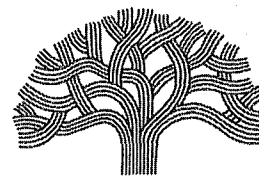


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OFFICE OF THE CITY CLERK
OAKLAND

2016 MAR 31 PM 5:31



CITY OF OAKLAND

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Office of the Council President

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Date: Thursday, March 31, 2016

To: President Pro Tempore Larry Reid
Vice Mayor Annie Campbell Washington, and

Cc: LaTonda Simmons, City Clerk
Barbara Parker, City Attorney

Members of the City Council

Desley Brooks
Noel Gallo
Abel Guillén
Dan Kalb
Rebecca Kaplan

From: Council President Lynette Gibson McElhaney

Re: Introducing an Ordinance to Enact a Temporary Rent Moratorium on Behalf of Members
of the Public and the Oakland Alliance from the Post Salon

Colleagues,

I ask your consideration to enact a temporary moratorium on large rent increases and no-cause evictions. This 90 day emergency measure provides additional protections to tenants by temporarily prohibiting large rent increases and expanding rent control to cover more eligible units.

Executive Summary

Recommend that the Council deliberate and adopt an ordinance to immediately impose a 90 day moratorium on rent increases in excess of the annual CPI Rent Adjustment authorized under the Residential Rent Adjustment Ordinance (Section 8.22.010 *et seq.*), offering time for other tenant protection policies to be analyzed and debated for possible future implementation. Affirm the City's duty to publicize tenant rights under the Just Cause for Evictions Ordinance. Authorize administrative penalties for violations of the moratorium on rent increases, including civil penalties for repeated violations. Request City Staff analyze and investigate the impacts, legality, and potential implementation of various potential strategies to address Oakland's affordable housing crisis. Temporarily remove the exemption from the provisions of the Residential Rent Adjustment Ordinance for owner-occupied properties with two- and three-units and substantially rehabilitated buildings.



Background

On March 10, 2016 members of the public submitted a request for the Council to hold a hearing on the declaration of housing emergency similar to an action taken by the Alameda City Council. The Rules Committee voted 4-0 to bring this action to your consideration on April 5, 2016.

My staff submitted the draft resolution to the City Attorney for review and began meeting with members of the coalition to draft an enabling ordinance in support of the Public's request. Subsequently, members of the coalition submitted their own version of an ordinance that was also submitted to the City Attorney for review. The Ordinance before you incorporates the essence of the documents submitted by the public and has been approved as to form and legality by the City Attorney for your consideration.

On September 21, 2015 the City Council approved and accepted the Housing Equity Roadmap ("Roadmap"), a report drafted by the City Administration in conjunction with PolicyLink, Enterprise Foundation and the Urban Strategies Council. The Roadmap made several recommendations regarding how to avoid rapid displacement of long-tenured residents with a particular focus on low income families. Based on that report, several members of the Council have begun working with the Administration, community groups and non-profits to draft enabling legislation to address the concerns.

There is no dispute that many Oaklanders are suffering under rapidly escalating rent increases. Oakland's current rent stabilization program is not adequate to provide protections to tenants or guidance to landlords seeking to comply with the law. Oakland has approximately half as many rental units as San Francisco and twice as many evictions. The true scope of illegal rent increases is unknown but Los Angeles, which has a very similar system as Oakland's, recently found that 25% of tenants were being illegally overcharged compared to only 5% in Berkeley.

Inequality in the labor market, a history of racism in housing policy and generations of underbuilding created this current crisis. After years of lagging behind neighboring cities, Oakland now has the highest escalation of rents in the region. The price escalation has been rapid and alarming for existing tenants who are increasingly subject to double digit increases and inadequate protections. Extending and strengthening tenant protections is increasingly needed as Oakland's existing rental stock transfers into the hands of owners who may not know our laws.

Real challenges persist at the State and Federal levels where funding for housing and incentives to build are missing. Oakland will need to add our voice to the growing number of cities demanding reform and resources to address the severe housing shortage that threatens to destroy the very culture that attracts residents and businesses to our Golden State.

