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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: City Real Property Disposition and
Development Strategy and Policy

DATE: June 11, 2018

City Administrator Approval

Date:

6/15/18

RECOMMENDATION

Staff Recommends That the City Council Receive A Report On The Public Lands Policy Process And Analysis To Inform Council Direction To Prepare Legislation To Implement A City Public Lands Policy And/Or Strategy

EXECUTIVE SUMMARY

The City owns over 1,100 individual parcels of real property totaling approximately 2,800 acres. Most of this land is not available for development because it is (a) designated as parks, open space, or right-of-ways (83%); (b) in active use for City operations (6%); or remnant parcels too small for development (3%). After excluding those parcels, plus eight development sites for which Council previously approved exclusive negotiating agreements (7%), staff has identified 20 distinct "sites"¹ totaling 24 acres (1%) as currently available for disposition and development.

Given the housing crisis facing the region, staff is recommending the City Council adopt a holistic Public Lands Strategy and Policy ("PLS"), which seeks to use the value of these 20 identified development sites to maximize the production of affordable housing units. As further described herein and in a draft of the proposed Resolution (**Attachment A**), the PLS would set new policy for a more inclusive and transparent community engagement process, establish development proposal evaluation criteria, and categorize the 20 currently identified sites into three initial recommended land uses for development:

- (1) Fourteen sites are proposed for 100% affordable housing;
- (2) One site is proposed for market-rate residential; and
- (3) Five sites are proposed for commercial or mixed-use.

Regardless of the percentage of units provided as affordable housing for any individual site, the PLS would establish a policy requiring a minimum of 20% of the total residential units portfolio-wide to be affordable (below market rate or "BMR") housing. In addition, the PLS would

¹ One "site" may be comprised of multiple contiguous or nearly contiguous parcels.

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establish a policy to direct 40% of net land sale proceeds to the Affordable Housing Trust Fund (“AHTF”), unless the site is developed as market rate residential, in which case 80% of net land sale proceeds will be deposited in the AHTF.

The PLS is a mostly self-funding strategy that seeks to balance the need to produce affordable housing with other public benefit goals such as fiscal responsibility and sustainability, economic development, and providing for other community benefits. Because 100% affordable housing projects typically require City subsidies that exceed the value of the land, the 14 sites designated for this use will need additional sources of funds. For that reason, six PLS sites are strategically designated for market-rate development, so that the City can generate both impact fees and net land sale proceeds to be deposited into the AHTF to protect, preserve, and produce affordable housing.

The following table illustrates the projected outcomes of the staff PLS proposal. The 60% of affordable units produced on 14 sites would mostly be subsidized by market rate development on six PLS sites, but would still require approximately \$32 million of additional AHTF funds.

	Market Rate Units	Affordable Units	Net AHTF Funding Generated/ (Subsidy Required)	Funds Available for Other City Purposes
100% affordable housing (14 sites)	0	746	(\$75.9M)	0
Market rate housing (1 site)	492	0	\$20.6M	\$2.4M
Commercial/Mixed-use (5 sites)	0	0	\$23.4M	\$23.4M
Total	492	746	(\$31.9M)	\$25.9M
%	40%	60%		

An adopted PLS would provide staff with initial direction on how to proceed with the 20 sites. However, before issuing any requests for proposals (“RFPs”), staff would first convene at least one public community meeting for each site to receive input from stakeholders. Based on this community input, staff would return to Council with a recommendation to either confirm the site’s initially approved use designation or change the designation to an alternate use. For additional City-owned land that is later identified as appropriate for disposition and development, staff would present recommendations to City Council to include the site(s) in an amendment to the PLS. Not only does this iterative process allow for more transparency and engagement for the community, it also allows the City to be responsive to market changes and to provide more certainty and predictability in its negotiations with the development community.

Once a site is part of an adopted PLS, and the use is confirmed by the City Council following stakeholder input from community meeting(s), the site would then be offered to potential purchasers/developers via an open and competitive RFP. Proposals would be evaluated by a selection panel before presentation to the City Council for approval. For the sites reserved for affordable housing, proposals that provide the greatest number of affordable units for the lowest incomes, or that serve special needs populations or families, would get priority. For the sites reserved for commercial development, proposals that create jobs, expand the tax base, or

provide needed commercial or social services, such as access to fresh food, health services, or affordable childcare, would get priority. The PLS would also include a variety of other policies that would apply to City real property dispositions.

Alternative CWN Proposal

Since December 2016, City staff have met regularly with members of the Oakland Citywide Anti-Displacement Network (“CWN”), a consortium of 10 organizations², in a deliberative process intended to craft recommendations for an amended public lands policy. Staff and the CWN mutually agree that City policy needs to address two primary concerns: (1) adding more community engagement and transparency in the process of considering disposition and development projects on City land, and (2) placing a greater priority on the production and preservation of affordable housing. The CWN has proposed an alternative public lands policy that includes different requirements for community process (including creation of a standing Community Advisory Committee), affordable housing targets (40% of units affordable portfolio-wide, although a minimum of 15% of units affordable on each site is allowed if equivalent in-lieu fees are paid), and use of land sale proceeds (50% of net sale proceeds to the AHTF). CWN also proposes additional jobs policies and health & environment requirements for projects on City-owned land. The proposal staff received from CWN, dated April 2018, is provided as ***Attachment F: Citywide Network Proposal***.

