

# CITY OF OAKLAND



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October 6, 2020

HONORABLE CITY COUNCIL  
Oakland, California

CITY ADMINISTRATOR  
Oakland, California

**Re: RESOLUTION DIRECTING THE CITY ADMINISTRATOR TO  
1) FULLY IMPLEMENT THE CITY OF OAKLAND SLAVERY  
ERA DISCLOSURE ORDINANCE CODIFIED AT OAKLAND  
MUNICIPAL CODE CHAPTER 9.60; 2) PROVIDE AN INITIAL  
INFORMATIONAL REPORT TO COUNCIL REGARDING THE  
STATUS OF SLAVERY ERA DISCLOSURES AND THE  
ASSOCIATED FUND AT A COUNCIL MEETING BEFORE THE  
END OF 2020; 3) PROVIDE AN ANNUAL INFORMATIONAL  
REPORT AT COUNCIL MEETINGS TO SUPPLEMENT THE  
ORDINANCE'S ANNUAL REPORTING REGARDING THE  
STATUS OF THE IMPLEMENTATION OF THE ORDINANCE;  
AND 4) AFTER CONSULTATION WITH THE CITY ATTORNEY,  
MAKE PUBLICLY AVAILABLE ON THE CITY'S WEBSITE ALL  
COMPLETED AFFIDAVITS AND REPORTS REGARDING  
SLAVERY ERA DISCLOSURES**

Dear President Kaplan, Members of the City Council, and City Administrator Reiskin:

Co-sponsors City Attorney Parker, Vice Mayor Reid, and Councilmember Taylor ask that the City Council pass the referenced Resolution, which directs the City Administrator to implement and provide status update reports on the implementation of the City's Slavery Era Disclosure Ordinance, codified at Oakland Municipal Code Chapter 9.60.

The City Council adopted the Ordinance in 2005. To date the Ordinance has not been fully implemented. When we apprised City Administrator Reiskin of the Ordinance and that it has not been fully implemented, he expressed his support for and intent to undertake and complete the actions to implement the Ordinance and further expressed his understanding and agreement that implementing the Ordinance is a top priority. Given the many pressing matters

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that our great City faces on a daily basis, we believe that the proposed Resolution is both appropriate and essential to ensure that the Ordinance is fully implemented, and that ongoing implementation of the Ordinance remains a top priority.

### **RECOMMENDATION**

City Attorney Barbara J. Parker, Vice Mayor Larry Reid, and Councilmember Loren Taylor recommend that the City Council pass the referenced Resolution, which will direct the City Administrator to implement the City of Oakland Slavery Era Disclosure Ordinance (OMC Chapter 9.60, effective date August 1, 2005) to the full extent of the law, and provide informational reports discussing prior and/or currently ongoing efforts to implement the Ordinance.

### **OUTCOME**

The Council's approval of the proposed Resolution will ensure that the City complies with the Ordinance, maintaining our commitment to lay bare historic truths concerning the depth and scope of the shameful commerce of African enslavement and address some of the ongoing legacies of slavery in Oakland. The proposed Resolution will direct the City Administrator to take immediate actions to begin implementing and reporting on the 2005 Ordinance, and will direct the City Administrator to otherwise implement the Ordinance to the full extent of the law.

### **LEGISLATIVE HISTORY AND BACKGROUND**

In 2005, the Oakland City Council enacted the "City of Oakland Slavery Era Disclosure Ordinance" ("Ordinance"), codified at Chapter 9.60 of Title 9 of the Oakland Municipal Code. The Ordinance was co-sponsored by City Attorney Parker and Vice Mayor Reid.

With the adoption of the Ordinance, Oakland joined other jurisdictions throughout the United States in officially acknowledging the crime of African enslavement and its ongoing devastating ramifications and legacy for the descendants of enslaved Africans. The states of California, Illinois, Maryland, along with the cities of Berkeley, Chicago, Detroit, Los Angeles, Milwaukee, Philadelphia, and San Francisco each have slavery disclosure laws. These laws collectively highlight how African enslavement and its legacy beginning with Jim Crow laws, segregation and sanctioning of brutality and murder of Black people, and continuing to this very day, have been a means to build this country and its extraordinary wealth and deprive descendants of enslaved Africans of the fruits of their labor and their contributions and the wealth they created and sustained. As a result, to this very day Black Americans do not share in the prosperity of this country and are subjected to ongoing systemic discrimination in every quarter of American life.

President Kaplan, Members of the City Council, and City Administrator Reiskin

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Oakland's Ordinance was adopted to promote the full and accurate disclosure to the public of the scope of historical ties to slavery within Oakland and to establish a fund to which contractors subject to the Ordinance and others can make voluntary contributions to "promote healing and assist in remedying" the present-day legacy of slavery. (OMC § 9.60.010.)

The Ordinance applies to three categories of City contractors—contractors that provide (1) insurance services or (2) financial services to the City of Oakland, and (3) each textile, tobacco, railroad, shipping, rice and/or sugar company doing business with the City.