Legislative History

Oakland Municipal Code sections 8.22.010 through 8.22.200 sets out Oakland's rent stabilization policies, describing the need for rent stabilization, defining its application to and exemption of residential unit types, authorizing a maximum amount and the timing of rent increases, regulating the authority and composition of, and financing mechanism for the Residential Rent Adjustment Program, identifying notice requirements for rent increases, and creating a petition process by which tenants may contest rent increases.



The City adopted a rent stabilization ordinance in 1980. The currently codified rent stabilization ordinance was revised in 2002-2003 based in part based on the passage of ballot Measure EE (Just Cause for Eviction Ordinance). Since 2002, Oakland's rent stabilization ordinance has been amended various times to revise the amount of authorized rent increases as well as to regulate how and to what extent capital expenditure costs may be passed-through to tenants.

The Oakland Municipal Code section 8.22.070 defines allowable rent adjustments for covered units. Rents may be increased only once within a 12-month period. Generally, the rent may not be increased by more than 10 percent of the existing rent and no series of rent increases in a five-year period may cumulatively increase the rent by more than 30 percent. Generally, the ordinance allows for several types of rent increase: 1) accommodating inflation based on the Bay Area Consumer Price Index ("CPI") 2) based on improvements to the rental property, 3) banking--landlords may "bank" or save an allowable rent increase and impose that increase at a later date, so long as the increase complies with the maximum increases (no more than 10 percent per year and 30 percent in five-years) 4) increased housing service costs, and 5) fair return. If a landlord increases the rent in excess of the annual CPI increase, tenants may petition the Residential Rent Adjustment Board for potential relief if the increase is not justified by standards in the rent adjustment ordinance. It is estimated that 56 percent of Oakland's rental housing stock is subject to residential rent stabilization policies.

Analysis and Policy Alternatives

Current Oakland Housing Landscape

Residential rental policies are particularly important in Oakland. Sixty percent of Oakland residents are renters in an estimated 93,806 rental units.¹ Renters generally earn less than homeowners. The annual median income for a household renting in Oakland was \$36,657, significantly less than the \$94,043 annual median household income for homeowners. And although a majority of all racial and ethnic groups in Oakland are renters, Black and African American residents are more than twice as likely to rent versus own their housing. Likewise, approximately sixty percent of Asians and Latinos live in rental housing but only fifty-two percent of Whites in Oakland rent.

Moreover, the majority of Oakland tenants are already rent burdened, which is defined as spending in excess of 30 percent of household income on housing costs. In addition, over 26,000 Oakland households who rent are severely rent burdened, which is defined as spending 50 percent or more of monthly household income on housing.

Oakland's residential rental market is increasingly expensive. As summarized in the table below², median rental prices increased significantly between July 2014 and July 2015. During the same period, fewer rental units were available to the public.

Unit Type	Change in Price July 2014 – 2015		Change in Available Supply (Oakland)
	(Oakland)	(Select Neighborhoods)	
Studio	+35%	+38%	-37%

¹ All statistics from the United States Census Bureau, American Community Survey (2014) unless otherwise noted.

² Citywide Rental Survey, City of Oakland, September 2015.



1-Bedroom	+2%	+30%	+13%
2-Bedroom	+40%	+54%	-7%
3-Bedroom	+19%	+36%	-7%

Rental prices continue to increase in 2016. In February 2016 the median rental price for a one-bedroom unit in Oakland was \$2,250 per month (\$27,000 per year), a 13.6 percent increase in costs over February 2015, and the median rental price for a two-bedroom unit in February 2016 was \$2,700 per month (\$32,400 per year), an 18.9 percent increase over costs in February 2015.³

Existing Oakland tenants are unlikely to find new rental housing in Oakland if displaced. Based on the median annual income of households renting in Oakland, a one-bedroom would cost 74 percent of annual household income and 85 percent for a two-bedroom unit. This may explain in part why Oakland experienced a 24 percent decline in the population of Black and African American residents and a 16.7 percent decline in children residents between 2000 and 2010.⁴

The proposed ordinance would impose an immediate 90 day moratorium on any rent increases in excess of the CPI Rent Adjustment, as defined in Section 8.22.020 of the Residential Rent Adjustment Ordinance, other than those increases properly noticed prior to March 31, 2016. The Ordinance provides that a landlord may petition the Rent Program to authorize rent increases above those otherwise permitted by the moratorium if necessary to permit the landlord to earn a fair return.

