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June 5, 2018

HONORABLE CITY COUNCIL
Oakland, California

Re: Item # 11, June 5, 2018 City Council Agenda -

An Ordinance Establishing the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City Sponsored Job Centers Account; Authorizing the Allocation of 5% of the City's Capital Improvement Projects Costs, and 5% of the Parking Fund Gross Revenues; and Allocating 5% of Development Services Fund Gross Revenues; and \$0.30 Cents Per Work Hour Contractor Contribution to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City Sponsored Job Centers Fund; Establishing a Method for Calculating Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City Sponsored Job Centers Appropriations of Capital Projects and Contractor Contribution; Establishing Method of Administering Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City Sponsored Job Centers; and Establishing General Guidelines for the Administration of the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City Sponsored Job Centers Whereas, the Oakland City Council, in Accordance with the Provisions of the Charter of the City of Oakland, the State Law, and Applicable Ordinances of the City, Have Reviewed and Recommended this Ordinance

Dear President Reid and Members of the City Council:

Purpose of Report

The purposes of this report are to: (1) resubmit the May 10, 2018 public legal opinion that our Office presented at the Council's May 15th meeting regarding the Legality of the Proposed Ordinance, (2) provide a supplemental public opinion (dated June 5) that addresses questions Councilmembers' raised at the May 15th meeting regarding the Workforce Development Board; and (3) provide, in accordance with the Council's request at its May 15th meeting, redlined and clean versions of the referenced ordinance ("Ordinance") that address the legal issues our Office addressed in its public opinions.

Background

At its May 15, 2018 City Council meeting, the Council discussed the Ordinance which proposes setting aside funds and imposing a contractor contribution to fund job training programs, and proposes awarding/granting the funds to non-profit entities specified in the Ordinance to provide job training. The City Attorney's Office presented a public written opinion at the May 15th meeting dated May 10, 2018 addressing issues raised by the proposed Ordinance, primarily: (1) conflicts with state and local funding limitations, (2) potential conflicts with federal and state competitive process requirements, and (3) conflicts with federal regulations pertaining to the City's obligation to maintain a comprehensive workforce development system. The City Attorney's Office also addressed several questions regarding the roll and authority of the Workforce Development Board, and made several recommendations for revisions to the Ordinance that would address the legal concerns and provide clarity.

The Council approved a motion to (1) delete several of the funding sources identified in the Ordinance, (2) direct the City Administrator's Office to bring back an analysis of funds identified in the proposed ordinance that would be available for a job training program and (3) direct the City Attorney's Office to bring back a revised ordinance.

Revised Ordinance

To address the Council's motion amending funding sources and legal issues identified with service provider selection, irregularities in format and clarifications, we have revised the proposed Ordinance as follows:

- Language codifying the Ordinance in Chapter 2 of the OMC and a chapter title is added.
- Findings are added.
- Definitions – 2.____.030
 - "Capital Improvement Project" is revised to clarify it applies to City construction projects. It does not include repair or maintenance projects or private projects.
 - "City Supported Job Training Program or Program" - specific providers are deleted and replaced by a general definition – "City Supported Job Training Program or Program means a program offered by a community based organization whose mission is to improve the lives of people it serves by providing accessible, high-quality training and employment services to Oakland residents and employers, such as pre-apprentice

construction and life skills training, employment placement and other assistance, access to jobs in career pathways in the construction, transportation, distribution and logistics sectors, that support contractors and operators' efforts to hire, train and retain Oakland workers."

- "Contractor" has new language clarifying that the term applies to prime and subcontractors.
- "Construction Contract" is added as meaning "a contract for City Capital Improvement Project".
- Funding – 2.____.040
 - Referenced only general fund and parking revenue in "Appropriations" and Development Services Fund (under analysis by the City Administrator).
 - Deleted references to general obligation bond measures, Measure KK, Measure DD, and Measure B and gas tax revenues.
 - Moved "Exclusions" to this section – excludes projects from the set aside when funding sources do not allow use for job training programs.
 - Moved "Grant Applications" to this section – requires City Administrator to include amounts for job training programs in grant applications.
- Contractor \$.30 contribution 2.____.050
 - Placed in separate section.
 - Deleted requirement for contractor to include the contribution in their bids.
 - Deleted provisions allowing City to withhold bond and other project funds that are restricted to capital improvements when contractor fails to pay the contribution.
 - Added provisions making it a breach of contract for a contractor to fail to pay the contribution and providing for any remedies at law.
- Selection of job training providers 2.____.070

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- Added section referencing City's comprehensive workforce development system and concurrent jurisdiction of the Oakland Workforce Development Board and City Council to select job training providers.
- Revised section allocating funds to allocate to the Program Fund, rather than specific service providers.
- Added provision authorizing selection of job training service providers through a competitive process conducted by the City or Oakland Workforce Development Board subject to approval of both the City Council and the Workforce Development Board; or, alternatively, selected without competitive process: 1) for grants – subject to approval of both the City Council and Workforce Development Board, or 2) for service contracts upon a finding of the City Council that waiver of competitive process is "in the best interests of the City" and approval of both the City and Workforce Development Board.
- Added section providing for selected programs to provide job training through grants or service agreements for a designated term (XXXX years) through the City's existing contracting processes.

These revisions are proposed for form and legality. Further revisions may be in order when the City Administrator's Office provides analysis.

Very truly yours,


BARBARA J. PARKER
City Attorney

Attorneys Assigned:

Doryanna Moreno

Daniel Rossi

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Attachments:

City Attorney's May 10, 2018 public legal opinion

City Attorney's June 5, 2018 public legal opinion

Clean copy of City Attorney's revised Ordinance

Redlined copy of City Attorney's revised Ordinance

cc: City Administrator Sabrina Landreth
Assistant City Administrator Christine Daniel



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PUBLIC LEGAL OPINION

June 5, 2018

HONORABLE CITY COUNCIL
Oakland, California

**Re: Legal Role of Oakland Workforce Development Board Under
Proposed Ordinance Allocating Funding to Local Job Training
Programs – Item 11 on the June 5, 2018 City Council Meeting
Agenda**

Dear President Reid and Members of the City Council:

I. INTRODUCTION

The referenced ordinance, among other things, would (1) dedicate a five percent set aside of capital improvement project costs from various sources and a contractor contribution to local job training programs, and (2) allocate a set share of such funds to the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers for training, job readiness, and job placement of City residents.

On May 10th, this Office issued a public legal opinion that addresses various legal issues arising from the proposed ordinance, including (1) whether various proposed funding sources may be used for the job training set aside, and (2) whether the ordinance may give Council sole authority to allocate funds to specific programs, or whether the Oakland Workforce Development Board also must approve these funding allocations. The proposed ordinance was subsequently modified by the author, in response to our opinion, to remove the funding sources that our opinion advised the Council are not eligible for the set aside.

At your May 15 meeting, some Councilmembers had questions concerning the second legal issue, i.e., whether the allocation of funding to specific job training service providers must be reviewed and approved by the Oakland Workforce Development Board in addition to the City Council. In particular, Councilmembers questioned (1) whether the Oakland Workforce Development Board has a required role in allocating local, as opposed to federal, funds, (2) whether federal law preempts local laws in the

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area of workforce development, and, (3) if federal law doesn't preempt local laws, why federal law still requires participation by the Oakland Workforce Development Board in the funding allocation process. This public legal opinion supplements our May 10 opinion regarding this issue, and addresses the foregoing questions from Councilmembers.

II. QUESTIONS AND BRIEF ANSWERS

Question No. 1:

Is the City required to give the Oakland Workforce Development Board the opportunity to review and approve funding allocations to specific job training programs under the proposed ordinance, even if the funds are not federal funds?

Brief Answer:

Yes. The allocation of funds under the proposed ordinance to designated job training agencies is subject to the review and approval of the Oakland Workforce Development Board, as well as the Council, even though these funds would be local and not federal funds. As a condition of receiving federal job training funds, the City has agreed to maintain a comprehensive workforce development system that includes the Oakland Workforce Development Board as the oversight body with the responsibility to select job training service providers and approve workforce development budgets. *This requirement applies whether or not the funding comes from federal or non-federal sources.* Federal law does not limit the role of local workforce development boards only to federal funds.

Question No. 2:

Does federal law preempt local law in the field of workforce development funding, and, if not, does the Oakland Workforce Development Board still have a role in approving funding allocations under the proposed ordinance?

Brief Answer:

No, federal law does not preempt local law in this area. Therefore, federal law does not override the Council's role under the Charter to approve contracts and budgets, including contracts and grant allocations to job training service providers. However, although federal law does not preempt local law in this area, Oakland must comply with federal law, which requires that the Oakland Workforce Development Board as the designated oversight body *also* approve all contracts and grant allocations to job training service providers.

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III. ANALYSIS

The City must adhere to its obligation under federal regulations to maintain a comprehensive workforce development system overseen by the Oakland Workforce Development Board (the "OWDB"), and any allocation of funds to job training service providers must be made within this system. As a condition of receiving federal funds for job training under the Workforce Innovation and Opportunity Act ("WIOA") (codified at 29 USC 3101, et seq.) and its implementing regulations, the City is required to maintain a comprehensive and integrated workforce development system in the Oakland workforce development area. As part of that system and pursuant to WIOA regulations, the City has created the OWDB to oversee and coordinate the Oakland's workforce development system.

