CITY OF OAKLAND

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Councilmember Sheng Thao
DISTRICT 4
Councilmember Dan Kalb
DISTRICT 1

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Date:	1/7/2020
To:	Honorable Council President Bas
	Members of the City Council
From:	Council President Pro Tempore Sheng Thao, District 4
	Councilmember Dan Kalb, District 1
Re:	Emergency Paid Sick Leave Extend and Amend

RECOMMENDATION

We Respectfully Request That The City Council: Adopt An Emergency Ordinance Extending and Amending Chapter 5.94 of the Oakland Municipal Code to Extend Emergency Paid Sick Leave For Oakland Employees During The Novel Coronavirus (COVID-19) Pandemic

EXECUTIVE SUMMARY

The Coronavirus (COVID-19) Pandemic is an unprecedented crisis. As we navigate the second wave and the current shelter in place order and the gradual reopening of the Oakland economy, we must provide emergency paid sick leave to workers in order to minimize the spread of COVID-19 in our workplaces and in our communities. This is especially the case for low-wage workers on the frontlines and in service occupations. Workers who have access to emergency paid sick days are less likely to feel compelled to come to work sick, fully comply with the 14-day quarantine period recommended by public health officials, and more easily able to care for their loved ones and navigate school and nursing home closures. Low wage workers – who are predominantly people of color – are not only on the front lines of the crisis, but among the hardest hit economically.

This ordinance is an extension on the Emergency Paid Sick Leave Ordinance first passed by Oakland City Council on May 12, 2020 (13593 C.M.S) in expansion of the Federal Families First Coronavirus Response Act, which required certain businesses to provide 80 hours of Emergency Paid Sick Leave for full-time employees to minimize the risk of contracting or spreading COVID-19, care for a family member who has been exposed to COVID-19, or care for a child whose school has been closed. This ordinance enables workers to receive their full compensation when using their Emergency Paid Sick Leave to care for loved ones, expands Emergency Paid Sick Leave to businesses with more than 500 employees, and allows laid-off workers to collect accumulated Paid Sick Leave under Oakland's Measure FF. The ordinance only requires employers with less than 50 employees to follow what is already required by the Federal law in order to protect Oakland's small businesses.

The very workers we depend on to navigate this crisis must be able to protect themselves and their

families. No one should have to choose between keeping their family safe and putting food on the table.

BACKGROUND
The Coronavirus (COVID-19) Pandemic has acutely alerted us to our reliance on, and the vulnerability of, our frontline, essential service workers. While the Federal Families First Coronavirus Response Act was an important step in protecting workers, California cities are realizing it is falling far short of what our workers need. Cities like Los Angeles, San Francisco, and San Jose have already passed expansions of the Federal legislation. It is imperative that Oakland follow suit to protect Oakland workers and continue to pave the way for statewide action, just as Bay Area Counties did by declaring a Shelter-in Place Order. By eliminating the two-tier wage replacement system that limits workers' ability to use their Emergency Paid Sick Leave, this ordinance ensures that workers will not have to consider the financial impact of caring for a loved one, in line with Oakland's existing Paid Sick Day policy.

Similarly, immune-compromised workers will not have to balance risking their lives with their checkbook. Our health depends on the health of the person next to us, and the person next to them. Protecting our workforce is critical to maintaining ongoing service, stopping this pandemic, and safeguarding the health and well-being of everyone in our community.

ANALYSIS
The Families First Coronavirus Response Act (FFCRA) which sunset on December 31, 2020 provided 80 hours of paid sick leave for full-time workers and, for part-time workers, the FFCRA provided the number of hours of leave that the employee works on average over a two-week period. Workers can use FFCRA if they are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; if they have been advised by a healthcare provider to self-quarantine related to COVID-19; if they are experiencing COVID-19 symptoms and are seeking a medical diagnosis; if they are caring for an individual under a quarantine or isolation order; if they are caring for a child whose school or place of care is closed due to COVID-19, or if they are experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury. FFCRA does not apply to companies with more than 500 employees, ironically the companies most able to provide Paid Sick Leave. Under FFCRA, if employees are caring for a child whose school or place of care is closed, or caring for someone subject to a quarantine or isolation order, they are only compensated for 66% of their regular pay. Also, FFCRA does not allow workers to use Paid Sick Leave if they are immunocompromised or have other pre-existing conditions which make them more vulnerable to contracting and experiencing potentially fatal complications from COVID-19.

Though the FFCRA Emergency Paid Sick Leave mandate had a sunset date of December 31, 2020, the federal government enacted the Consolidated Appropriations Act, 2021, including Coronavirus Stimulus & Relief, which extended the business tax credits aspects of the FFCRA.

This emergency ordinance:
1) Allows employers to credit sick leave offered under the previous ordinance to be credited
2) Ties the Emergency Paid Sick Leave Ordinance to Oakland's Local Emergency Proclamation for the COVID-19 Pandemic

Sincerely,

Council President Pro Tempore Sheng Thao
District 4

Councilmember Dan Kalb
District 1