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Councilmember Abel Guillén

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA 94612

DATE: June 14, 2018
TO: City Council
FROM: Councilmember Abel Guillén and Councilmember Rebecca Kaplan
SUBJECT: Establishing a Public Land Policy for the Public Good

Dear Colleagues of the City Council and Members of the Public,

Public land is an asset of the people of Oakland and should be utilized for public good. Currently, the City does not have a comprehensive policy to inform both process and priorities for the use of its property. The status quo public land disposition process is not sufficiently transparent, accountable nor inclusive of the many diverse communities and entities that may be impacted by the sale or lease of parcels. The lack of transparency around process has cost the City time, money, and public trust.

In March 2016, the City published the report “Oakland at Home: Recommendations for Implementing *A Roadmap Toward Equity* From the Oakland Housing Cabinet,” which included a recommendation that the City create a public land policy that prioritizes the development of affordable housing. In May 2016, the Community and Economic Development Committee received these recommendations and directed staff to prepare a policy for the disposition of City land. However, at the urging of community organizations, the City delayed action and committed to further community engagement and a more deliberative process to develop a public lands policy.

With this vision, the City Administration, Council offices, and members of the Oakland Citywide Anti-Displacement Network Public Land Policy Committee (CWN), a consortium of community and labor organizations, have hosted community meetings and convened to discuss components of a public lands policy. The CWN included representatives from Building and Construction Trades Council of Alameda, Communities for a Better Environment, East Bay Alliance for a Sustainable Economy, East Bay Housing Organizations, East 12th Coalition, East Oakland Black Cultural Zone, Public Advocates, and others.

The City would benefit from an established policy whereby the public and City staff have a common framework for how city-owned property will be utilized to achieve the public benefit. We request that Council support this resolution, informed by a deliberative and collaborative process, to provide the long-term baseline policy direction needed for these public assets such that the City prioritizes the use of public land to address the city’s most pressing housing, job, and health inequities.



Addressing Inequities through Public Land

Oakland is facing a national housing and homelessness crisis. Communities of color and low-income families have been most heavily impacted by increased housing costs and displacement in Oakland. As outlined in the City's 2016 *Oakland At Home* report, homeownership rates have changed dramatically—the African-American homeownership rate in 1990 was approximately 64 percent and by 2013 had decreased to 35 percent. In order for Oakland to maintain its racial and economic diversity, it must preserve housing affordable for low-income and-working class families and communities of color.

Nationwide, 22 states also saw an increase in homelessness last year. The homeless population in Oakland grew by roughly 26 percent to more than 2,700 since the last biennial count in 2015 and on any given night, approximately 2,000 Oakland residents do not have shelter. Oakland's unsheltered population is truly our neighbors—86 percent reported they were Alameda County residents before living on the streets, 62 percent had lived here for more than 10 years, and about 30 percent said they were experiencing homelessness for the first time, according to the most recent count. Homelessness is a racial equity issue, especially in Oakland—homelessness disproportionately affects African-American residents, who made up 68 percent of the homeless population and only 26 percent of the City's total population.

According to the City's 2017 Economic Development Strategy report, Oakland's overall unemployment rate has fallen from a high of 16 percent in 2009 to under six percent by the end of 2015. However, inequitable outcomes in employment persisted—the unemployment rate remained higher for Black Oaklanders at nine percent, Latinos at seven percent and Asians at eight percent. In 2018, City Council adopted the Economic Development Strategy for 2018-2020 wherein the City has committed to support more than 1,000 businesses each year, the economy will add 2,800 jobs each year, 12,000 Oakland residents will have access to job training services each year, and the City will support the construction of more than 4,250 new homes, including 1,200 below market rate homes and permanent supportive homes for the homeless, while protecting 5,000 households from displacement.