Covered contractors must complete an affidavit verifying that they searched company records—including those of predecessors in interest, parent companies and subsidiaries—for any evidence that those entities "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." (OMC § 9.60.010.) The affidavit must disclose the name of each enslaved person and slaveholder mentioned in the records and the evidence of transactions that benefitted or profited from slavery.

Following its August 1, 2005 effective date, the Ordinance required that insurance companies comply within 60 days and further required that all other contractors comply within six months. The Ordinance further requires that all new contractors, who enter into contracts with the City after the Ordinance's effective date, provide the affidavit disclosure prior to the execution of the City contract.

The Ordinance tasks the City Administrator, after consultation with the City Attorney, to provide the information collected via affidavit to the public upon request and to the City Council in an annual report. The Ordinance also required that the City Administrator provide an initial report to the Mayor and City Council at an open and public meeting by January 2006.

As aforementioned, the Ordinance also requires the establishment of a voluntary fund to provide, among other uses, education support and economic development to economically depressed Oakland neighborhoods. The City Administrator is tasked with overseeing the fund. The Ordinance required that the City Administrator was to prepare guidelines for the use of the funds and present them to the City Council for approval no later than the end of October 2005. Once this occurred, the City Administrator was to make funding decisions in accordance with those guidelines and provide an annual report to the Council identifying the fund recipients.

Despite the adoption of the Ordinance more than fifteen years ago, there currently is no public information regarding whether and/or how City contractors are complying with the Ordinance. There is no online affidavit form that is publicly available for contractors to submit or use to verify that they have completed the required record search. Based on public information, the Council has never received an initial or annual report regarding the disclosed information as required by the Ordinance. Similarly, since the adoption of the Ordinance, the Council has not

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received or approved guidelines for the use of the funds as required by the Ordinance, or received a report on the fund. The City Attorney's Office has also heard reports that the City Administrator may have waived the requirements of the Ordinance for certain contractors, but that has not been verified.

### **ANALYSIS**

The proposed Resolution will direct the City Administrator to take immediate actions to begin implementing and reporting on the 2005 Ordinance, and will direct the City Administrator to otherwise implement the Ordinance to the full extent of the law. The proposed Resolution will make it a top priority for the City to address the ongoing legacy of slavery and provide information to enable city, state, and federal governments to remediate the tragic atrocities of American slavery and the legacy of enslavement that continues to shape our economic and social structure. The Resolution does not impose any new or different obligations on City contractors.

In order to begin immediately implementing the Ordinance, the Resolution will require the City Administrator to prepare an affidavit form and send it out to all contractors covered by the Ordinance by December 31, 2020. The affidavit form will allow covered contractors to verify that they have searched through any and all relevant records, and subsequently provide the required disclosures. The affidavit then will be available on a prospective basis for new contractors to complete prior to execution of a contract with the City, as required by the Ordinance. This means that the City Administrator as part of the review of proposed contracts must confirm that new contractors have completed the affidavit before contracts are executed with them; and the City Attorney also must confirm compliance before approving contracts as to form and legality.

It is currently unknown how many City contractors the Ordinance applies to, however an initial search of publicly available information indicates that at least nine corporate institutions may be subject to the Ordinance—JP Morgan Chase, New York Life Insurance, Wachovia Bank, Brown Brothers Harriman, Barclays, AIG, Aetna, Bank of America, and Wells Fargo. As a reference point, a 2017 report from the San Francisco City Administrator regarding the San Francisco Slavery Disclosure Ordinance indicates that approximately 17 financial firms or insurance firms have filed an affidavit either per San Francisco's ordinance or voluntarily.<sup>1</sup>

In addition, to begin to immediately implement the Ordinance, the Resolution directs the City Administrator to prepare guidelines for the use of the funds as required by the Ordinance and present the guidelines to Council as soon as reasonably possible, but in no event later than March 31, 2020.

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<sup>1</sup> See 2017 Report Slavery Disclosure Ordinance (July 2, 2018), available at [https://sfgov.org/ccsfgsa/sites/default/files/Slavery%20Era%20Disclosure%20Ordinance/2017SlaveryDisclosureOrdinanceReport\\_0.pdf](https://sfgov.org/ccsfgsa/sites/default/files/Slavery%20Era%20Disclosure%20Ordinance/2017SlaveryDisclosureOrdinanceReport_0.pdf).

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Because it is currently unknown whether or what prior efforts to establish the fund or implement the Ordinance have been taken, the Resolution also directs the City Administrator to bring forward an informational report by the end of 2020 discussing prior and/or ongoing efforts to implement the Ordinance, including but not limited to whether the City Administrator has previously received the required disclosures, established the Ordinance fund, received voluntary contributions from covered contractors, and/or waived the Ordinance disclosure requirements for certain covered City contractors.

