

CITY OF OAKLAND



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Office of the City Council
District 7
Honorable Larry Reid

TEL: (510) 238-7007

June 14, 2005

HONORABLE FINANCE AND MANAGEMENT COMMITTEE
Oakland, California

Subject: Slavery Era Disclosure Ordinance –An Ordinance (1) Requiring City Contractors who Provide Insurance, Financial and Other Services and Goods to the City to Research and Disclose to the City Records Evidencing Benefits from the American Slave Trade; and (2) Establishing a Fund to Include but not be Limited to Support for Education and Economic Development

Dear Chairperson Quan and Members of the Committee:

Summary

This ordinance would require that City contractors (1) providing insurance services, (2) providing financial services to the City (including but not limited to banks in which the City deposits public funds and investment managers), and (3) textile companies, tobacco companies, railroad companies, shipping companies, rice, sugar and other business entities doing business with the City, execute an affidavit attesting to the fact that the contractor has researched all records within the possession, control and/or knowledge to determine whether the contractor, directly or through its parent entities, subsidiaries or predecessors in interest (1) bought or sold people subjected to slavery, (2) used people subjected to slavery as collateral for insurance policies or other transactions, (3) provided loans to purchase people subjected to slavery, (3) insured such transactions or the people subjected to slavery and/or (4) provided related or other services and/or goods to aid and abet such transactions during the slavery era. Contractors also must disclose in the affidavit the names of slaveholders and people subjected to slavery described in the records and identify any records they find that evidence the aforesaid transactions and benefits from the American slave trade.

The ordinance establishes a fund to include but not be limited to, educational support and support for economic development in economically depressed areas of Oakland to which contractors subject to the ordinance, as well as entities and persons who are not City contractors, may make voluntary contributions. The City Administrator will oversee the fund and make

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funding decisions consistent with guidelines that the Council approves. The City Administrator will make an annual report to Council that identifies the funding recipients.

Fiscal Impact

The ordinance would require designation or appointment of staff and staff time to obtain and review disclosures and maintain documents for public disclosure. Contractors will incur the cost of researching records of slavery-related transactions.

Background

The City of Richmond, California, City of Berkeley and the City of Chicago and the State of California have enacted laws that require disclosure of slavery insurance policies by contractors. The City of Richmond covers contracting insurance/financial institutions that contract with the City and gives the City option to divest investments in financial instruments that benefited from slavery. The City of Chicago's ordinance requires disclosure by all contractors, but does not include a divestment provision. The City of Berkeley covers contractors providing insurance or financial services and creates a right of private action to enforce the ordinance. The State of California requires disclosures from insurance companies as a condition of obtaining a license to do business in California. The City of Richmond, City of Berkeley and City of Chicago ordinances also give the cities the option to deem a contract null and void if the contractor fails to comply with the ordinances' requirements.

Key Issues and Impacts

This ordinance would require that contractors subject to the ordinance perform research and provide disclosures to the City of slavery era records evidencing benefits from the American slave trade and would entitle the City Administrator to terminate contractors for noncompliance. The City Attorney as well any Oakland resident may file a lawsuit to enforce the ordinance's provisions.

This ordinance also establishes a fund to which contractors subject to this ordinance, and others, may make voluntary contributions to promote healing and assist the City in rectifying and remedying some of the legacies of the shameful commerce in slavery.

Sustainable Opportunities

Economic – This ordinance may create economic opportunities for the City.

Environmental – This ordinance does not have any environmental impacts.

Social Equity – The ordinance is a valuable and critical tool for the City to redress the legacy and inequities caused by slavery.

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Disability and Senior Citizen Access

This report does not raise any access issues.

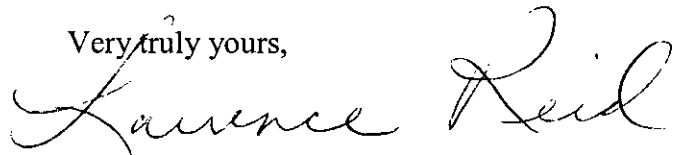
Recommendation and Rationale

I recommend that the Council adopt the ordinance to assure full disclosure of records showing benefits from the American slave trade and to establish a fund to be used for purposes, including but not limited to, educational support and economic development of depressed areas of the City to promote healing. The legal, commerce in slavery enabled slaveholders, the insurance industry, financial services industry, textile industry, tobacco industry, railroads, shipping companies, rice, sugar and many other businesses to profit from slavery as well as from damages to and death of people subjected to slavery. The adoption of this ordinance is critical to address the ongoing legacy of slavery and to provide the information that will enable this City and the state and federal governments to remediate these tragic atrocities.