Public property is one of the key City assets that can be leveraged in order to achieve its policy goals. Researchers have found that city-owned and other public lands are critical tools for revitalizing communities with histories of divestment. In a time of gentrification, cities can use public land as a resource in addressing high demand for affordable housing and community services that benefit low-income residents that face displacement. However, the Brookings Institution's Center on Urban and Metropolitan Policy's research report *Dealing with Neighborhood Change: A Primer on Gentrification and Policy Choices* states it is important to consider that "in a hot market and without local scrutiny, public land and buildings quickly can be turned over to the private sector and developed, exacerbating gentrification pressures and increasing the likelihood of rent spikes, displacement and an exodus of lower income residents. With advance planning, however, these assets can also be secured, decoupled from market price pressures, and used to spur development consistent with the neighborhood's vision."

Public lands policies have the potential to address displacement as an issue of employment, economic development, affordable housing and health. Public lands and public investment in neighborhoods can



exacerbate gentrification and displacement impacts or work to mitigate the negative impacts of displacement. It is important to ensure that the City’s public land policy and strategy addresses these concerns.

This proposal utilized the Economic Workforce Development staff’s analysis and integrated the best practices from other local entities that have created policies to utilize public land to address inequities:

- **San Francisco, CA.** In 2014, San Francisco established The Public Land for Housing (formerly Public Sites) Program. Then Mayor, Ed Lee, called for activating public land to address the City’s housing affordability challenges. The program includes a set of City-supported principles to guide the process for each selected site, a comprehensive menu of public benefits, and a review of underutilized properties to establish a portfolio for project proposals. The program specifies that sites will not simply be sold off to a highest bidder after selection—instead the process includes significant opportunities for public input and any required review before development begins and monitoring and evaluation of progress.
- **Washington D.C.** The Disposition of District Land for Affordable Housing Amendment Act of 2014 requires that all new multifamily residential properties, developed on city-owned surplus land, designates 20 to 30 percent affordable housing units (depending on the proximity to public transportation). It requires that 25 percent of affordable rental units must be made affordable to households at 30 percent AMI, and the rest of the affordable units are available at 50 percent AMI. Half of the sale of affordable units must be accessible to households earning less than 50 percent AMI and the other half allocated to households making 80 percent of AMI.
- **Portland, Oregon.** The Portland Plan requires citywide displacement and gentrification monitoring and project evaluation through their Bureau of Planning and Sustainability. The plan identified early, mid, and late stage gentrification according to risk indicators of vulnerable populations, changing demographics, and housing market appreciation. The Plan ties data collection to the development and enforcement of policies and strategies to help low-income and minority residents stay in their homes and neighborhoods and mitigate the displacement effects of gentrification.

Public Land Policy Proposal

Policy Goal	Overview of Proposed Policy	Brief Analysis
Transparency	<ol style="list-style-type: none"> 1. Staff will publicly post all unsolicited requests 2. Staff will collect the input of the most impacted communities of each project prior to any RFP 3. Developers to send letter notification to all tenants within a four block-radius in the top 5 languages used by residents at home 60 days prior to ENA vote 4. Staff will post City property data online 5. Annual staff reports to Committee and full City Council meetings, with an analysis of the site-based and portfolio-wide progress on equity metrics 	Currently, the current lack of notification and accessible information on public lands disposition leads to an inefficient process. Increasing transparency through open data and opportunity for community input through notification will prevent the inefficiencies that are incurred with public outcry over the lack of proper notification and information on project proposals, which has historically caused costly delays.
Accountable and Inclusive Process	<ol style="list-style-type: none"> 1. Establish a standing Community Advisory Committee (CAC), representative of experts in and communities most impacted by shelter and housing, job and 	Currently, there is no advisory body for public land disposition. Given the complex nature of public land projects, a Community Advisory