BACKGROUND / LEGISLATIVE HISTORY

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 AHTF.

On May 31, 2016, the Community and Economic Development (CED) Committee received the Housing Cabinet working group recommendations and directed staff to prepare an Ordinance to amend the Oakland Municipal Code Chapters³ on disposition of City land to: (a) include a process for soliciting proposals for affordable housing development; (b) require residential projects include at least 15% of units as affordable; and (c) direct 30% of net sale proceeds to the AHTF. However, at the urging of community organizations, the City committed to further

² The Oakland Citywide Network includes representatives from the Alliance of Californians for Community Empowerment (ACCE), Asian Pacific Environmental Network (APEN), Building and Construction Trades Council of Alameda, Causa Justa, Communities for a Better Environment (CBE), Communities United for Restorative Justice (CURYJ), East Bay Alliance for a Sustainable Economy (EBASE), East Bay Housing Organizations (EBHO), East 12th Coalition, and Public Advocates.

³ The City’s existing policies and procedures regarding the acquisition and disposition of public land are found in the O.M.C. Chapters 2.41 and 2.42 and were updated most recently in January, 2015, by Ordinance No. 13287 C.M.S.

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community engagement with the CWN before bringing back any recommended amendments to existing land disposition policies for adoption by the City Council.

Following two years of discussions with the CWN and after a site-by-site analysis of all City-owned land currently available for disposition and development by staff and consultants focused on maximizing affordable housing production, staff is now reporting to the City Council its findings and recommendations for a Public Lands Strategy and Policy for the disposition and development of City sites available for development.

ANALYSIS AND POLICY ALTERNATIVES

Given the housing crisis facing the region, staff sought to develop a public lands strategy focused on generating significant support for affordable housing. As such, staff completed a detailed cost-benefit analysis of the policy alternatives for developing public land to determine an optimal strategy for using the value of City land to generate the most affordable housing units, especially by leveraging our local City dollars with State and Federal funding sources.

Maximizing Public Benefit from Development of Public Land

“Public Land for Public Benefit” is a value shared by all stakeholders and the City. However, when the refrain is raised in debates over proposed development on publicly-owned land, the implication is that the community is not benefiting, or not benefitting enough, when the City sells or leases its land for private development. On the one hand, it is important for the City to obtain the highest price or rent for public land – which is typically accomplished with a competitive and transparent process, as well as by obtaining an objective fair market value appraisal. On the other hand, when the City conditions the sale or lease of land to include community benefits, such as affordable housing, it foregoes some or all of that value in exchange. In those cases, it is also important to evaluate if the City is getting maximum value in community benefits for the sales proceeds or rent it foregoes.

Over the last several years as land values have risen, the City has been negotiating development agreements on City-owned land, under existing land disposition policies, that have yielded an increasing level of public benefits. **Table 1** below includes the 13 projects on City land approved by the City Council within the last several years, which are expected to yield 2,921 new residential units, including 1,012 units (36%) affordable to very low-, low-, and moderate-income households. In addition to the production of affordable housing, the City has negotiated for economic development benefits such as replacing public parking garages, adding retail and cultural arts space, and generating long-term tax revenue to pay for future City needs and services. The City currently expects to receive approximately \$16 million in net sales proceeds or ground lease income from these 13 properties. Depending on the original source of the funds the City used to acquire the land, the sales proceeds will be either: reinvested in other eligible redevelopment projects; deposited into the AHTF; or deposited into the General Purpose Fund (GPF) for other fiscal needs of the City.

Table 1: Housing Production from City Property Dispositions with Agreements in Place

	Project Name	Location	Date of Status	Housing Onsite	Affordable Units (Onsite)	Affordable Units Funded Offsite*	% Affordable (Includes Offsite)	\$ Impact Fees to AHTF
1	City Center T-12*	601 12th Street	12/2007	-	-	25	Commercial	\$3,062,720
2	MacArthur Station++	Macarthur Blvd/40th St	09/2011	875	146	-	17%	-
3b	City Center T-5/6 Phase 2	Clay/11th/12th Streets	09/2015	TBD	TBD	TBD	TBD	
4	West Oakland Transit Village *	500 Kirkham St	05/2016	417	32	25	13%	\$3,150,000
5	Seminary Point Shopping Center	Foothill/Seminary	12/2016	-	-	-	Retail	-
6	LakeHouse Commons	E 12th St/2nd Ave	02/2017	360	108	-	30%	-
7	7th & Campbell **	7th & Campbell Streets	07/2017	78	78	-	100%	-
8	23rd & Valdez	2315 Valdez/2330 Webster	07/2017	234	36	-	15%	-
9	Oakland Acura	Oakport Street	09/2017	-	-	-	Retail	-
10	Brooklyn Basin **	Embarcadero/ 5th to 10th Ave	11/2017	465	465	-	100%	-
11	Fruitvale Transit Village Phase IIA	E. 12th/San Leandro Streets	12/2017	94	92	-	98%	-
12	Coliseum Transit Village ++	70th Ave/71st Ave/Snell St	12/2017	110	55	-	50%	-
3a	City Center T-5/6 Phase 1*	Clay/11th/12th Streets	03/2018	288	-	16	5%	\$1,943,000
14	1100 Broadway*	1100 Broadway	01/2018	-	-	12	Commercial	\$1,550,400
Total Units				2,921	1,012	78	36%	\$ 9,706,120