Action Requested of the City Council

Councilmember Reid requests that the City Council adopt the ordinance.

Very truly yours,

A handwritten signature in cursive script that reads "Laurence Reid". The signature is written in black ink and is positioned to the right of the typed name.

HONORABLE LAURENCE REID
City Council District 7

DRAFT

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER LAURENCE REID

05 JUN - 2 PM 4:20

CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

Chapter 9.60

SLAVERY ERA DISCLOSURE ORDINANCE

WHEREAS, the municipal corporation, now existing and known as the City of Oakland, is a Charter City and, pursuant to the powers vested in the City by Section 6 of Article XI of the Constitution of the State of California, the City of Oakland has home rule as to municipal affairs; and

WHEREAS, pursuant to its home rule power, the City of Oakland has the right and power to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in its Charter; and

WHEREAS, insurance policies from the American slavery era have been discovered in the archives of several insurance companies documenting insurance coverage to slaveholders for damage to or death of people subjected to slavery, and such policies were issued by the current or a predecessor insurance firm; and

WHEREAS, certain (1) insurance companies, (2) providers of financial services (including but not limited to banks in which the City deposits public funds), (3) the textile industry, tobacco industry, railroad companies, shipping companies, rice, sugar industries and (4) other business entities, directly or through their parent entities, subsidiaries or predecessors in interest or otherwise, bought or sold people subjected to slavery, used people subjected to slavery as collateral for insurance policies or other transactions, provided loans to purchase people subjected to slavery, insured such transactions or the people subjected to slavery, and/or provided related or other services or goods to aid and abet such transactions; and

WHEREAS, these documents provide evidence of ill-gotten gains from slavery, which profits in part capitalized insurers, financial services providers, textile companies, tobacco companies, railroads, shipping companies, rice, sugar and other business entities, whose successors remain in existence today and such profits from the uncompensated labor of enslaved Africans represent a continuing legacy of slavery; and

WHEREAS, the City Council declares and finds that the fact that slavery was legal in certain parts of the United States at the time these contemptible practices occurred does not make the practices any less repugnant, abhorrent or deplorable, nor in any way diminish the gravity of these wrongs or the importance of rectifying and remediating these travesties; and

WHEREAS, many Oakland residents are descendants of people subjected to slavery, whose ancestors were defined as private property, dehumanized, wrenched from their families, coerced into performing labor without appropriate compensation or benefits and whose ancestors' owners were

compensated for damage to or death of people subjected to slavery by insurers, and were used as collateral for insurance policies, loans or other transactions; and

WHEREAS, appropriate compensation to Africans for their labor otherwise would have been bequeathed to their descendants to assist them in developing a solid economic base, providing a level playing field and pursuing equal opportunity in this country; and

WHEREAS, the aforesaid residents as well as all of the residents of Oakland are entitled to full disclosure of the information regarding the aforesaid transactions people subjected to slavery; and

WHEREAS, in 2000, the California State Legislature passed Senate Bill 2199 authored by then Senator Tom Hayden, entitled "Slavery Era Insurance Policies" which amended the California Insurance Code, and Senate Bill 2199 became effective on January 1, 2001; and

WHEREAS, Senate Bill 2199, codified at California Insurance Code section 13810 *et seq.*, requires (1) that the State Insurance Commissioner request and obtain information from insurers licensed and doing business in California regarding records of slaveholder insurance policies issued by any predecessor corporation during the slavery era; (2) that each insurer licensed and doing business in California research and report to the Insurance Commissioner with respect to any records in their possession or knowledge relating to insurance policies issued to slaveholders that provided coverage for damage to or death of people subjected to slavery; (3) that the State Insurance Commissioner obtain the names of any slaveholders or people subjected to slavery described in the insurance records and make the information available to the public and the Legislature; and (4) full disclosure to descendants of people subjected to slavery, whose ancestors were defined as private property, dehumanized, divided from their families, forced to perform labor without appropriate compensation or benefits and whose ancestors' owners were compensated for damages by insurers; and