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	<p>employment, and health and environment inequities</p> <ol style="list-style-type: none"> 2. CAC shall reflect the racial, socioeconomic, gender, age, and ability diversity of most impacted communities 3. CAC's responsibilities: Provide recommendations to the City Council on property usage and priority project types based on community input, evaluate project proposals utilizing equity indicators, monitor implementation and outcomes of projects. 	<p>Committee will provide more opportunities for community input and ensuring an accountable and inclusive process. The CAC's review of community input and progress on the policy goals set forth by the Council will provide additional information needed to evaluate project proposals and their implementation.</p>
Priority to Lease	<ol style="list-style-type: none"> 1. Consistent with Resolution No. 85324 C.M.S., the City must first make good faith efforts to lease City property 2. If lease is not feasible, then the staff shall submit a written justification to the City Council and CAC with an analysis that explains why the parcel is recommended for sale rather than lease in a staff report 	<p>This proposed change will provide more information to the City Council as to why any City property may be recommended for sale rather than lease, given the 2014 general policy to lease rather than sell city property.</p>
Housing and Shelter Equity	<ol style="list-style-type: none"> 1. Prioritize 100% affordability and lowest AMI levels 2. Compliance with the Surplus Land Act 3. Each parcel must be examined for use for temporary shelter and permanent affordable housing & zoning and parking requirement changes, and voucher programs 4. Every 4 years, staff must develop a strategy report that includes annual housing outcomes 5. Develop, track, & report housing equity indicators 6. 100 percent of all property net proceeds to AHTF 7. Affordable housing defined as 80% AMI & below 8. Develop a Fair Chance Housing policy 9. Prohibit discrimination against tenants 10. 30% of residential units on-site affordable, or minimum of 15% with in-lieu fee, and 50% affordable residential units portfolio-wide 	<p>Currently, there is no comprehensive policy direction or goals for staff to evaluate parcels. Therefore, this lack of clarity on what the priority use is for City property has created inefficient exchanges between staff and Council. This proposal outlines housing and shelter equity as a priority policy goal and directs staff to utilize public land to benefit those most impacted by the housing crisis and displacement.</p> <p>Based on preliminary staff analysis, this policy would yield at minimum 800 below market units, depending on funding levels.</p>
Jobs and Employment Equity	<ol style="list-style-type: none"> 1. Compliance with statewide Ban the Box statute 2. Prioritization of projects that support small and local businesses and contractors 3. All construction projects and businesses on City property shall offer first-priority to targeted and local hire to residents & disadvantaged workers 4. Local employment & contracting requirements apply to all construction on City property 5. All projects subject to the Project Labor Agreement (PLA) policy if 80 or more housing units, or has an estimated construction cost of at least \$40 million <ul style="list-style-type: none"> - PLA based guidelines passed by Alameda County for Measure A1-funded projects - Within 6 months, Alameda County Building Trades Council required to submit a public report to the City 	<p>The proposal provides City direction to promote and measure equitable job outcomes. It requires compliance with the statewide Ban the Box statute and first-priority to targeted and local hire to residents and disadvantaged workers for all construction projects and businesses on City property. It also expands local employment and contracting requirements from subsidized projects to all construction projects on City land.</p> <p>Staff has estimated that the PLA policy proposed will impact 3-5 projects. The PLA is aligned with Alameda County's Measure A-1 guidelines, which will apply to many City</p>



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	<p>Administrator containing current race, ethnicity, gender composition, and % Oakland residents -PLA will sunset after the first five projects, with continuation subject to the City Council's discretion -PLA requirements may be waived by Council on <i>ad hoc</i> basis, and not apply in prohibited cases</p>	<p>affordable housing projects. To ensure race, ethnic, gender and Oakland resident representation on the projects built on City land, the Alameda County Building Trades Council will be required to submit a public report on their demographic statistics.</p>
<p>Health and Environment Equity</p>	<p>Apply the relevant Healthy Development Guidelines policies to City property projects, including but not limited to: Environmental Health, Economic Opportunity, Culture, Community and Safety, Healthy Food, Transportation, Housing, Recreation and Active Design.</p>	<p>The development of the Healthy Development Guidelines was a multi-year, collaborative and community-based process lead by the East Oakland Building Healthy Communities Land Use Work Group in partnership with the City Planning and Building staff, Alameda County Public Health Department, Communities for a Better Environment, HOPE Collaborative and East Bay Housing Organizations. Staff has already implemented components of the guidelines and Council expects to adopt additional recommendations that can be applied to public lands.</p>