The express functions of the OWDB under WIOA regulations and OWDB bylaws include selecting job training service providers and approving the allocation of funds to service providers through adoption of workforce development budgets, subject to confirmation by the City Council of those contracts and budgets. Therefore, any allocation of funds under the proposed ordinance to specific job training service providers must be reviewed and approved by the OWDB and must be included in the City's comprehensive workforce development budget adopted by the OWDB, the Mayor, and the City Council.

These functions are not limited to WIOA funds or other federal funds. The federal law that establishes the OWDB as overseer and coordinator of Oakland's comprehensive workforce development system necessarily requires that the OWDB oversee the allocation of all funds in the system pursuant to the local workforce plan and comprehensive budget whatever the source. Nowhere does the WIOA statute or its implementing regulations limit the role of the OWDB solely to allocating federal funds. These laws expressly contemplate that non-federal funding would be part of the comprehensive workforce development system that the OWDB oversees.

1. Comprehensive Workforce Development System

The purpose of WIOA is to establish a comprehensive workforce development system in local delivery areas, and to coordinate services provided under the system by all of the service providers. Among the stated purposes of WIOA are the following:

"(c) Streamlining service delivery across multiple programs by requiring **colocation, coordination, and integration** of activities and information to make the system understandable and accessible for individuals, including people with disabilities and those with other barriers to employment, and businesses.

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(d) Supporting the alignment of the workforce investment, education, and economic development systems in support of a **comprehensive**, accessible, and high-quality workforce development system at the Federal, State, and local and regional levels;"

(20 CFR Section 675.100, emphasis added; see also WIOA Section 2(2).)

Consistent with the purpose of creating a comprehensive workforce development system across all levels of government, WIOA regulations provide that "the vision for the Local Workforce Development Board is to serve as a strategic leader and convener of local workforce development system stakeholders." (20 CFR Section 679.300(a).) The stated purpose of the WDB is to "[p]rovide strategic and operational oversight in **collaboration** with the required and additional partners and workforce stakeholders to help develop a **comprehensive** and high-quality workforce development system in the local area and larger planning region." (20 CFR Section 679.300 (b)(1), emphasis added.) These regulations do not limit these functions to federal funds; to the contrary, implicit in the repeated references to the OWDB overseeing a comprehensive system is a role in a system that allocates all funds, whatever the source.

The OWDB, in partnership with the "chief elected official", i.e., the Mayor, "sets policy for the portion of the statewide workforce investment system within the local area". (20 CFR Section 679.310.) As a policymaking body, federal law has given the OWDB wide-ranging responsibilities over the workforce development system, including developing and adopting a local workforce development plan, convening stakeholders as needed to leverage non-federal resources, engaging with employers, developing and implementing career pathways, developing strategies for meeting the needs of employers and jobseekers, selecting service providers, and overseeing and evaluating the performance of workforce programs. (WIOA Section 107(d).) The local plan adopted and implemented by the OWDB must include "a strategy to work with the entities that carry out the core programs to align resources available to the local area, to achieve the strategic vision and goals described in [the plan]." (WIOA Section 108(b)(1)(F).)

Similarly, state statutes implementing federal law require that local workforce development boards be established "to assist the local chief elected official in planning, oversight, and evaluation of local workforce investment" consistent with statewide goals and objectives. (California Unemployment Insurance Code Section 14201.) Local boards are tasked with conducting oversight over the local workforce delivery system, including analyzing economic conditions, assessing local needs, convening local stakeholders, leading engagement with employers, developing career pathways, developing accountability standards, and coordinating activities with education and

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training providers. (Id. at 14206 and 14232.) State law does not limit these functions only to federal funds.

The bylaws for the Oakland WDB reflect its statutory role as the entity responsible for coordinating a comprehensive workforce development system in Oakland: “It shall be the purpose of the Oakland Workforce Development Board, hereinafter referred to as the “Board,” to oversee the articulation and implementation of **comprehensive** workforce development strategies, policies and performance outcomes of the City of Oakland’s **integrated service delivery system** in partnership with the Mayor of the City of Oakland (the “Mayor”).” (OWDB Bylaws, Article II, emphasis added.) A function of the Oakland WDB is to “identify and approve eligible providers of youth services, training services and career services in Oakland.” (Id.)

2. Selection And Oversight Over Job Training Service Providers

The agencies designated in the proposed ordinance as recipients of funds are all job training service providers within Oakland’s workforce development system. The Oakland WDB is specifically tasked with coordinating and overseeing the work of career service providers like Cypress Mandela, Men of Valor and the job centers. One of the express functions of the OWDB is to select (and terminate, if appropriate) providers of career services. “As provided in WIOA sec. 107(d), the Local Board must: (l) Select the following providers in the local area, and where appropriate terminate such providers in accordance with 2 CFR part 200:(2) Providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122; (3) Providers of career services through the award of contracts, if the one-stop operator does not provide such services; and (4) One-stop operators...” (20 CFR Section 679.370(l).) State law, which tracks federal law, also provides that local workforce development boards are responsible for selecting and overseeing job training service providers. (California Unemployment Insurance Code Section 14206(j).) *These regulations do not limit the selection function only to service providers receiving federal funds.*¹

¹ One Councilmember asked where the federal regulations specifically state that local boards are responsible for allocating local funds to service providers. While the regulations do make reference to the system receiving funds from non-federal sources, they do not otherwise specifically reference the allocation of local funds. However, neither WIOA nor its implementing regulations includes any language limiting the functions or the jurisdiction of the local boards only to federal funds, and basic rules of statutory construction dictate that we should not read a limitation into a law where none is expressed. “It is ‘a cardinal rule of statutory construction that ... a court must not ‘insert what has been omitted’ from a statute.” (*Boy Scouts of America Nat. Foundation v. Superior Court* (2012), 2016 Cal.App.4th 428, 446; see also *County of Santa Clara v. Trump* (USDC N. Calif. 2017) 250 F.Supp.3d 497, 515.) Also, the repeated references in the statute and the regulations to the local board’s responsibility to oversee an area-wide

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One of the stated purposes of WIOA is to enhance the role of local WDBs in the system “by increasing flexibility to tailor services to meet employer and worker needs at State, regional, and local levels.” (20 CFR Section 675.100.); this includes coordination with and oversight of providers of career services for adults that are part of the comprehensive workforce delivery system. (20 CFR Sections 680.110(a) and 680.160.) With respect to such providers, the OWDB is tasked with leading efforts to “Develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities”, and “Ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers.” (20 CFR Section 679.370 (e).)

Under the OWDB Bylaws, career service providers are essential to the system in order “to develop effective linkages to support employer use of the local workforce development system, to ensure that Oakland’s workforce investment activities meet the needs of employers and supports economic growth in Oakland, and to develop and implement proven strategies for meeting the needs of Oakland workers and employers.” (OWDB Bylaws, Article II.) The Bylaws provide that the OWDB selects the one-stop operator and all providers of training services and career services in Oakland. (Id, Article III.)

3. Budget Responsibilities

As part of its mandate to oversee and coordinate the comprehensive workforce development system in Oakland, the Oakland WDB in collaboration with the Mayor (as well as the City Council in its Charter role over City budgets) is responsible for adopting a budget for the workforce development system. Under WIOA, a WDB must “develop a budget for the activities of the local board in the local area, consistent with the local plan and the duties of the local board..., subject to the approval of the chief elected official”. (WIOA Section 107(d)(12)(A).) State law also gives the local board budget-making authority. (California Unemployment Insurance Code Section 14207(a).) See also Article III of the Oakland WDB Bylaws: “The Board shall develop a budget for the purpose of carrying out its duties consistent with the Local Plan, subject to the approval of the Mayor.”

comprehensive workforce development system strongly suggests that Congress and the Department of Labor intended that local boards such as the OWDB would have broad authority over all system-wide dollars. Statutes should not be read in isolation, but should be construed with reference to the entire scheme of the law. (*McLaughlin v. State Bd. Of Educ.* (1999), 75 Cal.App.4th 196, 210.)

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Nothing in WIOA, the WIOA regulations, state laws, or the OWDB Bylaws suggests that the workforce development budget approval function is limited only to WIOA funding or to only other federal revenue sources. In fact, WIOA and other laws expressly contemplate that workforce development activities would be funded from a variety of federal and non-federal sources. WIOA authorizes local boards to “solicit and accept grants and donations from sources other than Federal funds made available under [WIOA].” (WIOA Section 107(d)(12)(B)(ii); see also California Unemployment Insurance Code Section 14207(d).)

The practice in Oakland under WIOA and its predecessor statute, the Workforce Investment Act (WIA), has been to include *all* sources of funding in the workforce development budget adopted annually by the OWDB/OWIB and Council, including federal WIOA/WIA funds, other federal funds, special grants from the state and other governmental entities, private donations, and local sources such as City general fund contributions. A significant percentage of workforce development revenue under recently-approved workforce development budgets in fact comes from non-federal sources.² All of these funding sources are integral to supporting the integrated comprehensive system contemplated by WIOA.