* Includes assumed potential offsite units funded by contributions to the Affordable Housing Trust Fund

** Sites purchased with redevelopment low/mod housing setaside funds

^(L)DDA = (Lease) Disposition and Development Agmnt; OPA = Owner Participation Agmnt; MHA = Master Housing Agm

++ BART property with City participation

Table 2 includes another eight sites for which the City Council has previously approved exclusive negotiating agreements (ENAs) with development entities for projects that, if completed, could yield an additional 313 residential units, 95% of which will be affordable. These projects would also generate at least \$20 million in net land sale proceeds, a portion of which could be deposited in the AHTF to subsidize additional affordable housing projects.

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Table 2: Housing Production from City Property with Exclusive Negotiating Agreements

	Project Name	Location	ENA Date	Housing Onsite	Affordable Units (Onsite)	Affordable Units Funded Offsite*	% Affordable (Includes Offsite)	\$ Impact Fees to AHTF
1	Kaiser Conv Center [^]	10 10th Street	07/2015	-	-	4	Commercial	\$472,920
2	Derby Avenue [^]	Derby Avenue	09/2015	-	-	-	School	-
3	73rd & Foothill	73rd Ave & Foothill	04/2017	-	-	-	Retail	-
4	2100 Telegraph Ave [*]	2100 Telegraph Av	10/2017	-	-	56	Commercial	\$7,050,000
5	Fruitvale TV IIB	E. 12th/San Leand	12/2017	181	163	-	90%	-
6	3050 International	3050 International	03/2018	75	75	-	100%	-
7	Hill Elmhurst	95th Ave & Interna	03/2018	57	57	-	100%	-
8	Coliseum	Coliseum	TBD	TBD	TBD	TBD	TBD	TBD
			Total Units	313	295	56	95%	\$7,522,920

* Includes an assumed potential offsite units funded by contributions to the Affordable Housing Trust Fund

[^] ENA expired

Staff has identified 20 more sites currently available for disposition and development. These sites are shown on several maps provided in **Attachment B** and in further detail regarding site characteristics and development alternatives in **Attachment G: Public Lands Strategy – Site-By-Site Profiles**. These 20 sites are the focus of the staff analysis and the PLS because they will reflect the first tangible application of any new public lands policy. Staff analysis projected the divergent outcomes that policy alternatives would have on affordable housing production and overall benefit/cost.

City Subsidy Needed to Produce Affordable Housing (Inclusionary vs. LIHTC)

The cost to produce housing in Oakland varies widely depending on the location, size, and type of construction, as well as market demand for construction materials and labor. On average, City staff and economic consultants estimate that a typical rental unit in a new low-rise building currently costs approximately \$467,000 to develop, while a typical rental unit in a high-rise building costs approximately \$595,000. These costs include the cost of land. Market rate rents are mostly driven by demand and supply, but also vary based on location and other factors. New development occurs when the value of market rents substantially exceed construction costs. Land values will rise accordingly because developers are able to pay more for land when the residual value of new development increases. When the City is the landowner, it has an opportunity to benefit from rising land values by either receiving a higher value for its land or requiring more community benefits, including affordable housing.

The rents for affordable housing are typically restricted to be affordable to households with moderate incomes (80-120% of area median income or “AMI”), low incomes (50-80% of AMI), very low incomes (30-50% of AMI), or extremely low incomes (below 30% of AMI). Because rents are restricted, the income generated is not high enough to support the development costs, and therefore a subsidy is required. City staff and economic consultants currently estimate that, on average, the value of a rental unit in a low-rise building restricted to households at 50% of AMI is approximately \$109,000. The difference between the value of a restricted BMR unit and what it costs to build is the “affordability gap”. In a low-rise building, for a unit targeting

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households at 50% AMI, the gap is estimated at approximately \$358,000. The gap is even greater in a high-rise building because both operating expenses and construction costs are higher, while the restricted rent is the same. Staff estimates the gap for a 50% AMI unit in a high-rise building to be approximately \$530,000.

