

Resolution 31601

A RESOLUTION regarding a voter-proposed Initiative Measure concerning public participation in government, including creation of a publicly-financed election campaign program and regulation of campaign donations and lobbying; authorizing the City Clerk and the Executive Director of the Ethics and Elections Commission to take those actions necessary to enable the proposed Initiative to appear on the November 3, 2015 election ballot and the local voters' pamphlet; requesting the King County Elections' Director to place the proposed initiative on the November 3, 2015 election ballot; providing for the publication of such initiative; and repealing Resolution 31600.

Date of publication in the Seattle Daily Journal of Commerce, August 6, 2015.

8/6(327178)

Election Results

General and Special Election

Updated: 11/24/2015 3:40:42 PM

November 3, 2015

Official Final

King County Elections

City

City of Seattle

Ballots counted: 191,267

*Registered voters: 419,292

45.62%

Council Position No. 8		
Tim Burgess	91,863	54.55%
Jon Grant	75,585	44.88%
Write-in	968	0.57%

Council Position No. 9		
Lorena Gonzalez	128,588	78.06%
Bill Bradburd	35,293	21.43%
Write-in	844	0.51%

Initiative Measure No. 122		
Yes	115,994	63.14%
No	67,714	36.86%

Proposition No. 1		
Yes	109,637	58.67%
No	77,222	41.33%

** Reflects the voter registration count as of election day, November 3, 2015*

Appendix D