4. Federal Preemption

At the May 15 meeting, a Councilmember asked if federal law preempts local law in the area of workforce development. This Office clarified that federal law does not *preempt* local law; but that the City still must *comply* with federal law, including the obligation to operate the Oakland Workforce Development Board as the overseer of a comprehensive workforce development system in Oakland.

In a previous public legal opinion from this Office dated August 12, 2005, we concluded that the federal Workforce Investment Act (the predecessor to WIOA) does not preempt Charter provisions giving the Council authority to approve budgets and City contracts, including workforce development contracts and budgets. “We see no compelling indication that Congress intended federal law to preempt the ability of local governments to apply additional decision-making procedures mandated by local law to WIA matters.” (*Adoption of Budget and Contracts for Workforce Investment*, Opinion of the City Attorney to City Council and Mayor, August 12, 2005, at 7.) (The August 12, 2005 public legal opinion is posted on the City Attorney’s website.) In particular, we saw no compelling evidence of express preemption in the WIA statutory language, no

² Under the FY 2018-19 workforce development budget that the OWDB recently approved and which the Council will consider in the future, from 35% to 38% of workforce development revenues come from non-federal sources such as the City’s general fund, the sugar-sweetened beverage tax, billboard revenues, contributions from the Oakland Housing Authority, and donations.

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conflict that would prevent the City from complying with both the Charter and federal law, and no clear intent on the part of Congress to preempt the field of workforce development governance to the exclusion of local laws such as the Charter. (*Id.* at 8-9.) By the same token, we found that the Charter did not preempt federal law. Therefore, we concluded that the Council, the Mayor, and the Oakland Workforce Development Board shared concurrent decision-making authority over workforce development matters such as contracting decisions and budgeting. (*Id.* at 9.)

We reiterate that even though federal law does not supplant City's local law, the City nevertheless must comply with federal law, including the conditions placed on federal workforce development funding that require governance by the local workforce development board over a comprehensive workforce development system. Local, state and federal law all govern the activities of local workforce development boards, and none of these laws limit the function of the boards only to federal funds.

IV. CONCLUSION

Under federal and state law, the allocation of funds under the proposed ordinance to designated job training agencies is subject to the review and approval of the OWDB, as well as Council, regardless of whether the funding source is local or federal funds. As a condition of receiving federal job training funds, the City agreed to create and maintain a comprehensive workforce development system, establish the OWDB, and grant the OWDB broad authority over selecting service providers and adopting workforce development budgets.

Respectfully submitted,


BARBARA J. PARKER
City Attorney

Attorney Assigned:
Daniel Rossi

cc: City Administrator, Sabrina Landreth
Assistant City Administrator, Christine Daniel

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May 10, 2018

HONORABLE CITY COUNCIL
Oakland, California

**Re: Legality of Proposed Ordinance Allocating Five Percent of
Capital Improvement Project Costs to Provide Funding for
Local Job Training Programs – Item 11 on the May 15, 2018
City Council Meeting Agenda**

Dear President Reid and Members of the City Council:

I. INTRODUCTION

Pursuant to Rule 7(8) of the Council's Rules of Procedure Resolution No. 87044, the referenced ordinance was pulled out of the Community and Economic Development Committee and placed on the Council's May 15th open session agenda. The proposed ordinance, among other things, would require a five percent set aside of capital improvement project costs from various fund sources for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers for training, job readiness, and job placement of City residents.

This public legal opinion addresses the legal uses and limitations that apply to the various set-aside funding sources referenced in the proposed legislation, as well as Council's independent authority to allocate funds to specific job training service providers. We have consulted with outside bond counsel on the use of bond proceeds and they concur with our analysis.

II. QUESTIONS AND BRIEF ANSWERS

Question No. 1:

May the City may set aside five percent of "capital improvement project costs", which include general obligation bond proceeds, special tax revenues, and other specified funding sources, for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers for training, job readiness, and job placement of City residents?

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Brief Answer:

The answer depends on the funding source. To answer this question, a case-by-case analysis of each funding source must be performed to identify any legal or contractual restrictions on the particular funding source.

Unrestricted General Purpose Fund Revenues - The Council has discretion to appropriate unrestricted General Purpose Fund revenues for any legitimate governmental purpose, including job training programs, unless the funds have been restricted or committed by Council action or contract.

General Obligation Bond Revenues - These funds can be used only for the purposes authorized by state and federal law and the applicable voter-approved measure(s). Under the California Constitution, general obligation bond proceeds, including the Measure DD and Measure KK bonds, can be used only to finance "the acquisition or improvement of real property." Job training programs, job centers, and related administrative activities are not real property acquisition or real property improvements eligible for general obligation bond financing.

Gas Tax Funded Capital Improvements - These revenues from per gallon excise taxes on gasoline and diesel fuel, sales taxes on diesel fuel, and motor vehicle registration fees ("gas tax revenues") are available for transportation purposes only. The use of gas tax revenues for job training or the other non-transportation purposes is unlawful.

Measure B and Measure BB Special Tax Revenues - These revenues can be used only for purposes authorized by state and federal law, and the applicable voter approved measure(s). The attached letter from the law firm representing ACTC advises that training programs are not a permissible use for Measure B and Measure BB Special Tax Revenues. (See Exhibit 1.)

City Parking Revenues - These revenues are general fund revenues as to which the Council has discretion to appropriate for any legitimate governmental purpose, including job training programs, unless the funds have been restricted or committed by Council action or contract.

Question No. 2:

Does the Council have sole authority to allocate funds under the proposed ordinance to specific programs?

Brief Answer:

No. The allocation of funds under the proposed ordinance to designated job training agencies is subject to the review and approval of the Oakland Workforce Development Board, as well as Council. As a condition of receiving federal job training funds, the City has agreed to maintain a comprehensive workforce development system that includes the Oakland Workforce Development Board as the oversight body with the responsibility to select job training service providers and approve workforce development budgets. This requirement applies whether or not the funding comes from federal or local sources.

III. BACKGROUND

The proposed ordinance, among other things, would create a five percent mandated set-aside of "capital improvement project costs" to be held in a Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and Citywide job centers project account. The five percent capital improvement project allocations would be used by the designated agencies for training, job readiness, and job placement for local residents. (Proposed Ordinance, Section 2). Regarding appropriations to fund the five percent set-aside account, Section 3 of the proposed legislation provides:

"All appropriations for City capital improvement projects, including all bond projects and all other capital projects funded from other sources excluding sewer repairs funded from sewer service charge fees shall include an amount equal to five-percent (5%) of the total capital improvement project cost to be dedicated to the Cypress Mandela Training Program & Citywide Job Centers Project Account. Funds appropriated will be used for the Cypress Mandela Training Program, Citywide Job Centers, and administrative costs to manage the program.

The 5% appropriation shall include but not be limited to General Fund funded capital improvements, gas tax funded capital improvements, Measure KK funded projects, Measure DD funded projects; Measure B funded capital improvements, off street parking funded capital improvements and any and all other capital improvements funded from other revenues including grants which may be so appropriated."
(Proposed Ordinance, Section 3, Funding, Appropriations)

The proposed ordinance excludes funding from the set aside in cases where the source of funding or other applicable law prohibits or restricts the use of such funds for this purpose. The proposed ordinance mandates that grant applications for capital improvement projects include amounts for construction training, job readiness and job placement "where permitted."

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Project Costs to Provide Funding for Local Job Training Programs**

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The Cypress Mandela Training Program, the Men of Valor Academy, and the Laborers Community Training Foundation, referred to in the proposed ordinance are operated by private nonprofit organizations. Citywide job centers are defined by the proposed ordinance as "job centers which provide accessible, high-quality training and employment services to local residents and employers" in the construction, transportation, distribution and logistics sectors, but particular job centers are not designated by the proposed ordinance for funding.

City capital improvement projects are subject to the City's Local Employment Program, which establishes goals for employment of Oakland residents for construction work on public works projects. The program also sets goals for the use of Oakland apprentices on these projects. The City also sponsors a Local Construction Employment Referral Program intended to refer Oakland residents for employment on public works projects. It is our understanding that the City uses Citywide job centers to screen eligible Oakland residents and provide such referrals. Contractors must participate in the programs and meet the goals for employment of Oakland residents, or secure an exemption from the City.

IV. ANALYSIS

The eligibility of the funds held by the City for the deposit to a project account for use by the designated job training agencies depends on the allowable uses of each revenue source. Each of the various funding sources mentioned in Section 3 is analyzed below. The eligibility of revenue funds not addressed here for the uses proposed by the ordinance must be considered on a case-by-case basis. We also address the requirements for allocating funding to specific job training programs.