To ensure that compliance with the Ordinance remains a top priority, in addition to the annual reporting already required by the Ordinance, the Resolution also requires that the City Administrator provide an annual informational report, including but not limited to the status of slavery era disclosures and the associated Fund, so that City Council receives reports regarding the Ordinance at regular six-month intervals. For example, if the annual report required by the Ordinance is provided to Council in December, the second informational report regarding implementation should be provided to Council in or around June.

Additionally, the Resolution requires that after consultation with the City Attorney, the City Administrator will make publicly available on the City's website all completed affidavits and reports regarding slavery era disclosures. This is consistent with the practice of other cities like San Francisco, which has a city website that links to annual reports, summaries of completed affidavits, and institutional history from entities that uncovered slavery-related transactions in their records.<sup>2</sup>

Finally, the Resolution reiterates the City Administrator's power and duty to implement the Ordinance to the full extent of the law and does not otherwise restrict the City Administrator's implementation authority. As one example of such implementation, the San Francisco City Administrator affirmatively reached out to covered contractors in 2015 to request voluntary contributions for the associated fund, although they did not receive any responses.

As a whole, the Resolution will ensure compliance with the Ordinance by requiring periodic reports on the status of compliance and implementation and providing full and accurate disclosure to the public of the scope of historical ties to slavery within Oakland and establishing a fund to which contractors subject to the Ordinance, and others, can make voluntary contributions.

### **Cost Implications**

This Resolution will not impose additional costs beyond those contemplated by the Ordinance, which include associated staff time.

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<sup>2</sup> See Slavery Era Disclosure Ordinance main page, available at <https://sfgov.org/ccsfgsa/slavery-era-disclosure-ordinance>. depressed

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Additionally, there is the possibility of increased voluntary funding should contractors decide to contribute to the fund as contemplated by the Ordinance. Any funds provided could then be used for purposes including but not limited to supporting the education and economic development in economically areas of the City.

### **PUBLIC OUTREACH / INTEREST**

Oakland residents have a long history of activism around issues of inequity and social justice. The recent protests, marches and movement in Oakland following Mr. George Floyd's murder and the Black Lives Matter movement provide a moment for our country to address and root out the systemic and structural racism and inequities that African Americans have suffered and combatted since 1619 when the first Africans were captured and brought to this nation's shores. In fact, it was not until the 1960s that this country outlawed housing discrimination that had been practiced by our government, fully granted voting rights to Black Americans, and passed other civil rights laws to prohibit discrimination based on race. Our spirits are buoyed by the recognition across a broad spectrum of our nation that reparations are necessary to rectify the extraordinary disparities in wealth of Black Americans and whites. We must seize this moment to make strides to address the ongoing legacy of African enslavement, including but not limited to reimagining policing and upending systemic racism in every quarter of our society and our institutions.

Residents of the Oakland community have also directly expressed significant interest in prioritizing equity and investment in underserved parts of Oakland in City decision-making, such as during community outreach during the Capital Improvement Program (CIP) Prioritization Development Process in 2018.<sup>3</sup>

### **COORDINATION**

This report and legislation were coordinated with the City Attorney's Office and the offices of the City Councilmembers who are listed as co-sponsors. We also reached out to the City Administrator who as noted earlier in the report embraces the goals of the Resolution and is on board with implementing the Ordinance and making implementation a priority.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** This Resolution may create economic opportunities within the City, by enabling or reminding City contractors to voluntarily provide funds as envisioned by the Ordinance. Any funds provided could then be used for economic investment purposes including but not limited to supporting the education and economic development in economically depressed areas of the City.

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<sup>3</sup> See, e.g., FY 2019-21 Adopted Capital Improvement Program (Sept. 16, 2019), at pp. 5-7, available at <https://cao-94612.s3.amazonaws.com/documents/FY19-21-CIP-Adopted-Budget-Revised-FINAL.pdf>.

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**Environmental:** This Resolution does not have any direct environmental impacts.

**Race & Equity:** This Resolution supports the application of equity and social justice foundational practices in City contracting and City transparency. This Resolution is a valuable and critical tool for the City to continue to address the legacy and inequities caused by African enslavement.

**ACTION REQUESTED BY THE CITY COUNCIL**

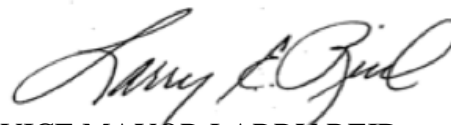
City Attorney Barbara J. Parker, Vice Mayor Larry Reid, and Councilmember Loren Taylor request that the City Council pass a resolution directing the City Administrator to implement the City of Oakland Slavery Era Disclosure Ordinance to the full extent of the law and to provide informational reports providing the status of the City's compliance with, and prior and/or currently ongoing efforts to implement the Ordinance.

For questions regarding this report, please contact Chief Assistant Attorney Maria Bee at (510) 238-3814.

Very truly yours,



BARBARA J. PARKER  
City Attorney



VICE MAYOR LARRY REID



COUNCILMEMBER LOREN TAYLOR