The ordinance also would expand the coverage of the existing Residential Rent Adjustment Ordinance to units that were previously exempt. Specifically, the ordinance would regulate rent increases for tenants living in two and three-unit buildings when the landlord resides in one of the other units. Likewise, it would prospectively discontinue an exemption from rent stabilization for buildings that are substantially rehabilitated as defined in Oakland Municipal Code Section 8.22.030(B)(2). The City would continue to issue exemptions for those buildings where significant expenditures had already been made toward substantial rehabilitation of the building by the effective date of the ordinance. The proposed ordinance sets a standard that requires the owner to demonstrate that at least 25 percent of the substantial rehabilitation costs have been expended prior to the effective date of the ordinance.

In addition, the ordinance requires City staff to publicize a list of activities for which a tenant may legally be evicted and publicize tenant rights under the Just Cause for Eviction Ordinance and the Residential Rent Adjustment Program.

Finally, the proposed ordinance provides that a landlord's violation of the moratorium on rent increases in excess of the CPI Rent Adjustment is citable as an Administrative Citation under Oakland Municipal Code Chapter 1.12. and that repeated violations may be subject to a Civil Penalty under 1.08.

The 90 day moratorium on rent increases would apply to residential units newly regulated by Oakland's residential rent stabilization policies as discussed above. Approximately 52,531 residential

³ Zumper National Rent Report: March 2016.

⁴ A Roadmap Toward Equity: Housing Solutions for Oakland, California, September 2015.



units are currently subject to Oakland's rent stabilization policies. Discontinuance of the substantial rehabilitation exemption would not be retroactive and so would not increase the number of regulated units. Accordingly, enactment of the ordinance could potentially impact up to 80,484 units.

At the end of the 90 effective period for the ordinance, the City Council may decide to extend the moratorium, enact permanent measures amending the Rent Adjustment Ordinance, or take no action so that the ordinance's provisions have no further effect. If permanent measures are enacted, the City Council will need to determine how to address rent increases for tenants whose rent was increased under the provisions of the ordinance, if any future provisions are different from the ordinance's terms.

Fiscal Impact

The ordinance may have a limited fiscal impact on the City by increasing the number of regulated units under the Residential Rent Adjustment Ordinance, which allows tenants of regulated units to file petitions to contest rent increases with the Residential Rent Adjustment Board. Likewise, the ordinance includes a provision for landlords to petition the Residential Rent Adjustment Board for rent increases, and affirms the City's existing obligation to publicize tenant rights under the Just Cause for Eviction Ordinance, both of which require resources from the City.

Public Outreach / Interest

This report is posted on the City's website, which meets the minimum requirements. In addition, the City has received two ballot measures regarding rental stabilization policies and suggestions from the public were incorporated into each proposed ordinance. Moreover, these emergency measures are meant as a prelude to robust study and public engagement to help address Oakland's housing affordability crisis.

Coordination

This report was coordinated with the City Attorney's Office, the March 16 petitioners, including representatives from Oakland Tenants Union, Oakland Alliance, Oakland Parents Together, The John George Democratic Club, the Wellstone Democratic Renewal Club, Block By Block Organizing Network, Black Women Organized for Political Action, OaklandWorks, Attendees of the Oakland Post Salon, and other members of the public

Sustainable opportunities

Economic: The ordinance is intended to protect the economic vitality of Oakland tenants. It expands the number of units, and thereby residents, protected by Oakland's rent stabilization policies; provides many Oakland tenants with a window of economic certainty by ensuring that they are not subject to rent increases as the City embarks on a review of potential methods to more permanently protect tenants; and provides additional certainty and therefore economic benefit to landlords who have already begun or completed a substantial rehabilitation of a residential rental building but have not yet received an exemption.

