



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Erin Roseman
Director of Finance

SUBJECT: Slavery Disclosure Ordinance Annual Update

DATE: October 6, 2023

City Administrator Approval

Date: Oct 12, 2023

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report On The Status Of Implementation Of The Slavery Era Disclosure Ordinance

EXECUTIVE SUMMARY

This report provides the implementation status of the Slavery Era Disclosure Ordinance ([12686 C.M.S.](#)) as directed by Resolution No. [88321 C.M.S.](#) and serves as the second annual update. The Ordinance has been fully implemented as of April 2023. Details about the implementation efforts are provided here in further detail. As required by the ordinance, all existing contractors were noticed. The [Slavery Disclosure Ordinance Monitoring and Enforcement](#) webpage was created on the City's website. The contracting Schedule S was created, and the contracting process was modified to include Schedule S as required by the Ordinance. As of the date of this report, Slavery Era Disclosure Affidavits were mailed to 154 companies that may be subject to the Ordinance based on available records. Eleven affidavits and two disclosures have been received since the 2022 update report. They are posted on the City's website. The Slavery Era Disclosure Fund (Fund 2422) was renamed the Black New Deal Fund in May 2023. No donations have been received to date, and the fund has a balance of \$0.

BACKGROUND / LEGISLATIVE HISTORY

In 2005, the Oakland City Council enacted the "City of Oakland Slavery Era Disclosure Ordinance" ("Ordinance"), codified as Chapter 9.60 of Title 9 of the Oakland Municipal Code. The Ordinance was co-sponsored by City Attorney Barbara Parker and Councilmember Larry Reid. This informational memorandum provides an update on the enactment of the Ordinance's provisions.

With the passage 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, and Maryland, along with the cities of Berkeley, Chicago, Detroit, Los Angeles, Milwaukee, Philadelphia, and San Francisco, each have slavery disclosure laws that

collectively highlight how African American enslavement and its legacy has been a means to build this country and its extraordinary wealth. Descendants of enslaved Africans have been deprived of the fruits of their labor and contributions to the wealth they created and sustained. Beginning with Jim Crow laws and continuing today with segregation and sanctioning of brutality and murder of Black people. As a result, to this very day, Black Americans do not share in the prosperity of this country. They are subjected to ongoing systemic discrimination in every area of American life.

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 contractor's 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 to the City or (2) financial services to the City, and (3) any 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 the Ordinance's effective date of August 1, 2005, insurance companies were given 60 days to comply, and all other contractors were given six months. The Ordinance further requires that all new contractors who enter contracts with the City following the 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 requires 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 prepare guidelines for using 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.

On October 6, 2020, the City Council unanimously adopted Resolution No. 88321 C.M.S. directing the City Administrator to (1) fully implement the Ordinance; (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.

ANALYSIS AND POLICY ALTERNATIVES

This report serves as the second annual informational report regarding the status of the implementation of the Ordinance to supplement the ordinance's annual report. The presentation of this report supports the Citywide priority of responsive, **trustworthy government**. This report communicates the implementation status of the Ordinance.

Information provided is as of 10/2/2023. As directed by the original Ordinance, the City Administrator, through the Finance Department, searched through contracting records from 2003 to 2022 to determine the number and identification of all contractors that provide or have provided:

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.

The search resulted in the 154 corporate institutions in **Attachment A** that may be subject to the Ordinance based on available records.

The Slavery Era Disclosure Affidavit, Schedule S "Affidavit" (**Attachment B**), was finalized by the Office of the City Attorney in 2022 and updated in September 2023 for added clarity. It is available on the City's Website at www.oaklandca.gov/services/slavery-disclosure. The affidavit serves the purpose of 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; and that the names of each enslaved person and slaveholder described in the records and/or information be disclosed, as well as the evidence of transactions that benefited/profited from American slavery.

The affidavit was sent by US Mail to the 154 companies in **Attachment A** on April 28, 2023. Eleven completed Affidavits, and two disclosures have been received. These completed Affidavits and disclosure reports have been reviewed by the City Attorney and are posted on the City's Website at <https://www.oaklandca.gov/services/slavery-disclosure>. The Finance Department has revised the standard contracting forms/packet to include the Affidavit. The Affidavit will now be distributed with all new contracts as required by the City 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.

Finally, the City Administrator has not expressly waived the Ordinance disclosure requirements for certain covered city contractors.

In further compliance with the Ordinance, the Finance Department has created a fund in the City's accounting system to collect and record voluntary deposits to alleviate the legacy of the slavery era. The Fund was established in FY 2021 as the Slavery Era Disclosure Fund and was renamed Black New Deal Fund (Fund 2422) in May 2023. To date, the fund has not collected any deposits and has a \$0 fund balance.

The City Administrator was also directed to create guidelines for managing any funds in accordance with the Ordinance that is congruent with purposes including but not limited to supporting the education and economic development in economically depressed areas of the City. The City currently has guidelines, Administrative Instruction No. 1052, "City Administrator's Acceptance and Appropriation of Restricted Grant Funds, Gifts, and Donations of \$50,000 or less." (effective 2/14/2008) (**Attachment C**). Fund 2422 would fall under the current guidelines. At the point in which funds are collected, Staff will bring back to the Council more fund specific guidelines or programmatic uses of the funds.

FISCAL IMPACT

This item is for informational purposes only and does not have a direct fiscal impact or cost.

PUBLIC OUTREACH / INTEREST

This item did not require additional public outreach other than posting on the City's website.

COORDINATION

This report was prepared by the Finance Department.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this informational report.

Environmental: There are no environmental opportunities associated with this informational report.

Race & Equity: In the interest of justice and racial equity, this report provides information requested from companies that have done or are doing business with the City of Oakland regarding investments or profits from slavery or slaveholder insurance policies.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report On The Status Of Implementation Of The Slavery Era Disclosure Ordinance

For questions regarding this report, please contact Sarah Herbelin, Assistant to the Director, at 510-238-4491.

Respectfully submitted,



Erin Roseman (Oct 9, 2023 16:33 PDT)

ERIN ROSEMAN
Director of Finance, Finance Department

Prepared by:
Sarah Herbelin, Assistant to the Director
Administration Unit

Attachments (3):

- A: List of Corporations Potentially Subject to the Ordinance
- B: Slavery Era Disclosure Affidavit, Schedule S
- C: Administrative Instruction No. 1052 (eff. February 14, 2008)