Conclusion

Public land is a public asset and should be invested in a manner that reflects the City's values and priorities. We request that the City Council direct the City Administrator to finalize this resolution and the corresponding ordinance to bring back to the Council for final adoption. Thank you for your consideration.

Thank you,

Abel Guillén, City Councilmember, District 2

Rebecca Kaplan, City Councilmember, At-Large

18 JUN 14 PM 3:38

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

INTRODUCED BY PRESIDENT PRO TEM GUILLÉN AND COUNCILMEMBER
KAPLAN

RESOLUTION ESTABLISHING A PUBLIC LANDS POLICY REQUIRING A TRANSPARENT, ACCOUNTABLE AND INCLUSIVE PROCESS FOR PROPERTY DISPOSITION AND PRIORITIZING THE USE OF CITY PROPERTY TO ADDRESS HOUSING AND SHELTER, EMPLOYMENT AND TRAINING, AND HEALTH AND ENVIRONMENT INEQUITIES, AND DIRECTING THE CITY ADMINISTRATOR TO RETURN WITH AN ORDINANCE TO ESTABLISH THE POLICY BY LAW.

WHEREAS, the City Council recognizes that the current City of Oakland resides on Ohlone land that was stewarded by Ohlone villages for thousands of years before it was colonized by the Spanish in the 1700s and later incorporated in 1852; and

WHEREAS, public land is an asset of the people of Oakland and should be utilized for public good; and

WHEREAS, the City Council finds and determines that the policies, procedures, and requirements set forth below will advance a range of important public policy goals in cases where City-owned property is sold or leased for development; and

WHEREAS, the status quo public land disposition input process is not sufficiently transparent, accountable, nor inclusive of the many diverse communities and entities that may be impacted by the sale or lease of parcels; and

WHEREAS, Oakland is facing a national housing and homelessness crisis; Nationwide, 48 states also saw an increase in homelessness last year; the homeless population in Oakland grew by roughly 26 percent to more than 2,700 since the last biennial count in 2010; and on any given night, approximately 2,000 Oakland residents do not have shelter; and

WHEREAS, Oakland's unsheltered population is truly our neighbors – 86 percent reported they were Alameda County residents before living on the streets, 62 percent had lived here for more than 10 years, and about 30 percent said they were experiencing homelessness for the first time, according to the most recent count; and

WHEREAS, homelessness is a racial equity issue, especially in Oakland; homelessness disproportionately affects African-American residents, who made up 68 percent of the homeless population;

WHEREAS, according to the City's 2017 Economic Development Strategy report, Oakland's overall unemployment rate has fallen from a high of 16 percent in 2009 to under six percent by the end of 2015; however, inequitable outcomes in employment persisted—the unemployment rate remained higher for Black Oaklanders at nine percent, Latinos at seven percent and Asians at eight percent; and

WHEREAS, in 2018, City Council adopted the Economic Development Strategy for 2018-2020 wherein the City has committed to support more than 1,000 businesses each year, the economy will add 2,800 jobs each year, 12,000 Oakland residents will have access to job training services each year, and the City will support the construction of more than 4,250 new homes, including 1,200 below market rate homes and permanent supportive homes for the homeless, while protecting 5,000 households from displacement; and

WHEREAS, Section 1001 of the City Charter authorizes the City Council to establish by ordinance uniform procedures for the sale, lease, or other disposition of City property; and