Environmental: The proposed ordinance is intended to promote neighborhood stability by reducing tenant turnover in residential rental buildings, which in turn could reduce the environmental impacts of moving from one residential unit to another.



Social Equity: The proposed ordinance is intended to promote social equity by protecting Oakland renters, who are less-economically secure than Oakland homeowners and are more likely to be persons of color.

CEQA

The proposed ordinance is exempt California Environmental Quality Act under CEQA Guidelines Section 15061(b)(3), from the because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment, in that the ordinances apply the City's rent stabilization measures to existing residential units in the City, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

Conclusion

The Ordinance before you provides the Council the opportunity to complete its deliberations over a range of needed reforms identified in the analytical reports issued by the City including: revisions to the condominium conversion ordinance, rent stabilization ordinance, protections for boarding houses that act as housing of last resort, and an improved local preference ordinance to ensure Oaklanders get first choice in affordable housing in their neighborhoods.

I invite both landlords and tenants to constructively engage with the City Council to reform our rent stabilization system so that we can provide real protections to tenants in a manner that is also fair and responsible to landlords. Together we will preserve Oakland's culture, diversity and investments.

Signed,



Council President Lynette Gibson McElhaney



OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED ON BEHALF OF MEMBERS OF THE PUBLIC
BY COUNCIL PRESIDENT LYNETTE GIBSON MCELHANEY

6 Affirmative Votes Required

INTERIM EMERGENCY ORDINANCE TO TEMPORARILY: 1) ELIMINATE THE EXEMPTIONS FROM RENT CONTROL FOR OWNER-OCCUPIED DUPLEXES AND TRIPLEXES AND SUBSTANTIALLY REHABILITATED PROPERTIES; 2) PLACE A MORATORIUM ON RENT INCREASES ABOVE THE ANNUAL CPI ADJUSTMENT; 3) AFFIRM THE CITY'S PROHIBITION ON ILLEGAL EVICTIONS; 4) AFFIRM THE CITY'S DUTY TO PUBLICIZE CITY POLICIES ESTABLISHING TENANT RIGHTS; AND 5) DIRECT THE CITY ADMINISTRATOR TO EVALUATE POTENTIAL PERMANENT RENT STABILIZATION MEASURES

WHEREAS, the City of Oakland is experiencing a severe housing affordability crisis that requires immediate emergency action by the City government; and

WHEREAS, the housing affordability crisis threatens the public health and welfare of our citizenry; and

WHEREAS, 60 percent of Oakland residents are renters, who would not be able to locate affordable housing within the city if displaced by rent increases (U.S. Census Bureau, ACS 2014 Table S1101);

WHEREAS, in February 2016 the median rental price for a one-bedroom unit in Oakland was \$2,250 per month (\$27,000 per year), a 13.6 percent increase in costs over February 2015, and the median rental price for a two-bedroom unit in February 2016 was \$2,700 per month (\$32,400 per year), an 18.9 percent increase over costs in February 2015 (Zumper National Rent Report: March 2016); and

WHEREAS, Oakland's rental housing costs are the fourth highest in the nation, behind San Francisco, New York, and Boston (Zumper National Rent Report: March 2016); and

WHEREAS, in 2014 the estimated annual median household income for households that rented in Oakland was \$36,657 and a household earning the annual median household income would pay 74 percent of household income for a one-bedroom unit or 85 percent of household income for a two-bedroom unit (U.S. Census

Bureau, ACS 2014, Table S2503) based on the 2016 median rental prices for such units; and

WHEREAS, the affordable rent for a family earning \$36,657 is defined as only paying thirty percent of income on housing is approximately \$916 per month; and

WHEREAS, the median rent for all apartments rented in February of 2016 reached an all-time high of just over \$3,000 per month according to research from Trulia; and