WHEREAS, the City Council of the City of Oakland, pays tribute to and honors the people subjected to slavery who toiled and sacrificed their lives in building this country's economic foundation and also honors descendants of those people subjected to slavery in America who, notwithstanding the degradation of slavery, discrimination and the systematic efforts to deprive them of a sense of family, human dignity and prosperity, have developed a vibrant community, culture and creative genius and made untold contributions to the fabric of our society, in the absence of which this nation would not be recognizable; and

WHEREAS, the City Council of the City of Oakland urgently calls upon the state and federal governments to recognize the sufferings of African people subjected to slavery and promote and provide reparations for their descendants; and

WHEREAS, the City of Oakland acknowledges the loss of assets that rightfully should be the property of descendants of African people subjected to slavery and extends its apologies to their descendants who continue to suffer the legacy of slavery, including but not limited to disproportionate poverty, economic disadvantage, stereotyping and discrimination; and

WHEREAS, the City Council hereby finds that any person, entity, corporation, partnership or company doing business with the City of Oakland that is providing insurance services or financial services

to the City, and any textile company, tobacco company, railroad company, shipping company, rice, or sugar company doing business with the City, shall take all steps necessary to disclose any records or information within its possession, control and/or knowledge relating to loans to purchase people subjected to slavery, insurance policies issued to slaveholders that provided coverage for damage to or death of people subjected to slavery, records evidencing buying and selling of people subjected to slavery use of people subjected to slavery as collateral, and/or providing any related or other services to aid and abet the said transactions;

NOW THEREFORE, The Council of the City of Oakland does ordain as follows:

Section 1. Title

This title shall be known and may be officially cited as the “City of Oakland Slavery Era Disclosure Ordinance” and shall be codified as Chapter 9.60 of Title 9 of the Oakland Municipal Code, entitled “Public Peace, Morals and Welfare”.

Section 2. Findings and Purpose

A. Insurance policies from the American slavery era have been discovered in the archives of several insurance companies documenting insurance coverage to slaveholders for damage to or death of people subjected to slavery, and were issued by current or a predecessor insurance firm. Further, records may exist that show that companies:

- (1) providing insurance services;
- (2) providing financial services; and
- (3) textile, tobacco, railroad, shipping, rice and sugar companies ;

either directly or through their parent entities, subsidiaries or predecessors in interest or otherwise, bought or sold people subjected to slavery, used as collateral for insurance policies or other transactions, provided loans to purchase people subjected to slavery, insured such transactions or the people subjected to slavery, and/or provided related or other services to aid and abet such transactions.

B. These insurance policies, loan documents and other documents and records provide evidence of ill-gotten profits from slavery, which profits in part capitalized insurers, financial services providers, textile companies, tobacco companies, railroads, shipping companies, rice, sugar industry and other entities, whose successors remain in existence today, and such profits from the uncompensated labor of enslaved Africans represent a continuing legacy of slavery.

C. The City of Oakland finds and declares that the fact that slavery was legal in certain parts of the United States at the time these contemptible practices occurred does not make the practices any less repugnant, abhorrent or deplorable, nor in any way diminish the gravity of these wrongs or the importance of rectifying and remediating these travesties.