In some projects, this affordability gap is filled by affordable housing subsidies from the City, State and Federal government. For inclusionary projects, where a developer is required to include affordable units, there are generally no other sources of funding to subsidize these rent-restricted units, and the loss in value needs to come out of land value. An inclusionary housing policy effectively imposes these costs per unit on new development. If the developer already owns the land, the cost of required inclusionary units will need to be absorbed internally (and if the cost is too high, developers may elect not to proceed with building a project to avoid losing money). However, if the developer has not yet paid for the land, they will discount the purchase offer accordingly, in order to cover the affordability gap for rent-restricted units and still meet their investors' minimum return. When cities impose inclusionary housing requirements on private projects, it is generally private land owners who bear the cost of providing affordable units. But when a city imposes these requirements on buyers of its own public land, it is the city itself that bears the cost. Buyers would be able to pay more for the land without affordable housing requirements because they would be receiving more rental income. This may be appropriate because the city is essentially 'buying' affordable units by accepting a lower land price. But it is important to compare the cost of inclusionary units to the cost of units in 100% affordable buildings.

When the City of Oakland funds 100% affordable projects, the affordability gap is just as big, but the city has help in filling it. City subsidy is necessary for these projects, but most of the funding comes from outside of the City.

The most significant sources for subsidy to fill the affordability gap are the State's Affordable Housing and Sustainable Communities (AHSC) program and the Federal Low Income Housing Tax Credit program (LIHTC). Most 100% affordable projects combine funding from both of these sources and sometimes dozens of others. A successful competitively-funded LIHTC project typically has 100% of the units affordable to households on average at 50% AMI or less, is near transit, and is in a less costly low-rise building of 60-80 units in size. LIHTC-funded affordable housing is rarely, if ever, produced in high-rise development because of the much higher costs. Staff estimated that on average, the City share of the subsidy required to develop a 50% AMI unit in a low-rise LIHTC project is approximately \$125,000, based on the most recent Notice of Funding Availability (NOFA) solicitation for affordable housing developers and projects conducted by the City's Housing and Community Development (HCD) Department. Other outside subsidy sources make up the difference to fill the approximately \$358,000 affordability gap.

For illustrative purposes, Figures 1 and 2 below compare the estimated local gap subsidy needed for inclusionary versus LIHTC units at 50% of AMI in low-rise and high-rise buildings.

Figure 1: Affordable Housing Unit City Subsidy Comparison – Low-Rise

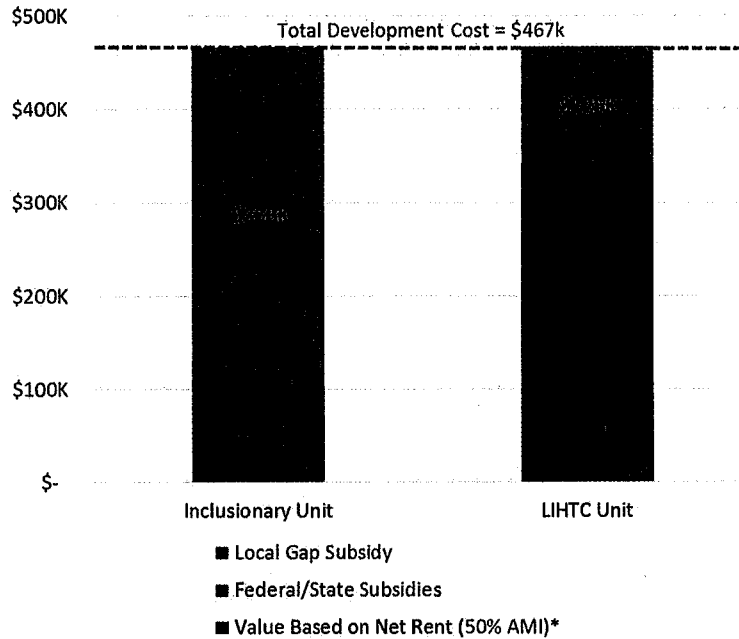
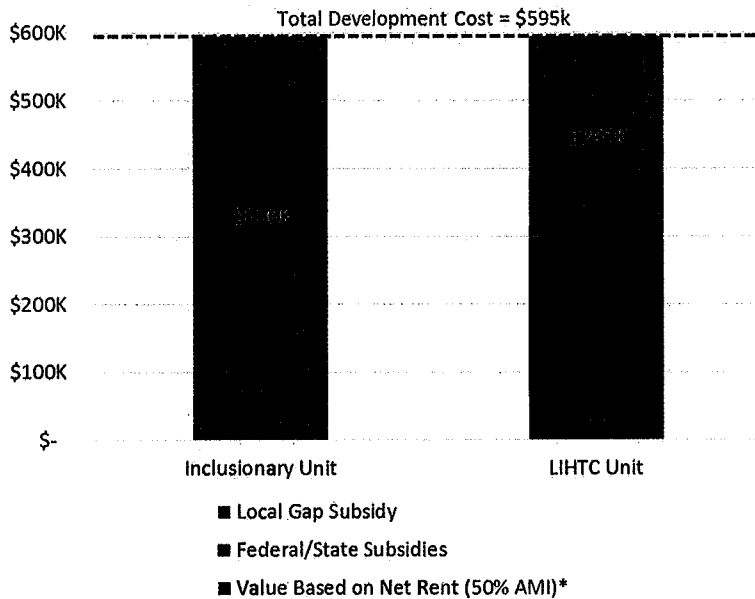


Figure 2: Affordable Housing Unit City Subsidy Comparison – High-Rise



Source: Century Urban, Street Level Advisors, and City Staff Analysis

*Value is net rental income after operating costs. Operating costs are higher for high-rise units.