WHEREAS, many of Oakland's households are housing insecure defined as facing high housing costs, poor housing quality, unstable neighborhoods, overcrowding, or homelessness; and

WHEREAS, over 26,000 or approximately 28% of Oakland's 93,000 renting households are severely rent burdened, which is defined as spending 50 percent or more of monthly household income on rent (Oakland Consolidated Housing Needs Assessment 2015 Analysis Of HUD Data, as reported in the City's March 2016 Oakland at Home report, pp. 10-11); and

WHEREAS, displacement through evictions and dramatic rent increases has a direct impact on the health of Oakland's citizens by uprooting children from their schools, disrupting long standing community networks that are integral to citizens' welfare, forcing low-income residents to pay unaffordable relocation costs, segregating low-income residents into less healthy and more overcrowded housing that is often further removed from vital public services and leaving residents with unhealthy levels of stress and anxiety as they attempt to cope with the threat of homelessness; and

WHEREAS, the City Council, City Administrator and Mayor have publicly pledged to address housing affordability and are currently working to develop and enact legislation that seeks to mitigate the harms that the housing market is bringing upon low-income citizens; and

WHEREAS, on December 9th, 2014 the Oakland City Council adopted the 2015-2023 Housing Element which outlined forty six policies to address the housing affordability crisis; and

WHEREAS, on September 30th, 2015 the City Council adopted the Housing Equity Road Map as a complement to the Housing Element which included additional policies to bolster renter protections as well as an action plan for implementation; and

WHEREAS, On January 5th, 2016 the City Council declared a 'Shelter Crisis' in order to better serve the growing number of homeless individuals in Oakland who far outpace the number of available shelter beds and housing units; and

WHEREAS, on March 3, 2016, the following organizations brought forth to the Rules and Legislation Committee a rules request and resolution for a rent increase and eviction moratorium that formed the foundation of this ordinance: Oakland Tenants Union, Oakland Alliance, Oakland Parents Together, The John George Democratic Club, the Wellstone Democratic Renewal Club, Block By Block Organizing Network, Black Women Organized for Political Action, OaklandWorks, Attendees of the Oakland Post Salon, and other members of the public; and

WHEREAS, the City Council is currently considering the policy proposals from the aforementioned plans and other options in order to adopt successful policies as quickly as possible; and

WHEREAS, the City needs a temporary emergency ordinance to mitigate the harms of rapidly escalating rent increases while the City Council completes its deliberations over permanent reforms; and

WHEREAS, pursuant to City Charter Section 213 the City Council may introduce and adopt an emergency ordinance at the same City Council meeting by an affirmative six votes of the council; and

WHEREAS, pursuant to City Charter Section 213 the City Council must state the reasons constituting the necessity of an emergency ordinance in order to preserve the public peace, health or safety of the City in an emergency; and

WHEREAS, the City's current rent stabilization ordinance (O.M.C Chapter 8.22) currently exempts from its provisions owner-occupied two and three unit buildings as well as buildings that have met the qualifications for a substantial rehabilitation exemption; and

WHEREAS, the City's current rent stabilization ordinance (O.M.C Chapter 8.22) sets the maximum allowable rent increase in any twelve month period at ten percent; and

WHEREAS, based on the findings above, the City desires to further the public health, safety and welfare by temporarily eliminating the exemptions for owner-occupied two- and three-unit buildings and new substantially-rehabilitated buildings, and reducing the maximum allowable rent increase in any twelve month period to the CPI Rent Adjustment, as defined in Section 8.22.020 of the Residential Rent Adjustment Ordinance; and

WHEREAS, if the Council does not enact an emergency ordinance implementing the above measures, the City's announcement of its intent to act would exacerbate the instability of the housing market and the uncertainty of public peace, health, and welfare by, in effect, providing for a brief incentive period during which landlords could increase rents despite the clear intent of the City to regulate such practices; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Emergency Finding. The City Council finds the foregoing recitals to be true and correct and hereby incorporates such findings into this ordinance. The City Council further finds that there is a necessity to pass an emergency ordinance by the powers given to the City Council under Section 213 of the City Charter due to rapidly escalating rents that, through the displacement of low and moderate income residents directly, threaten the welfare and public health of the City.