A. Grant Funds

Unless waived by the City Council, the proposed ordinance would require that City departments include amounts for construction training, job readiness and job placement in future applications to outside granting authorities for capital improvement projects. The requirement is limited to grant applications that permit requests for such amounts. The City may deposit grant funds in a set-aside account if the grant agreement authorizes the set-aside for construction training, job readiness and job placement. (Proposed Ordinance, Section 2, Definitions, Grant Applications)

Grants that the City receives from the federal government, state government or other governmental agencies are subject to specific statutory, regulatory, and contractual obligations imposed by the funding entity. Nongovernmental funding sources also impose funding conditions. The eligibility of training programs, job centers or administrative program costs for grant-sourced funds depends on the express provisions of each grant agreement setting forth the authorized uses of the grant, as well as the statutes and regulations that govern the particular grant program.

Also, many federal programs require that a grant recipient undertake a competitive process before passing on grant funds to other agencies; accordingly, certain federal regulations prohibit designating funds for a particular organization without a competitive process.

Before the City transfers funds from a restricted grant account to a set-aside account to pay for job training or other proposed program costs, staff must review the grant conditions to determine whether the grant program (1) allows use of grant monies for job training and job centers and (2) allows designation of a grant recipient entity without a competitive process.

The eligibility of grant funds for the set-aside must be determined on a project-by-project basis. Because the proposed ordinance limits the set-aside to those cases in which the funding source allows the use of funds for those purposes, in many cases grant funds will not be subject to the set-aside.¹

B. General Obligation Bond Proceeds

Under the California Constitution, general obligation bond proceeds, including the Measure DD and Measure KK bonds, can be used only to finance "the acquisition or improvement of real property." No direct legal authority establishes the meaning of the constitutional language. However, there is general agreement among issuers, bond counsel, and financial advisors that "improvements" to real property that are eligible for bond financing include fixtures, equipment, or materials that become, are affixed to land or a building and become part of it in the course of making improvements to property.

The accounting treatment of an expenditure derived from governmental accounting standards, is relevant to the question whether an improved asset is considered real property for bond expenditure purposes, versus moveable equipment. If an item is accounted for as a capital asset and an improvement to real property, and depreciated over time on the City's balance sheet, this accounting treatment can support the position that the item is appropriately characterized as real property for bond expenditure purposes. The professional fees (architect, engineering), labor costs, and permit fees associated with creating the capitalized asset are part of the cost basis that can be depreciated, including costs of construction labor provided under a licensed contractor's state-approved apprentice program. However, costs associated with providing job readiness and similar training to employees or third party workers who may or may not participate in production of a capital improvement is too attenuated from construction of improvements to be treated as capital costs eligible for depreciation.

¹ For future grant applications, the ordinance further requires that applications seek funds for training, job readiness, and job placement "where permitted"; therefore, the ordinance limits the mandate to apply for these funds only when the grant funding program identifies training, job readiness, and job placement as eligible grant uses.

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Real property "improvements" does not include vehicles, equipment, furnishings, supplies, labor unrelated to production of a real property improvement, or anything that is portable or can be removed from a building or land without resulting in damage. Ongoing maintenance costs, ordinary repairs, and supplies are not "improvements" and cannot be financed with general obligation bonds. Interest earnings on bond proceeds also must be applied to approved real property purposes, unless the issuer has express statutory authority permitting another type of use.

Job training programs, job centers, and related administrative activities are not real property acquisition or real property improvements eligible for general obligation bond financing. Transfer of general obligation bond proceeds from restricted accounts within the General Fund to a set-aside account for provide funding for the Cypress Mandela Training Program, the Men of Valor Academy, the Laborers Community Training Foundation, and the Citywide job centers for training, job readiness, and job placement of city residents would violate state and federal laws, the terms of the voter approved bond measures, and the express terms of the bond documents.

C. Tax and Fee Revenues

1. Gas Tax and Vehicle Registration Fees

The State of California imposes per gallon excise taxes on gasoline and diesel fuel, sales taxes on diesel fuel, and motor vehicle registration fees ("gas tax revenues") and dedicates these revenues to transportation purposes. Spending authority is governed by California Constitution Article XIX, Streets and Highways Code Section 2101, and the Road Repair and Accountability Act of 2017.

Article XIX of the Constitution restricts gas tax revenues to direct use for street and road purposes. The statutory authority further describes the allowable uses of gas tax funds for public streets and highways, public mass transit guideways, and their related public facilities. Local gas tax revenues may be used for research, planning, construction, improvement and maintenance of public streets, highways and mass transit. Cities receiving gas tax revenues submit annual reports detailing expenditures of gas tax revenues. The report is broken down into expenditure categories, including expenditures for rights-of-way or other property, new construction, reconstruction, widening, resurfacing, maintenance, repair, and acquisition and maintenance of equipment. (California Constitution Article XIX; Streets and Highways Code Section 21011 and the Road Repair and Accountability Act of 2017.)

The use of gas tax revenues for job training or the other non-transportation purposes outlined in the proposed legislation would violate California Constitution Article XIX Article XIX, the Streets and Highways Code, and the Road Repair and Accountability Act of 2017.

2. Measure B, Measure BB Taxes, and Alameda County Vehicle Registration Fee

The Alameda County voters passed Measure B in 2000 and Measure BB in 2014 resulting in combined transportation sales taxes of 1%. The voters also approved Measure F in 2010 authorizing a \$10 Alameda County Vehicle Registration Fee. The Alameda County Transportation Commission ("the ACTC") distributes and oversees Measure B², BB³ and Vehicle Registration Fee⁴ funds to deliver essential transportation improvements and services. Revenues distributed to local cities must be used in accordance with Measure B, Measure BB, and Vehicle Registration Fee Expenditure Plans. The City expressly agreed to use Measure B, Measure BB, and Vehicle Registration Fee funds solely for the transportation purposes defined by the authorizing ballot measures. The City submits annual reports to ACTC outlining expenditures of Measure B, Measure BB, and Vehicle Registration Fee funds. If the City violates the transportation expenditure restrictions it is required to reimburse all misspent funds, including any interest that would have been earned on such funds.

We have concluded that the proposed set asides of Measure B, Measure BB and Vehicle Registration Fee funds for job training and other non-transportation expenditures are probably not qualified transportation expenditures. However, authority to determine the eligibility of these funds for the purposes proposed by the ordinance and authorize a set-aside is within the jurisdiction of ACTC as the governing agency. Attached hereto as Exhibit A is a letter from ACTC's legal counsel to the City Administrator advising that Measure B and Measure BB funds cannot be used for job training purposes.

² The Measure B authorized implementation of a 20-year Expenditure Plan calls for expansion of mass transit programs in Alameda County including BART, Altamont Commuter Express Rail service, and express, local and feeder bus services; improvements of highway infrastructure including interchanges, open new lanes, and improve surface streets and arterial roads that feed key commute corridors; maintain and improve local streets and roads repaving streets, filling potholes, and upgrading local transportation infrastructure; improve bike and pedestrian safety; expand special transportation services for seniors and people with disabilities.

³ The Measure BB authorized implementation of a 30-year Expenditure Plan providing for expansion of mass transit including BART, bus, ferry and rail services; maintaining affordable fares for youth, seniors and people with disabilities; improvement of local streets and roads and highway corridors; improve air quality providing by expanding bicycle and pedestrian paths and the regional rail network; create good jobs within Alameda County by requiring local contracting and supporting community developments that improve access to jobs and school.

⁴ The Vehicle Registration Fee expenditure plan authorizes funding for the Local Road Improvement and Repair Program (60 percent), Transit for Congestion Relief (25 percent), Local Transportation Technology (10 percent), and Pedestrian and Bicyclist Access and Safety Program (5 percent). Note: The Vehicle Registration Fee is also subject to the limitation of expenditures outlined in Article XIX (see C1).

3. Off-Street Parking Fund

City off-street parking and parking meter revenues are unrestricted general fund revenues that may be appropriated by Council through the budget process for any legitimate governmental purpose. The funds are maintained in various accounts within the City's General Fund. These funds may be subject to limitations placed on unrestricted general fund revenues by Council by resolution or ordinance, such as designation of all or a portion of particular revenues to be maintained as a reserve or used for a special purpose. Whether Council imposed such restrictions are to be maintained is within the Council's discretion.

4. Development Service Fund

The City Administrator's Office has informed this Office that the "Development Services Fund" is fund 2415, the fund into which developer fees listed in the Master Fee Schedule are deposited. Developers pay these fees for specified services that are provided by the City – e.g., plan checks. The eligibility of monies within the Development Services Fund for the 5% set aside proposed by the ordinance must be determined on a case-by-case basis depending on the source(s) of the fee revenues identified for withdrawal. Revenue from regulatory fees must be segregated and used to support the regulatory program for which they are collected. Service fees are imposed to recover the costs of providing City services to developers paying the fees and cannot exceed the actual cost of services. Service fee revenue is general fund revenue. Subject to budget restrictions, reserve policies, and prior allocations and/or appropriations approved by the Council, *unrestricted* general fund may be used for any municipal government purpose.

D. Requirement That The Oakland Workforce Development Board Review And Approve Funding For Specific Job Training Service Providers And That Such Funding Be Included In The City's Comprehensive Workforce Development Budget.