WHEREAS, in December of 2014, the City Council adopted Resolution No. 85324 C.M.S., Establishing a General Policy to Lease, Rather Than Sell, City Property, allowing the City to realize the benefits of increases in property value and to control the future use of the property after the expiration of the lease as well as provides the City greater ability to enforce city laws and policies; and

WHEREAS, in March 2016, the City published the report "Oakland at Home: Recommendations for implementing *A Roadmap Toward Equity* From the Oakland Housing Cabinet," which, along with the Mayor's Housing Action Plan, included specific recommendations from a working group tasked with identifying policies and actions to give priority consideration to the development of affordable housing on City land, as well as depositing some portion of proceeds from the sale of City land into the Affordable Housing Trust Fund ("AHTF"); and

WHEREAS, on May 31, 2016, the CED Committee received the working group recommendations and directed staff to prepare an Ordinance to amend the Municipal Code sections on disposition of City land to include a process for soliciting proposals for affordable housing development, to include a provision that all residential projects include at least 15 percent of units as affordable, and to direct 30 percent of net sale proceeds to the AHTF; at the urging of community organizations, the City delayed action on the Ordinance and committed to further community engagement and a more deliberative process to consider potential amendments to the public lands policy; and

WHEREAS, the City owns a variety of public land across the City zoned for a variety of land uses; after setting aside parks, open space, and parcels with active use or commitments, there are approximately 25 sites that are currently available; given the

housing crisis and an increasing desire to activate sites, it is an opportune time to establish policies that will ensure these lands are put to good use, and that the parameters for their use are predictable for all stakeholders; and

WHEREAS, with such a vision, the City Administration and Council offices have hosted community meetings and met regularly with members of the Oakland Citywide Anti-Displacement Network Public Land Policy Committee ("CWN"), a consortium of community and labor organizations in a deliberative process to discuss a range of perspectives and consider potential components of a public lands policy; this group included representatives from Building and Construction Trades Council of Alameda, Communities for a Better Environment (CBE), East Bay Alliance for a Sustainable Economy (EBASE), East Bay Housing Organizations (EBHO), East 12th Coalition, East Oakland Black Cultural Zone, and Public Advocates; and

WHEREAS, the City Council finds and determines that it is in the best interest of the City of Oakland to adopt a public land policy to provide the long-term baseline framework and policy direction needed for these public assets; and now therefore, be it

RESOLVED: That the City of Oakland does hereby establish a public lands policy applying to all City real property set forth herein; and

FURTHER RESOLVED: That the City shall improve transparency of public land availability and process wherein:

1. City staff shall publish all unsolicited requests for projects on City property on the City website and City social media platforms within two weeks of receipt;
2. Staff shall collaborate with community stakeholders to engage and collect the input of the most impacted communities of each project prior to any RFP being released; this community input shall be recorded and included in a staff report for all potential projects on City property sent for review and recommendation by the Community Advisory Committee (CAC) and City Council;
3. Prospective developers of a City parcel shall provide letter notification to all tenants within a four block radius in the top five languages used by residents at home within the city 60 days prior to an Exclusive Negotiating Agreement being heard at City Council;
4. City staff shall provide open public property data; this shall include accessible online maps and documentation that includes up-to-date parcel status and relevant staff contact information;
5. City staff shall provide annual reports to the Community and Economic Development Committee and full City Council meetings, with an analysis of the site-based and portfolio-wide progress on equity metrics; and be it

FURTHER RESOLVED: That the City shall improve accountability and inclusivity of the process for the disposition of public land by establishing a standing Community Advisory Committee (CAC), with members that appointed by the Mayor and confirmed by the City Council, representative of experts in and communities most impacted by shelter and housing, job and employment, and health and environment inequities; the CAC shall reflect the racial, socioeconomic, gender, age, and ability diversity of the most impacted communities; the most impacted communities shall be

defined every four years by staff, in conjunction with the four-year strategy report; the CAC shall have the responsibilities to:

1. Provide recommendations to the City Council on property usage and priority project types based on community input;
2. Evaluate project proposals utilizing equity indicators developed by staff;
3. Monitor implementation and outcomes of projects on City property; and be it

FURTHER RESOLVED: That consistent with Resolution No. 85324 C.M.S., the City must first make good faith efforts to lease City property; if leasing a parcel is not feasible, then the staff shall submit a written justification to the City Council and CAC with an analysis that explains why the parcel is recommended for sale rather than lease in a staff report; and be it

FURTHER RESOLVED: That the City shall allow for possible zero-cost and discounted conveyances for projects that provide benefit to the public including but not limited to fresh food, community health services, affordable childcare, open space, parks and recreational facilities; and be it

FURTHER RESOLVED: That the City of Oakland shall prioritize the utilization of City property to address its housing and shelter inequities wherein:

1. Staff shall prioritize 100 percent affordability for all City properties, portfolio-wide; prioritizing proposals that have the deepest levels of affordability and/or the longest affordable term, that offer family-sized units, and that serve special needs populations with supportive services;
2. The City shall comply with the California Surplus Land Act codified in California Government Code Section 54220, et seq.;
3. Staff shall examine each parcel in the City's portfolio for its potential for use for temporary shelter for the unsheltered and permanently affordable housing;
4. Staff shall examine each parcel for zoning and parking requirement changes that may allow for additional housing density or affordable housing development feasibility;
5. Every four years, in conjunction with the Housing Element, staff shall develop a public land strategy report that includes annual housing outcomes with high priority for affordable housing for the lowest income levels, reflecting the current and projected need, depth of affordability, urgency for construction, location, etc.;
6. Staff shall develop, track, and report on housing equity indicators, in partnership with staff, to measure progress on housing and shelter inequities to be addressed by the City's property assets in the annual report and the four-year strategy report;
7. 100 percent of all property net sale and lease proceeds shall go to Affordable Housing Trust Fund, wherein "net sale and lease proceeds" means cash proceeds net of transaction costs that aren't restricted to uses other than affordable housing; and

For all housing developments:

1. Affordable housing shall be defined as housing affordable to households at 80 percent of Area Median Income (AMI) or below;

2. For any proposed affordable or mixed-income housing project, staff shall examine the potential to fund the project with Section 8 or other available voucher programs funding to increase affordability of the project;
3. Staff shall develop a Fair Chance Housing policy for all units developed on City property;
4. The City shall prohibit discrimination against tenants with rent subsidies (such as Section 8 vouchers) for all residential units developed on City land;
5. 30 percent of residential units on-site shall be affordable, or a minimum of 15 percent with an in-lieu fee;
6. 50 percent of residential units portfolio-wide must be affordable wherein the average percentage of units that are affordable should always remain above 50 percent portfolio-wide;
7. Portfolio-wide minimums for average AMI and affordability levels shall be revisited with the four-year strategy adoption that must be approved by the City Council every four years, reflecting current housing needs;
8. Extend preferences for Oakland residents/workers and displaced households in tenant selection for all affordable units developed on City land;
9. Prohibit owners of residential units developed on City land from conveying condominium conversion rights; and be it

FURTHER RESOLVED: That the City of Oakland shall promote and measure equitable job outcomes for all Oaklanders through its public and assets, promoting strong career pipelines for Oakland residents, disadvantaged groups, underemployed groups such as African Americans and Latinos, and minority contractors; this includes:

1. All projects on City property sold or leased for development shall comply with AB 1008, the statewide Ban the Box statute;
2. All construction projects on City property sold or leased for development shall offer first-priority to targeted and local hire of Oakland residents and disadvantaged workers (including apprenticeships to journeyworkers);
3. All businesses on City property sold or leased for development shall offer first-priority to targeted and local hire of Oakland residents and disadvantaged workers;
4. Local employment and contracting requirements shall apply to all construction on City property sold or leased for development; and be it

FURTHER RESOLVED: The City shall prioritize projects on City property sold or leased for development that support small and local businesses and contractors, consistent with the City's Economic Development Strategy; and be it

FURTHER RESOLVED: All projects on City property sold or leased for development shall be subject to the following Project Labor Agreement (PLA) policy:

Project Labor Agreement requirement.