The conclusion to be drawn from the above analysis is that the City could produce three to four times as many affordable units by providing only the local share of subsidy on 100% affordable low-rise projects that can compete for LIHTC and AHSC funding, rather than requiring residential development on public land to include a minimum percentage of inclusionary units. Therefore, a flexible public lands policy that allows for collection of affordable housing fees and use of residual land sale proceeds would enable the greatest number of lower income households to be provided with an affordable home.

City Subsidy Needed for Small/Local Hire, Project Labor and Labor Peace Agreements

Requiring a project labor agreement (“PLA”) on all projects developed on City land, as proposed by the CWN, raises a number of issues related to increased project labor costs – with a resulting impact on the land sale proceeds the City is able to generate and the funds that would otherwise be available to set aside in the AHTF. The City’s local employment and small/local business contracting requirements, which apply whenever the City sells or leases land at below market value, also increase project costs and further reduce the land sale proceeds that could be directed to the AHTF. Although it is difficult to precisely estimate the additional costs for these labor programs, surveys by staff and consultants indicate that PLAs and the City’s programs can each increase construction costs by at least 5% and could add up to 30% more in hard costs.

An analysis shows that even a 5% increase in construction costs on some projects could more than eliminate the land value the City has available to exchange for other community benefits. For the two main downtown sites that the PLS proposes for high-rise market rate development, a PLA would substantially eliminate the funds available for the production of affordable housing. As shown in **Table 3** below, a simple 5% increase in estimated construction costs for development of 1800 San Pablo and 1911 Telegraph would increase the cost of the projects by approximately \$29 million, which is about \$2 million more than the estimated fair market value of the land. A high-rise project at 1911 Telegraph may not be feasible with a PLA requirement, unless the City were to pay the developer to complete the project. For 1800 San Pablo development, the City would likely forego most of the estimated land value.

Table 3: Analysis of the Cost of a Project Labor Agreement

	1800 San Pablo	1911 Telegraph	Total
Estimated Construction Cost	\$218.4M	\$361.0M	\$579.4M
Estimated Land Value at FMV	\$12.2M	\$14.7M	\$26.9M
PLA Cost Increase Estimate (5%)	(\$10.9M)	(\$18.0M)	(\$29.0M)
Net Land Value with PLA	\$1.3M	(\$3.4M)	(\$2.1M)

While there are benefits to the City in requiring all projects on City land to follow local hire programs and enter into a PLA, notably the creation of good jobs for Oakland residents, there is a tremendous diminishment of the residual land value that could be used for affordable housing. As a result, staff does not recommend including a PLA or S/LBE requirement in the proposed PLS. In addition, PLA requirements raise other complicated issues that should be considered on

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a more global, City-wide basis, with further analysis from professional staff and policy experts on the potential impact on projects, and how the benefits and costs of these policies are distributed. A race and equity analysis is particularly important in this regard to assess disparities in construction union membership correlated to race.

Greater Need for Funding Versus Land for Affordable Housing

One public lands policy alternative to produce affordable housing would be to make all the currently identified City sites available for 100% BMR projects. Staff determined that the zoning for all but one of the 20 sites allows for residential use, with an additional site off limits to residential use due to seismic constraints, and that 1,080 affordable units could be produced on the remaining 18 sites. However, based on the average local gap subsidy of \$125,000 per unit, and assuming PLA and local hire programs apply to all projects, the City would still need over \$115 million to build them all, even after applying sales proceeds and impact fees from the two sites that do not allow residential use (assuming that 50% of sales proceeds are directed to the AHTF). It would take the City 10-14 years to fund that much affordable housing at the rate which the AHTF receives new funds, while assuming no City funds are granted to other eligible projects submitted by affordable housing developers.

A review of HCD's 2017 NOFA awards show that there are already more affordable housing projects in the pipeline than the City could currently fund. This implies the City's shortage of funding for affordable housing is currently a greater barrier to the production of affordable housing than the availability of appropriate sites.