The City must adhere to its obligation under federal regulations to maintain a comprehensive workforce development system overseen by the Oakland Workforce Development Board (OWDB), and any allocation of funds to job training service providers must be made within this system. As a condition of receiving federal funds for job training under the Workforce Innovation and Opportunity Act (WIOA) (codified at 29 USC 3101, et seq.) and its implementing regulations, the City is required to maintain a comprehensive and integrated workforce development system in the Oakland workforce development area. As part of that system and pursuant to WIOA regulations, the City has created the OWDB to oversee and coordinate the Oakland's workforce development system. The express functions of the OWDB under WIOA regulations and OWDB bylaws include selecting service providers and approving the allocation of funds to service providers through adoption of workforce development budgets, subject to

confirmation by the City Council of those contracts and budgets. These functions are not limited to WIOA funds or other federal funds. Therefore, any allocation of funds under the proposed ordinance to specific job training service providers must be reviewed and approved by the OWDB and must be included in the City's comprehensive workforce development budget.

1. **Comprehensive Workforce Development System**

The purpose of WIOA is to establish a comprehensive workforce development system in local delivery areas, and to coordinate services provided under the system by all of the service providers. Among the stated purposes of WIOA are the following:

“(c) Streamlining service delivery across multiple programs by requiring **colocation, coordination, and integration** of activities and information to make the system understandable and accessible for individuals, including people with disabilities and those with other barriers to employment, and businesses.

(d) Supporting the alignment of the workforce investment, education, and economic development systems in support of a **comprehensive**, accessible, and high-quality workforce development system at the Federal, State, and local and regional levels;”

(20 CFR Section 675.100, emphasis added; see also WIOA Section 2(2).)

In line with the purpose of creating a comprehensive workforce development system across all levels of government, WIOA regulations provide that “the vision for the Local Workforce Development Board is to serve as a strategic leader and convener of local workforce development system stakeholders.” (20 CFR Section 679.300(a).) The stated purpose of the WDB is to “[p]rovide strategic and operational oversight in **collaboration** with the required and additional partners and workforce stakeholders to help develop a **comprehensive** and high-quality workforce development system in the local area and larger planning region.” (20 CFR Section 679.300 (b)(1), emphasis added.)

The OWDB, in partnership with the “chief elected official”, i.e., the Mayor, “sets policy for the portion of the statewide workforce investment system within the local area”. (20 CFR Section 679.310.) As a policymaking body, federal law has given the OWDB wide-ranging responsibilities over the workforce development system, including developing and adopting a local workforce development plan, convening stakeholders as needed to leverage non-federal resources, engaging with employers, developing and implementing career pathways, developing strategies for meeting the needs of employers and jobseekers, selecting service providers, and overseeing and evaluating the performance of workforce programs. (WIOA Section 107(d).) The local plan adopted and implemented by the OWDB must include “a strategy to work with the entities that carry out the core programs to align resources available to the local area, to

achieve the strategic vision and goals described in [the plan]." (WIOA Section 108(b)(1)(F).)

The bylaws for the Oakland WDB reflect their statutory role as the entity responsible for coordinating a comprehensive workforce development system in Oakland: "It shall be the purpose of the Oakland Workforce Development Board, hereinafter referred to as the "Board," to oversee the articulation and implementation of **comprehensive** workforce development strategies, policies and performance outcomes of the City of Oakland's **integrated service delivery system** in partnership with the Mayor of the City of Oakland (the "Mayor")." (OWDB Bylaws, Article II, emphasis added.) A function of the Oakland WDB is to "identify and approve eligible providers of youth services, training services and career services in Oakland." (Id.)

2. Selection And Oversight Over Job Training Service Providers

The agencies designed in the proposed ordinance as recipients of funds are all job training service providers within Oakland's workforce development system. The Oakland WDB is specifically tasked with coordinating and overseeing the work of career service providers like Cypress Mandela, Men of Valor and the job centers. One of the express functions of the OWDB is to select (and terminate, if appropriate) providers of career services. "As provided in WIOA sec. 107(d), the Local Board must: (1) Select the following providers in the local area, and where appropriate terminate such providers in accordance with 2 CFR part 200:(2) Providers of training services consistent with the criteria and information requirements established by the Governor and WIOA sec. 122; (3) Providers of career services through the award of contracts, if the one-stop operator does not provide such services; and (4) One-stop operators..." (20 CFR Section 679.370(l).)

One of the stated purposes of WIOA is to enhance the role of local WDBs in the system "by increasing flexibility to tailor services to meet employer and worker needs at State, regional, and local levels." (20 CFR Section 675.100.); this includes coordination with and oversight of providers of career services for adults that are part of the comprehensive workforce delivery system. (20 CFR Sections 680.110(a) and 680.160.) With respect to such providers, the OWDB is tasked with leading efforts to "Develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support local workforce investment activities", and "Ensure that workforce investment activities meet the needs of employers and support economic growth in the region by enhancing communication, coordination, and collaboration among employers, economic development entities, and service providers." (20 CFR Section 679.370 (e).)

Under the OWDB Bylaws, career service providers are essential to the system in order "to develop effective linkages to support employer use of the local workforce development system, to ensure that Oakland's workforce investment activities meet the

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needs of employers and supports economic growth in Oakland, and to develop and implement proven strategies for meeting the needs of Oakland workers and employers." (OWDB Bylaws, Article II.) The Bylaws provide that the OWDB selects the one-stop operator and all providers of training services and career services in Oakland. (Id, Article III.)

3. Budget Responsibilities

As part of its mandate to oversee and coordinate the comprehensive workforce development system in Oakland, the Oakland WDB in collaboration with the Mayor (as well as the City Council in its Charter role over City budgets) is responsible for adopting a budget for the workforce development system. Under WIOA, a WDB must "develop a budget for the activities of the local board in the local area, consistent with the local plan and the duties of the local board..., subject to the approval of the chief elected official". (WIOA Section 107(d)(12)(A).) See also Article III of the Oakland WDB Bylaws: "The Board shall develop a budget for the purpose of carrying out its duties consistent with the Local Plan, subject to the approval of the Mayor."

Nowhere in WIOA, the WIOA regulations or the Bylaws does it suggest that the workforce development budget is limited only to WIOA funding or other federal revenue sources. In fact, WIOA authorizes local boards to "solicit and accept grants and donations from sources other than Federal funds made available under [WIOA]." (WIOA Section 107(d)(12)(B)(ii).)

The practice in Oakland under WIOA and its predecessor statute, the Workforce Investment Act (WIA), has been to include all sources of funding in the workforce development budget adopted annually by the OWDB/OWIB and Council, including federal WIOA/WIA funds, other federal funds, special grants from the state and other governmental entities, private donations, and local sources such as City general fund contributions. All of these funding sources are integral to the integrated comprehensive system contemplated by WIOA.

V. CONCLUSION

Based on a thorough review and analysis of the proposed ordinance, this public opinion advises the Council of the specific funding sources identified in Section 3 of the proposed ordinance that can be appropriated for job training, job placement, or the other proposed purposes. Depending on the express terms of existing or future grant agreements, the City may allocate grant funds on a case-by-case basis for the purposes set forth in Section 3 as circumstances allow. City parking revenues are general fund revenues that the City Council may appropriate through the budgetary process for any legitimate government purposes, unless the funds otherwise are restricted or committed by the City Council action or by contract.



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April 30, 2018

VIA E-MAIL AND U.S. MAIL

Ms. Sabrina Landreth
City Administrator
City of Oakland
250 Frank H Ogawa Plaza
Oakland, CA 94612

Re: Proposal to Utilize 5% of all City capital project budgets for training purposes

Dear Ms. Landreth:

We represent the Alameda County Transportation Commission ("ACTC"). Through Measure B passed in 2000 and Measure BB passed in 2014, ACTC provides almost \$25 million in transportation funding per year to Oakland through direct local distributions, along with a varying amount each year for specific capital projects described in the Transportation Expenditure Plans related to each of those Measures. We understand that some members of the City Council have proposed the adoption of an ordinance that would channel 5% of the funding for every capital project carried out by the City to organizations providing employment training. While the original draft of the ordinance does contain language stating that the ordinance would only apply where it was legally permitted to do so, our client wants to be clear that funds from Measures B and BB could not be diverted for such a purpose.

The use of Measure B and BB funds are governed by the provisions of the Transportation Expenditure Plans attached to each Measure, and also by California Public Utilities Code Sections 180200 through 18207, which authorize the imposition of ACTC's sales taxes for transportation purposes. PUC Section 18205 states:

The revenues from the taxes imposed pursuant to this chapter may be allocated by the authority for the construction, and improvements of state highways, the construction, maintenance, improvement, and operation of public transit systems (including paratransit services).

Both the 2000 Transportation Expenditure Plan, which governs half of the funds raised by ACTC through 2020, and the 2014 Transportation Expenditure Plan, which governs half the

Sabrina Landreth
April 30, 2018
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WENDEL, ROSEN, BLACK & DEAN LLP

funds through 2020 and all of the funds thereafter through 2045, contain similar restrictive language stating that "Under no circumstances may the proceeds of this tax be applied to any purpose other than for transportation improvements in Alameda County." We believe it is clear that this restriction to *transportation improvements* would absolutely prohibit the diversion of any ACTC funds to the employment training currently under consideration.