- The purchaser/developer of any property sold or leased by the City must enter into a PLA with the Alameda County Building Trades Council for construction of any project that either includes 80 or more housing units, or has an estimated construction cost of at least \$40 million (a "Covered Project").

- Such PLA must include the required terms set forth below, which are based on the guidelines passed by Alameda County for Measure A1-funded affordable housing projects. If the Alameda County Building Trades Council declines to enter into a PLA with the purchaser/developer that includes the required terms, then the PLA requirement would not apply to that purchaser/developer's project.
- The ordinance shall request that within six months the Alameda County Building Trades Council shall submit a public report to the City Administrator containing current race, ethnicity, gender composition, and percentage of Oakland residents, cross-tabulated with member level attainment through the union (apprentice, journeyman, master, etc.) for the membership of each local union affiliated with the Council, and for each such union's affiliated apprenticeship program. If this report is not submitted or is substantially incomplete, then the PLA requirement shall be suspended.
- The above requirements will sunset after the first five projects on City property sold or leased for development are completed, with continuation of the program subject to the City Council's discretion.
- The PLA requirements may be waived by Council on an *ad hoc* basis, and would not apply in cases where prohibited by law or by a condition of state or federal funding.

Required terms for PLAs on covered project on City property sold or leased for development.

1. **No Strike/No Lockout.** The PLA will contain guarantees against work stoppage, strikes, lockouts, and similar disruptions on the Covered Project.
2. **Participation by Non-Union Contractors.** All qualified contractors, both union and non-union, will be allowed to bid on and be awarded work on the Covered Project without regard to whether they are otherwise parties to collective bargaining agreements.
3. **Rule of Three.** If the prime contractor on a Covered Project receives bids from subcontractors that cause aggregate projected construction costs to exceed 12% of the pre-bid estimates, then, for those subcontracts with fewer than three "Qualified Contractor" bidders the Trades will be granted a ten-day "re-bid" period to identify and encourage additional bidders on those subcontracts. If, after the re-bid period there are still fewer than three bidders for those subcontracts, then the prime contractor may re-bid those subcontracts without PLA coverage (i.e., not Covered Work). The term "Qualified Contractor" means a licensed, financially qualified contractor with experience in the type of work required and that is capable of meeting the job schedule, has submitted a commercially reasonable bid, is bondable, carries appropriate insurance, including Workers' Compensation insurance (or participates in a State recognized Workers' Compensation Alternative Dispute Resolution ("ADR") Program), and is

otherwise capable of satisfying all requirements of the bid specifications. Developer and Trades can negotiate a different cost control approach in a specific case.