- D. Many Oakland residents are descendants of people subjected to slavery, whose ancestors were defined as private property, dehumanized, snatched from their families, coerced into performing labor without appropriate compensation or benefits and whose ancestors' owners were compensated for damages by insurers and were used as collateral for insurance policies, loans and other transactions.
- E. Appropriate compensation to Africans for their labor otherwise would have been bequeathed to their descendants to assist them in developing a solid economic base, providing a level playing field and pursuing equal opportunity in this country.
- F. The aforesaid residents as well as all of the residents of Oakland are entitled to full disclosure of the information regarding the above-described transactions that compensated slaveholders for damages to and death of people subjected to slavery and provided other compensation and profits.
- G. The City of Oakland acknowledges the loss of assets that rightfully should be the property of descendants of African people subjected to slavery and extends its apologies to their descendants who continue to suffer the legacy of slavery.
- H. The City Council finds that full disclosure of the facts and acknowledgement of the depth and scope of the shameful commerce in slavery furthers the public interest in that it promotes public health, safety and welfare and healing in the Oakland community both on the part of those who have been and are continuing to be harmed as well as those who profited from this abhorrent practice. The City Council further finds that the establishment of a fund to which contractors subject to this ordinance and others may make voluntary contributions will promote healing and assist the City in rectifying and remedying some of the legacies of the shameful commerce in slavery, thereby protecting and promoting the public health, safety and welfare of Oakland residents and the Oakland community.
- I. The purpose of this ordinance is to promote full and accurate disclosure to the public of (1) slavery insurance policies, (2) evidence of purchase and sale of people subjected to slavery, (3) use of people subjected to slavery as collateral for insurance policies, loans or other transactions, (4) provision of loans to purchase people subjected to slavery, (5) insuring transactions or the people subjected to slavery, and/or (6) provision of any related or other services to aid and abet such transactions by (i) any contractors providing insurance services or financial services to the City and (ii) any textile, tobacco, railroad, shipping, rice and sugar companies doing business with the City..
- J. The purpose of this ordinance also is to establish a fund to which contractors subject to this ordinance can make voluntary contributions to promote healing and assist in remedying the depressed economic conditions, poverty, unequal educational opportunity and other legacies of slavery, which will serve to promote the public health, welfare and safety.

Section 3. Slavery Era Disclosure

Each contractor providing (1) insurance services or (2) financial services to the City of Oakland (including, but not limited to, any bank in which the City deposits public funds and any investment managers), whether subject to competitive bid or not, and (3) each textile, tobacco, railroad, shipping, rice and/or sugar company doing business with the City, including but not limited to such businesses with a City franchise, must complete an affidavit verifying that the contractor has searched through any and all records in the possession, control and/or knowledge of the company, its parent entities, subsidiaries and any predecessors in interest, for records that the contractor, its parent entities, subsidiaries and any predecessors in interest bought or sold people subjected to slavery, used people subjected to slavery as collateral, provided loans to purchase people subjected to slavery, insured such transactions or the people subjected to slavery during the slavery era and/or provided related or other services to aid and abet such transactions.

The names of each slave and slaveholder described in the records and/or information must be disclosed in the affidavit, as well as the evidence of transactions that benefited/profited from American slavery. The City Administrator after consultation with the City Attorney shall (1) provide this information to the public upon request, (2) provide an initial report to the Mayor and City Council at an open and public meeting no later than January 2006, and (3) annually provide a report to the Council regarding the information.

Disclosure shall be made as follows:

- A. Insurance companies shall provide the disclosure within 60 days of the effective date of this ordinance.
- B. Banks and other financial institutions and other contractors covered by this ordinance, shall have six (6) months from the effective date of this ordinance to file such written disclosure with the City.
- C. Contractors who enter into contracts with the City after the effective date of this ordinance to provide insurance, financial or other services or goods covered by this ordinance, shall provide the required disclosure in conjunction with and prior to the execution of a contract with the City, provided that in no event shall a contractor be required to provide the required disclosures earlier than the periods set forth in A and B above.

Section 4. Establishment of Fund to Include but not be Limited to Support for Education Support and Economic Development in the Economically Depressed Areas of the City

The City shall establish a fund under the oversight of the City Administrator. The fund will be used for purposes, including but not limited to, providing educational support and to support economic development in the economically depressed areas of the City. The City Administrator will prepare guidelines for the use of the funds and present same to the City Council for approval no later than the end of October 2005. Thereafter, the City Administrator shall make funding decisions in accordance with the guidelines and provide an annual report to the Council identifying the fund recipients.

Section 5. Remedies

Any contractor subject to this ordinance who willfully or recklessly files a false affidavit or other statement or fails to file the required disclosure shall be subject to termination of the contract with the City. The City Administrator may take action to terminate the contract.

The following may bring an action against a person or entity subject to this ordinance to enforce its provisions: (1) the City Attorney (2) any Oakland resident. Relief shall include, but not be limited to, an injunction to mandate the disclosure required under this ordinance or to correct any misstatement as well as reasonable attorney's fees and costs.

Section 6. Codification.

This ordinance shall be codified as Chapter 9.60 of the Oakland Municipal Code.

Section 7. Severability

If any article, section, subsection, sentence, clause or phrase of this ordinance or exhibit hereto is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

Section 8. Effective Date

This ordinance shall take effect on August 1, 2005.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2005

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND
PRESIDENT DE LA FUENTE

NOTES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California