ACTC certainly supports the concept of job training, and some of the transportation projects funded by ACTC require job training and apprenticeship components as part of the contract terms. Where they apply, however, those requirements are carried out by the general contractor and subcontractors and not by third party training organizations.

We would be happy to answer any questions.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP



R. Zachary Wasserman

RZW/rzw

cc: City Attorney Barbara Parker
Director of Transportation Ryan Russo
Tess Lengyel, Deputy Director ACTC

FILED
OFFICE OF THE CITY CLERK
OAKLAND

18 MAY 31 PM 4:13

APPROVED AS TO FORM AND LEGALITY

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS DESLEY BROOKS AND NOEL GALLO

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE II, CHAPTER 2.____. CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING, TO APPROPRIATE 5% OF THE CITY'S CAPITAL IMPROVEMENT PROJECTS COSTS, 5% OF PARKING FUND GROSS REVENUES, AND A \$0.30 CENTS PER WORK HOUR CONTRACTOR CONTRIBUTION FOR CITY-SPONSORED JOB TRAINING

WHEREAS, the Oakland City Council wishes to develop and grow Oakland's workforce, reduce unemployment and poverty through certain City capital improvement projects; and

WHEREAS, Oakland community based organizations dedicated to improving opportunities for Oakland residents by providing pre-apprentice construction training, life skills training and assistance in getting employment have had significant and meaningful impacts on the lives of and careers of many residents; and

WHEREAS, City supported job training programs provide accessible, high-quality training and employment services to local residents and employers by providing Oakland residents help with access to jobs in career pathways in the construction, transportation, distribution and logistics sectors, and that support contractors' and operators' efforts to hire, train and retain Oakland resident workers; and

WHEREAS, it is imperative that the City of Oakland accepts responsibility for expanding training and job opportunities for its citizens through tested City-sponsored job training programs by establishing local ongoing funding to support them; and

WHEREAS, the Oakland Workforce Development Board (WDIB) has oversight over the City of Oakland's comprehensive workforce development service delivery system, including the allocation of funds and the selection of providers, and the WDIB and City Council have concurrent jurisdiction over the award of grants and contracts to job training providers and the approval of budgets for the workforce development system;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAKLAND THAT:

SECTION 1. Code Amendment. New Chapter 2.____ is added to the Oakland Municipal Code to read as follows:

CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING

2.____.010. TITLE

This chapter shall be known as the "Construction Training & Job Opportunity Funding Ordinance".

2.____.020. PURPOSE.

The City of Oakland accepts responsibility for expanding training and job opportunities for its residents through tested City supported job training programs. A policy is hereby established to develop and grow Oakland's workforce, reduce unemployment and poverty by encouraging skilled Oakland residents to work on certain City capital improvement projects.

2.____.030. DEFINITIONS.

The following words and phrases, wherever used in this chapter, shall be construed as defined in this section unless otherwise required by the context. The singular shall be taken to mean the plural and the plural shall mean the singular when required by the context of this chapter. The following definitions apply to this chapter:

CITY CAPITAL IMPROVEMENT PROJECT means any capital improvement project performed by the City or City Contractors to construct or remodel a City-owned, leased or controlled: building, decorative or commemorative structure, park, street, sidewalk, parking facility, or utility or any portion thereof, within the City limits of, or under the jurisdiction of, the City of Oakland.

CAPITAL IMPROVEMENT COSTS include all construction costs as well as architectural and engineering fees and site work associated with City capital improvement projects. Capital improvement costs do not include administrative costs or costs related to the investigation and remediation of hazardous materials.

CITY-SUPPORTED JOB TRAINING PROGRAM or PROGRAM means a program offered by a community based organization whose mission is to improve the lives of people it serves by providing accessible, high-quality training and employment services to Oakland residents and employers, such as pre-apprentice construction and life skills training, employment placement and other job assistance, access to jobs in career pathways in the construction, transportation, distribution and logistics sectors, and that support contractors' and operators' efforts to hire, train and retain local workers.

CONTRACTOR means any individual, firm, partnership or corporation or combination thereof, including joint ventures, that is an independent business enterprise that enters into a Construction contract with the City of Oakland as a prime contractor for a City capital improvement project and any subcontractor hired by a prime contractor to work on a City of Oakland capital improvement project.

CONSTRUCTION CONTRACT means a contract for a City capital improvement project.

DEMOLITION COSTS means payment for any work needed for the removal of buildings or other existing structures from City property.

PROGRAM FUND means a project account which is established by the City to receive the 5% appropriation from City capital improvement project budgets and Contractor contributions, and to fund City-supported job training and workforce development programs.

REAL PROPERTY ACQUISITION COSTS means payments made for the purchase of parcels of land, existing buildings or structures, and costs incurred by the City for appraisals or negotiations in connection with such purchases.

2. _____.040. SET ASIDE OF CITY CAPITAL IMPROVEMENT PROJECT FUNDS TO PROGRAM FUND.

A. APPROPRIATIONS.

1. All appropriations for City capital improvement projects, excluding sewer repairs funded from sewer service charge fees, shall include an amount equal to five-percent (5%) of the total capital improvement project cost to be dedicated to Programs for job training services and administrative costs to manage the Programs.

The 5% appropriation shall include but not be limited to City capital improvement projects funded by the General Fund off-street parking fund, and any and all other City capital improvement projects funded from other revenues, including grants, which may legally be so appropriated.

The City Administrator shall review each funding source for City capital improvement projects to determine which funds are eligible for the five percent (5%) Program Fund set aside.

2. Parking Fund – Allocating an amount equal to five-percent of all Revenues to the City's Parking Fund shall be deposited to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers Fund; and
3. Development Services Fund – Allocating an amount equal to five-percent of all gross revenues to the Development services fund shall be deposited to the

Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation and the City sponsored Job Centers Fund; and

- B. METHOD OF CALCULATION.** The minimum amount appropriated to fund said Program Fund shall be the total City capital improvement project appropriation including all construction costs as well as architectural and engineering fees and site work expenses multiplied by 0.05, excluding amounts budgeted for real property acquisition costs, demolition costs, and financing costs.
- C. EXCLUSIONS.** If the source of funding or other applicable law or regulation with respect to any particular City capital improvement project or portion thereof prohibits, restricts or does not allow the use of the 5% dedication of such funds for City-supported job training programs as defined herein, this chapter shall not apply to such projects.
- D. GRANT APPLICATIONS.** The City Administrator shall, from the effective date of this chapter, include in applications for City capital improvement projects to outside granting authorities, amounts for pre-apprentice construction job training, job readiness and job placement as specified herein, where permitted by the granting authority or unless otherwise waived by the City Council. Receipt of such funds shall be administered as part of the Program Fund. .

2.____.050. CONTRACTOR CONTRIBUTIONS TO PROGRAM FUNDS.

This Section establishes a required Contractor payment in the amount of thirty cents (\$0.30) per hour worked or paid on a City capital improvement project into the Program Fund. The requirement to contribute shall apply to prime Contractors and subcontractors on a City capital improvement project. The Contractor shall fulfill and implement this requirement in the following manner:

- a) In addition to paying established employee benefits funds in the amounts designated in the appropriate prevailing wage determination for fringe benefit contributions, pursuant to the Contractor's contract, Contractors performing work under City capital improvement project contracts shall pay thirty cents (\$0.30) per hour worked or paid into the
- b) Payment to the City shall be made monthly by the prime Contractor for it and all its subcontractor's workforce and shall cover the hours reported on the Summary of Utilization of Construction Workforce Reports required to be submitted weekly to the City's Contract and Compliance Division by the last day of the month for which the payment is being made. Copies of the Summary Workforce Reports shall accompany each monthly payment.
- c) The amount of the monthly Program Fund payment shall be based on the total number of workforce hours worked or paid shown on the Summary Workforce Reports submitted weekly during that month times thirty cents (\$0.30) per hour.

- d) Monthly Program Fund payments shall be made within twenty (20) calendar days of the last day of the preceding month. Late payments shall be subject to interest charges of 1% per month on the unpaid balance.
- e) Transmittal forms must be filed monthly even if no hours have been worked or paid until a final payment statement has been sent out.
- f) If Program Fund payments are not made in a timely manner as stated above, it shall be considered a breach of contract and the City shall assess a penalty of 25% of the estimated amount owed and initiate enforcement proceedings as provided under the contract and at law.

2.____.060. DEPOSIT OF FUNDS.

Monies appropriated pursuant to this chapter shall be deposited by the City Administrator or his or her designee to the project account within the City Administrator's Office designated as the Program Fund. Contracts and disbursements shall be in accordance with the City's fiscal and purchasing policies and procedures.

2.____.070. SELECTION OF JOB TRAINING PROVIDERS.

Any allocation of funds from the Program Fund to Programs shall be subject to the review and approval of the City Council and the Oakland Workforce Development Board as overseer of Oakland's comprehensive workforce development service delivery system, and shall be included in the budget for Oakland's workforce development system.