1. **Non-union contractors: ability to use "core workers."** Nonunion contractors must make first hires from the union hall; then can retain a "Core Worker" (registered with the hall); additional hires shall alternate 1:1 until a maximum of five (5) Core Workers have been hired; all future hires are from the hiring hall. A Core Worker is defined as an employee who was on active payroll for 60 out of the prior 140 days, and possesses all required credentials and licenses and the skill to safely perform the work.
2. **Wages and Benefits funds.** All contractors working under the PLA will pay into benefits funds as set forth in applicable Master Agreements, and pay wages consistent with the applicable Master Agreement.
3. **New Apprentices.** One new apprentice shall be hired for each \$5 million in Covered Project cost.
4. **Process for compliance with Targeted Hire Requirements.** Contractors may comply with any other recruitment or hiring procedures required by the City's local employment policy applicable to the project. Unions agree to refer local/targeted workers to contractors on a priority basis as needed for contractors to satisfy the requirements, and if the hiring halls do not have local/targeted workers available, they will allow contractors to obtain those workers from other non-union sources.
5. **Compliance with Small/Local Business Entity ("S/LBE") Contracting Requirements.** If, after the prime contractor receives bids from subcontractors, there is not sufficient S/LBE participation to achieve the percentage requirements of Oakland's S/LBE program while not exceeding 25 percent of the IAC 9 percent cost basis limit [or other cost trigger applicable to non-affordable-housing projects], and the Developer (or prime contractor) has identified an S/LBE contractor who would have bid under different PLA terms, then the parties' obligation to meet and confer is triggered (with opportunity for discussion of terms for re-bid). At the end of a ten-day meet and confer period, one or more subcontractors may re-bid competitively if necessary to meet the S/LBE participation requirement, either with agreed- to revised terms or without application of the PLA requirements to the subcontract in question.
6. **Assignment of work.** Jurisdictional assignments will be based on the trades' system.
7. **Off-site work.** Off-site manufacture of modular housing or structural components will not be covered work under the PLA; off-site manufacture of sheet metal and plumbing components will be covered work within PLA if such work is covered by Sheet Metal or U.A. Master Agreements.
8. **Dispute Resolution.** A binding dispute resolution procedure shall apply for alleged violations of the PLA that allows for resolution of grievances through unanimous agreement of Developer and Trades or, if no unanimous agreement, through arbitration. PLA lists five arbitrators empowered to resolve grievances; parties strike names on an alternate basis. A separate binding dispute resolution procedure shall apply to jurisdictional disputes and to no-strike/no-lockout disputes.

9. **Sole Proprietors.** A Sole Proprietor self-performing work shall not be required to use a worker from the union hiring hall. However, if during the term of the PLA, the Sole Proprietor later hires employees, the Sole Proprietor will be treated as a Core Worker and any subsequent employee(s) will be dispatched from the hiring hall. Sole Proprietors in the trucking industry will be treated as Core Workers, but must nevertheless be dispatched from the hiring hall and will be exempt from trust fund obligations, but must pay representational fees. "Sole Proprietor" means a licensed contractor with no employees and exempted by the California Contractor's State License Board from the requirements to obtain and maintain workers' compensation insurance.
10. **Project Management.** Developer and prime contractor, through the bid documents, may establish a uniform work schedule across crafts of up to 8 hours per day, with consistent start and stop times. Overtime for hours performed within that schedule shall be paid if required by applicable prevailing wage laws.
11. **Taxpayer Protection Provisions.** The PLA will contain all of the taxpayer protection provisions listed in Public Contract Code section 2500(a), including prohibiting discrimination based on race, national origin, religion, sexual orientation, political affiliation, or membership in a labor organization in hiring or dispatching workers for the Covered Project and an agreed-upon protocol concerning drug testing for workers who will be employed on the Covered Project, and be it

FURTHER RESOLVED: For all projects on City property that meet the above PLA requirement and are not 40 percent affordable housing, the primary contractor shall be required to set aside 30 cents per work hour for job training, job access, and pre-apprenticeship programs; and

FURTHER RESOLVED: The City Council hereby directs the City Administrator to review and apply the relevant Healthy Development Guidelines policies to City property projects, including but not limited to:

1. Environmental Health
2. Economic Opportunity
3. Culture, Community and Safety
4. Healthy Food
5. Transportation
6. Housing
7. Recreation and Active Design; and be it

FURTHER RESOLVED: That the City Administrator is directed to return to the City Council with an ordinance establishing this policy by law and present the housing and shelter equity indicators and tracking system for the housing equity indicators no later than September 11, 2018.

PASSED BY THE FOLLOWING VOTE:

- AYES -
- NOES -
- ABSENT -
- ABSTENTION -

ATTEST:

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

DRAFT