Table 4: 2017 NOFA Allocation Amount

	Requested	Available	Shortfall
City NOFA, Nov 2017	\$69M	\$14M	(\$55M)
County A1 Funds	\$107M	\$34M	(\$73M)
Total	\$176M	\$48M	(\$128M)

A second public lands policy alternative would be to sell all the City's currently identified 20 sites at fair market value and use impact fees and proceeds (not otherwise restricted) to subsidize affordable housing production. Staff estimates that without any policy changes, the fair market value sale of the 20 sites could generate \$51 million in impact fees and other proceeds for the AHTF, which could fund 405 affordable units. Alternatively, if all the land sale proceeds were directed to the AHTF, the sales could generate \$127 million for the AHTF, which could fund the production of 1,018 affordable units assuming the other layers of state and federal funding are available. The difference in these two scenarios is the degree to which the City retains land sales proceeds to fund other City needs, such as services and capital improvements, or devotes the proceeds to affordable housing. The primary concern with devoting all sale proceeds to the AHTF is that there will be far more funding than sites identified to use them. Moreover, if there were enough sites, there is not enough State funding and Federal tax credits available to access and leverage City funds when so many projects are requesting those resources at the same time.

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Table 5 shows the projected outcomes from these three hypothetical scenarios, which effectively establish policy “bookends” – from maximizing proceeds to maximizing onsite affordable BMR housing production.

Table 5: Affordable Housing Production Outcomes/Costs for Twenty Sites under Three Scenarios

Item	FMV Sale	FMV Sale to AHTF	All Affordable On-Site
Total Sale Proceeds Generated	\$91M	\$91M	\$11M
Net Proceeds to GPF/Redevelopment Funds	\$77M	\$1M	\$8M
Gross AHTF Funds Generated (incl. fees)	\$51M	\$127M	\$4M
Total Units Produced	2,156	2,769	1,080
Market Rate Units (on City land)	1,751	1,751	0
Affordable Units (on City land or funded)	405	1,018	1,080
% Affordable	19%	37%	100%
(Additional City Subsidy Needed)	\$0	\$0	(\$115M)
<i>Estimated Years to Fund</i>	<i>N/A</i>	<i>N/A</i>	<i>10-14 years</i>

Surplus Land Act and 15% Inclusionary Requirement Alternative

The California Surplus Land Act (“SLA”) requires that, for land “determined to be no longer necessary for the [City’s] use”, the City shall offer it first to housing sponsors and other priority entities, and shall prioritize affordable housing. For parcels disposed of under the SLA for affordable housing, at least 25% of the units must be affordable to lower-income households (80% of AMI or less). If there is no agreement to dispose of the property for affordable housing, and the property is disposed of for a residential project of 10 or more units, at least 15% of units must be affordable to lower-income households. Although the City’s current disposition rules state that it will comply with the SLA to the extent applicable, there are differing legal opinions and interpretations of whether the SLA applies to properties that a public agency seeks to develop for economic development purposes.

The City is committed to prioritizing affordable housing objectives, either directly through affordable housing production on City-owned land or indirectly through generating funds (i.e., impact fees and net land sale proceeds) from City-owned land that will get directed to the AHTF to subsidize production or preservation of affordable housing. Staff’s analysis indicates that maintaining the flexibility to allow market-rate development on some carefully selected PLS sites enhances the City’s ability to achieve its affordable housing objectives. (A comparison of a 15% inclusionary scenario with the proposed PLS is shown in **Table 7** further below).

Site-by-Site Analysis for Staff's Proposed Public Lands Strategy

As part of developing the strategy for future development sites, staff took an in-depth look at several issues related to each of the 20 sites identified. This analysis revolved around: (1) the suitability of the site for affordable housing, including size, shape, slope, geological issues, and current zoning; (2) the suitability of the location of the site for affordable housing as rental or ownership, which revolves around quality of schools, access to transit, and availability of services like grocery stores; and (3) considerations over concentrations of affordable housing, both existing and with future development. Some sites may be more suitable for affordable housing if the zoning were amended, such as Oak Knoll, which currently only allows 23 units on an almost five-acre site. Another site, 66th and San Leandro, is zoned only for industrial and has adjacent uses that may limit its potential to be rezoned. Old Fire Station #24 sits directly on the Hayward Fault, which would limit most residential uses. Staff scored each of the sites using HCD's Notice of Funding Availability ("NOFA") criteria regarding location, including geographic equity, education quality, proximity to public transit, and proximity to grocery or drug stores. Lastly, staff mapped all existing and proposed affordable housing, as well as pipeline market rate development, to determine the current and estimated future concentrations of affordable housing by census tract. This analysis is discussed in detail for each site in **Attachment G: Public Lands Strategy – Site-By-Site Profiles**.

One concern that came out of the Downtown Oakland Specific Plan process is how dominant residential development has become in the Downtown area during this current market cycle. Zoning rules in Downtown allow multifamily residential in all of the Central Business District Zones and Lake Merritt Station Area District Zones. In the core of Downtown, there are 14 residential projects under construction that will produce 2,839 new residential units and 19 additional projects planned with 3,051 units. To maintain a vibrant Downtown, residential growth must be balanced with job growth and commercial/office development. Downtown Oakland is the largest employment center in the East Bay, provides one-third of all Oakland jobs, provides two-thirds of all the City's office space, and generated 40% of all new jobs in the City between 2011 and 2016⁴. For Downtown Oakland to continue playing a critical role in the City and regional economy, the City should preserve prime office development sites, including those under its control.