Funds from the Program Fund, less administrative costs not to exceed \$200,000 per fiscal year, shall be allocated to Programs through a request for proposals or other competitive basis conducted by the City or the Oakland Workforce Development Board subject to approval of the City Council and Workforce Development Board. Alternatively, Program Funds may be so allocated to specific Programs selected without competitive process: 1) for *grants* - subject to approval of both the Oakland Workforce Development Board and the City Council, or 2) for *service agreements* - upon a finding by the City Council that waiver of competitive process is "in the best interests of the City" and approval by the City Council and Oakland Workforce Development Board.

Funds from the Program Fund shall be provided to selected Programs through a grant agreement or service provider agreement between the City and the agency sponsoring the Program for terms of ~~XXXXX~~ years. Approvals for grants or service agreements awarded shall be carried out in accordance with the City's fiscal and purchasing policies and procedures. Said agreements must include a scope of services that requires that Program funds be used to provide specified job training or workforce development services to Oakland residents, and shall include appropriate program performance measures. Funds in the Program Fund will be distributed quarterly to the providers pursuant to the terms of the grant agreement or service provider agreement.

SECTION 2. 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 3. EFFECTIVE DATE.

This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

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

NOTICE AND DIGEST

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE II, CHAPTER 2.____. *CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING*, TO APPROPRIATE 5% OF THE CITY'S CAPITAL IMPROVEMENT PROJECTS COSTS, 5% OF PARKING FUND GROSS REVENUES, AND A \$0.30 CENTS PER WORK HOUR CONTRACTOR CONTRIBUTION FOR CITY-SPONSORED JOB TRAINING

This Ordinance would add new Chapter 2._____, Construction Training and Job Opportunity Funding to Title II of the Oakland Municipal Code to establish an ongoing source of City of Oakland funding for City-sponsored job training programs such as job readiness, pre-apprentice construction job and life skills training, employment placement and other and related assistance. This ordinance would establish the ongoing funding source by setting aside 5% of the project budgets of City capital improvement projects, to the extent permitted by law, and from City prime and subcontractor construction contractor contributions of thirty cents (\$0.30) per hour worked or paid under a city of Oakland construction contract.

18 MAY 31 PM 4:13

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER _____

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBERS
DESLEY BROOKS AND NOEL GALLO

~~CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING~~

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE II, CHAPTER 2. ~~CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING~~, TO APPROPRIATE 5% OF THE CITY'S CAPITAL IMPROVEMENT PROJECTS COSTS, 5% OF PARKING FUND GROSS REVENUES, AND A \$0.30 CENTS PER WORK HOUR CONTRACTOR CONTRIBUTION FOR CITY SPONSORED JOB TRAINING

~~AN ORDINANCE ESTABLISHING TO THE CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS ACCOUNT; AUTHORIZING THE ALLOCATION OF 5% OF THE CITY'S CAPITAL IMPROVEMENT PROJECTS COSTS, AND 5% OF THE PARKING FUND GROSS REVENUES; AND ALLOCATING 5% OF DEVELOPMENT SERVICES FUN GROSS REVENUES; AND \$0.30 CENTS PER WORK HOUR CONTRACTOR CONTRIBUTION TO THE CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS FUND; ESTABLISHING A METHOD FOR CALCULATING CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS APPROPRIATIONS OF CAPITAL PROJECTS AND CONTRACTOR CONTRIBUTION; ESTABLISHING METHOD OF ADMINISTERING CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS; AND WHEREAS, THE OAKLAND CITY COUNCIL, IN ACCORDANCE WITH THE PROVISIONS OF THE CHARTER OF THE CITY OF OAKLAND, THE STATE LAW, AND APPLICABLE ORDINANCES OF THE CITY, HAVE REVIEWED AND RECOMMENDED THIS ORDINANCE;~~

Whereas, the Oakland City Council wishes to develop and grow Oakland's workforce, reduce unemployment and poverty through certain City capital improvement projects; and

Whereas, Oakland community based organizations dedicated to improving opportunities for Oakland residents by providing pre-apprentice construction training, life skills training and assistance in getting employment have had significant and meaningful impacts on the lives of and careers of many residents; and

Whereas, City supported job training programs provide accessible, high-quality training and employment services to local residents and employers by providing Oakland residents help with access to jobs in career pathways in the construction, transportation, distribution and logistics sectors, and that support contractors' and operators' efforts to hire, train and retain Oakland resident workers; and

Whereas, it is imperative that the City of Oakland accepts responsibility for expanding training and job opportunities for its citizens through tested City sponsored job training programs by establishing local ongoing funding to support them; and

Whereas, the Oakland Workforce Development Board (WDIB) has oversight over the City of Oakland's comprehensive workforce development service delivery system, including the allocation of funds and the selection of providers, and the WDIB and City Council have concurrent jurisdiction over the award of grants and contracts to job training providers and the approval of budgets for the workforce development system;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OAKLAND THAT:

SECTION 1. Code Amendment. New Chapter 2. _____ is added to the Oakland Municipal Code to read as follows:

CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING

2. .010. TITLE

This chapter shall be known as the "Construction Training & Job Opportunity Funding Ordinance".

2. .020. PURPOSE.

The City of Oakland accepts responsibility for expanding training and job opportunities for its citizens-residents through tested City supported job training programs, like the Cypress-Mandela Training Program, Men of Valor Academy, and Laborers' Community Service and Training Foundation, and the City-sponsored Job eCenters. A policy is hereby established to develop and grow Oakland's workforce, reduce unemployment and poverty through by encouraging skilled Oakland residents to work on certain City capital improvement projects.

2. .030. DEFINITIONS.

The following words and phrases, wherever used in this chapter, shall be construed as defined in this section unless otherwise required by the context. The singular shall be taken to mean the plural and the plural shall mean the singular when required by the context of this chapter. The following definitions apply to this chapter:

CITY CAPITAL IMPROVEMENT PROJECT means any capital improvement project performed by the City or City Contractors paid for wholly or in part by funds appropriated by the City of Oakland to construct or remodel a City-owned, leased or controlled: building, decorative or commemorative structure, park, street, sidewalk, parking facility, or utility or any portion thereof, within the City limits of, or under the jurisdiction of, the City of Oakland.

CAPITAL IMPROVEMENT COSTS include all construction costs as well as architectural and engineering fees and site work associated with City capital improvement projects. Capital improvement costs do not include administrative costs or costs related to the investigation and remediation of hazardous materials.

CITY-SUPPORTED JOB TRAINING PROGRAM or PROGRAM means a program offered by a community based organization whose mission is to improve the lives of people it serves by providing accessible, high-quality training and employment services to Oakland residents and employers, such as pre-apprentice construction and life skills training, employment placement and other job assistance, access to jobs in career pathways in the construction, transportation, distribution and logistics sectors, and that support contractors' and operators' efforts to hire, train and retain local workers.

~~CYPRESS MANDELA TRAINING PROGRAM is a community based organization dedicated to improving the lives of people it serves by providing pre-apprentice construction and life skills training along with employment assistance.~~

~~CITYWIDE JOB CENTERS are defined as job centers which provide accessible, high-quality training and employment services to local residents and employers. The Centers work to help Oakland residents access jobs in career pathways in the Construction and Transportation, Distribution and Logistics sectors and support contractors' and operators' efforts to hire, train and retain local workers.~~

~~MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION is a community based organization dedicated to improving the lives of people it serves by providing pre-apprentice construction and life skills training along with employment assistance.~~

CONTRACTOR means any individual, firm, partnership or corporation or combination thereof, including joint ventures, that is an independent business enterprise that enters into a Construction Contract with the City of Oakland as a prime contractor for a City capital improvement project and any subcontractor hired by a prime contractor to work on a City of Oakland construction capital improvement project.

CONSTRUCTION CONTRACT means a contract for a City capital improvement project.

DEMOLITION COSTS means payment for any work needed for the removal of buildings or

other existing structures from City property.

PROGRAM FUND means a project account which is established by the City to receive the 5% appropriation from City capital improvement project budgets and Contractor contributions, and to fund City-supported job training and workforce development programs.

~~CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS FUND IN THE CITY ADMINISTRATOR'S BUDGET means a project account which is established by the City to receive monies (the 5%) appropriated from the capital improvement project budgets to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers program.~~

REAL PROPERTY ACQUISITION COSTS means payments made for the purchase of parcels of land, existing buildings or structures, and costs incurred by the City for appraisals or negotiations in connection with such purchases.

2. .040. SET ASIDE OF CITY CAPITAL IMPROVEMENT PROJECT FUNDS TO PROGRAM FUND.