SECTION 2. Duration of Interim Ordinance. This emergency ordinance shall remain in effect for ninety (90) days from the date of its adoption.

SECTION 3. Discontinuance of Rent Exemption for Owner-Occupied Duplex and Triplex Properties. The exemption from the Rent Adjustment Program for owner-occupied properties of two- to three-units (Oakland Municipal Code section 8.22.030A.8) is discontinued; provided, however, that any legal rent increase for which a notice to the tenant was properly given prior to March 31, 2016 shall be permitted.

SECTION 4. Discontinuance of Exemption for Substantial Rehabilitations. The substantial rehabilitation exemption from the protections for renters found under Chapter 22 of the Oakland Municipal Code ("Residential Rent Adjustments and Eviction") shall be prospectively discontinued. Only those projects for residential buildings that have received permits for construction meeting the definition of "substantial rehabilitation" in Section 8.22.030.B.2 of the Residential Rent Adjustment Ordinance and for which no less than twenty-five (25) percent of the substantial rehabilitation project costs, as identified in building permits, have been expended as of the effective date of this ordinance may receive a new exemption. No other projects may receive a new exemption for substantial rehabilitation of a building. For purposes of this Section, "expended" means actually paid or contractually committed to pay an expense.

SECTION 5. Rent Increase Moratorium; Petition for Relief. From the effective date of this Ordinance no owner or manager of a residential unit regulated by Oakland's Residential Rent Adjustment Ordinance (Section 8.22.010 *et seq.*) may serve or give notice of a rent increase that exceeds the CPI Rent Adjustment, as defined in Section 8.22.020 of the Residential Rent Adjustment Ordinance, for the twelve (12) months preceding the increase. The moratorium on rent increases above the CPI Rent Adjustment provided for in this Ordinance shall not apply to any rent increase for which a notice to the tenant was properly given prior to March 31, 2016. Any owner or manager of a residential unit who claims that the allowable rent under the moratorium is insufficient to provide a fair return based on maintaining the property's net operating income may file a petition with the Rent Program requesting relief from the moratorium by way of a rent increase in excess of the CPI Rent Adjustment necessary to provide a fair return. The City Administrator shall provide a working definition of "maintaining the property's net operating income."

SECTION 6. City Policy on Illegal Evictions. It remains the policy of the City of Oakland that no housing provider shall take action to terminate any tenancy in any unit covered by the Just Cause Ordinance (O.M.C. 8.22.300, et seq.) including, but not limited to, making a demand for possession of a rental unit, threatening to terminate a tenancy, serving any notice to quit or other eviction notice, or bringing any action to recover possession of a rental unit except for such “just cause” evictions as provided for in the city’s current Just Cause for Eviction Ordinance as enacted by Measure EE and codified in Chapter 8.22.300 of the Oakland Municipal Code.

SECTION 7. Duty to Publicize. The City Administrator shall develop a plan for better publicizing and educating the public about tenant rights and landlord responsibilities established by City’s Just Cause for Eviction Ordinance and Residential Rent Adjustment Program.

SECTION 8. Administrative Remedies. For violations of the rent increase limitations set out in this ordinance, the City Administrator may issue an administrative citation pursuant to Oakland Municipal Code section 1.12 for a first and second violation by a property owner and a Civil Penalty pursuant to Oakland Municipal Code section 1.08 for three or more violations by a property owner which shall constitute a major violation.

SECTION 9. Direction to City Administrator. The City Council shall direct the City Administrator to analyze and investigate the impacts, legality, and potential implementation of making the measures included in this Ordinance, and other measures identified by the City Council as meriting further study, permanent.

SECTION 10. Environmental Review. This ordinance is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the ordinance may have a significant effect on the environment, in that this ordinance applies the City’s rent stabilization measures to existing residential units in the City, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

SECTION 11. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 12. Effective Date. This ordinance shall become effective immediately if it receives six or more affirmative votes.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLÉN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____