Another major concern of staff is what the City gives up by using high value and high cost downtown sites for low intensity development. Sites like 1911 Telegraph and 1800 San Pablo are zoned to allow 500 units per acre in high-rise projects. Building a low-rise affordable project on land that is zoned for a high-rise building is much more expensive than building the same project on a less valuable site. Building low-rise on a site that is zoned for high-rise will do less to reduce the regional housing shortage than if high-rise is built on that same site.

In addition, Downtown already has some of the highest concentrations of affordable housing in the City. Census tract 4028, which is bounded by Broadway, 14th Street, Martin Luther King Jr.

⁴ Source: Downtown Oakland's Economic Role in the City and the Region, September 8, 2017, by Strategic Economics

Way, and West Grand Avenue, has the second highest percentage of affordable housing in Oakland with 57% of units BMR rent-restricted. Even with the surge of proposed market rate housing in Downtown, this census tract will remain one of the top 10 tracts for affordable housing with an estimate of 32% restricted affordable units. Looking at all four core Downtown census tracts combined (4028, 2029, 2030, and 2031), which together are bounded by Harrison Street, 5th Street, Martin Luther King Jr. Way, and West Grand Avenue, the area currently has the third highest concentration with 48% as restricted affordable housing, and would only fall to a still relatively high 25% as restricted affordable housing if all of the proposed market rate development is built. (See **Attachment E: Map and Table of Affordable Housing Concentration**).

By selling the two highest value Downtown sites, 1911 Telegraph and 1800 San Pablo, for market rate development, and using net land sale proceeds and affordable housing impact fees estimated at \$31.7 million to assist affordable housing development, the City would be able to fund production of 254 affordable homes. In contrast, using these two sites for 100% affordable development would yield only 200 BMR units and would still require approximately \$20 million in subsidy in addition to contributing the full land value. The total per unit subsidy, when accounting for the land value, would be approximately \$236,000 per unit. In addition, 492 market rate housing units would not be developed to help reduce the region's housing shortage, 902,000 square feet of office would not be developed, and no other funds would be generated for other City purposes.

PLS Summary Table

For all 14 sites proposed for 100% affordable housing, staff analyzed how much AHTF funding would be needed to subsidize the affordable units in addition to contributing the land value. Staff also projected how much land sale proceeds and impact fees could be generated from the six sites proposed for market rate sale and development for the AHTF, as well as what remaining proceeds could be available for other City purposes. A summary of the projected results for staff's proposed PLS in **Table 6** follows:

Table 6: Staff's Proposed Public Lands Strategy

Category/Site	Land Area (sf)	BMR Units	Market Rate Units	Commercial (sf)	Net AHTF Funding Generated / Subsidy Required	Funds Available for Other City Purposes
<u>100% BMR Housing</u>						
1 Wood Street	147,081	292	-	-	(\$29.7M)	\$0
2 Rotunda Garage Remainder	6,697	25	-	-	(\$2.5M)	\$0
3 MLK Sites	9,125	21	-	-	(\$2.1M)	\$0
4 Piedmont Ave/Howe St Parking	43,532	97	-	-	(\$9.9M)	\$0
5 Miller Library Site	11,969	10	-	-	(\$1.0M)	\$0
6 27th & Foothill	22,581	51	-	-	(\$5.2M)	\$0
7 36th & Foothill	34,164	76	-	-	(\$7.7M)	\$0
8 73rd & International	5,435	13	-	-	(\$1.3M)	\$0
9 Clara & Edes	26,311	32	-	-	(\$3.3M)	\$0
10 Golf Links Road	32,038	40	-	-	(\$4.1M)	\$0
11 8280 & 8296 MacArthur	12,720	8	-	-	(\$.8M)	\$0
12 98th & Stearns	20,614	6	-	-	(\$.6M)	\$0
13 10451 MacArthur	23,000	52	-	-	(\$5.3M)	\$0
14 Barcelona Site (Oak Knoll)	205,337	23	-	-	(\$2.3M)	\$0
Subtotal 100% BMR Housing	600,604	746	-	-	(\$75.9M)	\$0
<u>Market Rate Residential</u>						
15 1800 San Pablo	44,347	-	492	-	\$20.6M	\$2.4M
Subtotal Market Rate Residential	44,347	-	492	-	\$20.6M	\$2.4M
<u>Commercial/Office</u>						
16 Clay St Garage	29,000	-	-	130,400	\$3.2M	\$3.9M
17 1911 Telegraph	45,121	-	-	902,420	\$11.1M	\$8.8M
18 Fire Alarm Bldg	31,031	-	-	93,093	\$3.2M	\$4.2M
19 Old Fire Station #24	39,535	-	-	20,000	\$0.5M	\$0.8M
20 66th & San Leandro	274,428	-	-	274,428	\$5.3M	\$5.8M
Subtotal Commercial/Office	419,115	-	-	1,420,341	\$23.4M	\$23.4M
All Sites	1,064,066	746	492	1,420,341	(\$31.9M)	\$25.9M
		Total Units	1,238			
		% Affordable	60%			