A. APPROPRIATIONS.

1. ~~All appropriations for City capital improvement projects, including all bond projects and all other capital projects funded from other sources excluding sewer repairs funded from sewer service charge fees, shall include an amount equal to five-percent (5%) of the total capital improvement project cost to be dedicated to Programs the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers Fund. Funds appropriated will be used for the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored for Job training servicesCenters, and administrative costs to manage the pPrograms.~~

The 5% appropriation shall include but not be limited to City capital improvement projects funded by the General Fund funded capital improvements, gas tax funded capital improvements, Measure KK funded projects, Measure DD funded projects, Measure B funded capital improvements, off-street parking funded capital improvements, and any and all other City capital improvements projects funded from other revenues, including grants, which may legally be so appropriated, and

The City Administrator shall review each funding source for City capital improvement projects to determine which funds are eligible for the five percent (5%) Program Fund set aside.
; and

2. **Parking Fund** – Allocating an amount equal to five-percent of all Revenues to the City's Parking Fund shall be deposited to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers Fund; and

3. Development Services Fund – Allocating an amount equal to five-percent of all gross revenues to the Development services fund shall be deposited to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation and the City sponsored Job Centers Fund; and

~~A-B. METHOD OF CALCULATION. The minimum amount to be appropriated to the Cypress Mandela Training Program & Citywide Job Centers Project Account fund said pPrograms Fund shall be the total City capital improvement project appropriation including all construction costs as well as architectural and engineering fees and site work expenses multiplied by 0.05, excluding amounts budgeted for real property acquisition costs, demolition costs, and financing costs. Cypress Mandela shall be allocated 50%, Men of Valor and Laborers Community Training Foundation shall be allocated 25%, and the Citywide Job Centers shall be allocated 25% of the Cypress Mandela Training Program & Citywide Job Centers Project funds less administrative costs not to exceed \$200,000.00 per fiscal year.~~

~~C. EXCLUSIONS. If the source of funding or other applicable law or regulation with respect to any particular City capital improvement project or portion thereof prohibits, or restricts or does not allow the use of the 5% dedication of such funds for City-supported job training programs as defined herein, in Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City-sponsored Job Centers this ordinance chapter shall not apply to such the projects expenses, so prohibited or restricted.~~

~~B-D. GRANT APPLICATIONS. All The City Administrator departments shall, from the effective date of this ordinance chapter, include in applications for City capital improvement projects to outside granting authorities, amounts for pre-apprentice construction job training, job readiness and job placement as specified herein, where permitted by the granting authority or unless otherwise waived by the City Council. Receipt of such funds shall be administered as part of the Program Funds. City's the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers program.~~

~~G.~~

2. .050. CONTRACTOR CONTRIBUTIONS TO PROGRAM FUNDS.

This Section establishes a required Contractor payment in the amount of thirty cents (\$0.30) per hour worked or paid on a City capital improvement project into the ~~Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Program Fund;~~ and The requirement to contribute shall apply to prime Contractors and subcontractors on a City capital improvement project. The Contractor shall fulfill and implement this requirement in the following manner:

- a) In addition to paying established employee benefits funds in the amounts designated in the appropriate prevailing wage determination for fringe benefit contributions, pursuant to the Contractor's contract, Contractors performing work under City capital improvement project contracts shall pay thirty cents (\$0.30) per hour worked or paid into the ~~Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Fund.~~

- ~~b) The Contractor should include the payment referenced in item (a) above and any administration costs associated with complying with the payment, in its bid.~~
- ~~e)b) Payment to the City Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Fund shall be made monthly by the prime Contractor (for its and all its subcontractor's workforce) and shall cover the hours reported on the Summary of Utilization of Construction Workforce Reports required to be submitted weekly to the City's Contract and Compliance Division by the last day of the month for which the payment is being made. Copies of the Summary Workforce Reports shall accompany each monthly payment.~~
- ~~d)c) The amount of the monthly Program Fund payment to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Fund is, shall be based on the total number of workforce hours worked or paid shown on the Summary Workforce Reports submitted weekly during that month times thirty cents (\$0.30) per hour.~~
- ~~e)d) Monthly Program Fund payments to the shall be made within twenty (20) calendar days of the last day of the preceding month. Late payments shall be subject to interest charges of 1% per month on the unpaid balance.~~
- ~~f)e) Transmittal forms must be filed monthly even if no hours have been worked or paid until a final payment statement has been sent out.~~
- ~~g) Make checks payable to the "City of Oakland c/o Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Fund". Mail check, associated Summary Workforce Reports, and transmittal letter to:~~

City of Oakland
Oakland, CA 94612

~~The transmittal letter shall contain the following information:~~

- ~~1) The name and address of the Contractor~~
- ~~2) The title and contract number of the City project.~~
- ~~3) The period covered by the enclosed payment.~~
- ~~4) The payment amount and calculation.~~

~~If Program Fund payments to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the Citywide Job Centers Fund are not made in a timely manner as stated above, it shall be considered a breach of contract and the City shall assess a penalty of 25% of the estimated amount owed and initiate enforcement proceedings as provided under the contract and at law deduct and retain the estimated amount owed plus 25% of the estimated amount owed from the progress payment or from any other monies due or may become due to the Contractor under the Contract documents.~~

~~WAIVER OF COMPETITIVE BID REQUIREMENT. When the funding method, grant, bond, measure calls for disbursement of said funds through a competitive bid process the City Administrator and City Council finds that training Oakland's workforce and placing Oakland's residents in good jobs; is in the best interest of the City and is achieved by providing funding to Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers. As such, the City Administrator and City Council shall waive said RFP requirements so that Cypress Mandela~~

~~Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers can be recipients of funds pursuant to this ordinance.~~

2. .060. DISTRIBUTION/DEPOSIT OF FUNDS.

~~{merged: SECTION 4 Distribution of Funds & SECTION 5 Cypress Mandela Training Program, Men Of Valor And Laborers Community Training Foundation, And The City Sponsored Job Centers Account}~~

Monies appropriated pursuant to this chapter shall be deposited by the City Administrator or his or her designee to the project account within the City Administrator's Office designated as the Program Fund. Contracts and disbursements shall be in accordance with the City's fiscal and purchasing policies and procedures.

~~It is intended that Funds in the [fundCypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers Project Account] will be distributed quarterly to the providers upon WIB and City Council approval of job training provider grants or contracts. Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation, and the City sponsored Job Centers pursuant to Section 3(B) above.~~

~~SECTION 5. CYPRESS MANDELA TRAINING PROGRAM, MEN OF VALOR AND LABORERS COMMUNITY TRAINING FOUNDATION, AND THE CITY SPONSORED JOB CENTERS ACCOUNT.~~

~~Monies appropriated pursuant to this ordinance shall be transferred by the City Administrator or his or her designee to the project account within the City Administrator's Office designated "the Cypress Mandela Training Program, Men Of Valor And Laborers Community Training Foundation, And The City Sponsored Job Centers Fund" into which monies appropriated herein shall be deposited.~~

~~Contracts and disbursements shall be in accordance with the City's fiscal and purchasing policies and procedures.~~

2. .070. SELECTION OF JOB TRAINING PROVIDERS.

Any allocation of funds from the Program Fund to Programs shall be subject to the review and approval of the City Council and the Oakland Workforce Development Board as overseer of Oakland's comprehensive workforce development service delivery system, and shall be included in the budget for Oakland's workforce development system.

Funds from the Program Fund, less administrative costs not to exceed \$200,000 per fiscal year, shall be allocated to Programs through a request for proposals or other competitive basis conducted by the City or the Oakland Workforce Development Board subject to approval of the City Council and Workforce Development Board. Alternatively, Program Funds may be so allocated to specific Programs selected without competitive process: 1) for grants - subject to approval of both the Oakland Workforce Development Board and the City Council, or 2) for service agreements - upon a finding by the City Council that waiver of competitive process is "in the best interests of the City" and approval by the City Council and Oakland Workforce Development Board.

Funds from the Program Fund shall be provided to selected Programs through a grant agreement or service provider agreement between the City and the agency sponsoring the Program for terms of ~~XXXXX~~ years. Approvals for grants or service agreements awarded shall be carried out in accordance with the City's fiscal and purchasing policies and procedures. Said agreements must include a scope of services that requires that Program funds be used to provide specified job training or workforce development services to Oakland residents, and shall include appropriate program performance measures.- Funds in the Program Fund will be distributed quarterly to the providers pursuant to the terms of the grant agreement or service provider agreement.

SECTION 26. 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. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, such declaration shall not affect the validity of the remaining portions of this ordinance.

SECTION 3. EFFECTIVE DATE.

This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

2374064v1

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

NOTICE AND DIGEST

ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE TO ADD TITLE II, CHAPTER 2.____. *CONSTRUCTION TRAINING & JOB OPPORTUNITY FUNDING*, TO APPROPRIATE 5% OF THE CITY'S CAPITAL IMPROVEMENT PROJECTS COSTS, 5% OF PARKING FUND GROSS REVENUES, AND A \$0.30 CENTS PER WORK HOUR CONTRACTOR CONTRIBUTION FOR CITY SPONSORED JOB TRAINING

This Ordinance would add new Chapter 2._____, Construction Training and Job Opportunity Funding to Title II of the Oakland Municipal Code to establish an ongoing source of City of Oakland funding for City sponsored job training programs such as job readiness, pre-apprentice construction job and life skills training, employment placement and other and related assistance. This ordinance would establish the ongoing funding source by setting aside 5% of the project budgets of City capital improvement projects, to the extent permitted by law, and from City prime and subcontractor construction contractor contributions of thirty cents (\$0.30) per hour worked or paid under a city of Oakland construction contract.