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Comparative Outcomes of PLS, CWN Proposals, and Surplus Land Minimum Scenarios

For comparison with the proposed Public Land Strategy and Policy, staff modeled several possible development scenarios that the CWN had most recently proposed and shared with staff. Included in **Attachment C: 20 Sites Categorized for Future Development** are two iterations of CWN’s proposal – one models all sites allowed for residential with 40% affordable per site (“CWN Fixed”), and the other models some sites developing as 15% affordable housing with fees paid in lieu to the AHTF for the other 25% and other sites as 100% affordable housing (“CWN Flexible”). Both models of the CWN proposal direct 50% of sales proceeds to the AHTF and achieve CWN’s desired portfolio-wide target of 40% of residential units as affordable, with varying outcomes in projected unit production and required local subsidy. The analysis shows that, compared to CWN’s Flexible proposal, the PLS produces more total housing units and nearly the same number of affordable units, but at nearly half the subsidy cost to the City. Also for comparison, **Table 7** below shows the results of using the “Surplus Land Act 15% inclusionary requirement” as a minimum threshold. Again, the overall PLS outcomes exceed those results. In all cases, the PLS is able to optimize the number of affordable units at the lowest subsidy cost by allowing 100% affordable housing projects to be subsidized through the high value received from a few select market rate development sites.

Table 7: Affordable Housing Production Outcomes/Costs for Twenty Sites under Four Scenarios

Item	Surplus Lands Minimum	CWN Fixed	CWN Flexible	Staff Strategy
Total Sale Proceeds Generated	\$60M	\$16M	\$22M	\$51M
Net Proceeds to GPF/Redevelopment Funds	\$56M	\$8M	\$11M	\$26M
Gross AHTF Funds Generated (incl. fees)	\$5M	\$9M	\$21M	\$44M
Total Units Produced	1,074	1,080	1,077	1,238
Market Rate Units	900	649	322	492
Affordable Units*	174	431	755	746
% Affordable	16%	40%	70%	60%
(Additional City Subsidy Needed)	\$0	(\$33M)	(\$59M)	(\$32M)
<i>Estimated Years to Fund</i>	<i>N/A</i>	<i>3-4 years</i>	<i>5-7 years</i>	<i>3-4 years</i>

*Surplus Lands Minimum total includes 18 offsite units

Attachment D provides more detailed summary tables of staff analyses of the affordable housing outcomes (e.g. unit production, net proceeds, and costs) under the development scenarios described above. Staff also calculated the 30-year net present value of estimated fiscal benefits from new tax revenue to the City that would result from the assumed development and found this amount is significantly greater under staff’s PLS compared to CWN alternatives, again due largely to some sites being reserved for market-rate development.

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Other Public Lands Policies

The PLS would include other policies that City staff have supported in discussions with the CWN. For affordable housing dispositions, owners (1) would be prohibited from selling condominium conversion rights, (2) would be prohibited from discriminating against tenants based on immigration status, in addition to other currently-prohibited grounds, and (3) would be subject to fair chance rules that limit the ability of the owners to reject tenants based on past criminal history. The selection of tenants for affordable housing units developed on City land would also become subject to the City's policy to give preference to City and neighborhood residents and workers, which currently applies only to projects that receive City NOFA funding. All purchasers of City land (1) would be prohibited from retaliating against employees based on immigration status, and (2) would be required to abide by state fair chance laws. The PLS would also expand the criteria for evaluating development proposals; priority would be given to affordable housing proposals that provide the greatest number of affordable units for the lowest incomes, or that serve special needs populations or families; commercial development proposals that create jobs, expand the tax base, or provide needed commercial or social services, such as access to fresh food, health services, or affordable childcare, would also be prioritized. The PLS policy would restate and codify the City's current policies (1) favoring ground leases over fee sales of City property, and (2) requiring all new development on City land to comply with environmental standards in the City's green building ordinance.

FISCAL IMPACT

Both the City staff and CWN proposals will result in lower land sale proceeds being realized on properties with residential use, due to the cost of inclusion of affordable units or an equivalent in-lieu fee that must be paid by the developer. The net land sale proceeds that otherwise would be available for the General Purpose Fund would be reduced by at least 40% under the staff PLS. However, the AHTF would be increased correspondingly and allow the City to leverage more support for affordable housing development, preservation, or protection. Potential lease revenues to the City could also be lower over time, given other policy priorities that the City may wish to implement that would result in affordable rents. Staff's proposal to allow market rate development on some carefully selected sites will generate greater long term fiscal revenue streams to pay for future City needs and services.

PUBLIC OUTREACH / INTEREST

The original Housing Cabinet public lands working group included 15 stakeholders from a variety of organizations. The recommendations were also reviewed by the Mayor's Housing Cabinet, which involved an additional 15 community stakeholders. The working group recommendations were distributed through publication of the Housing Cabinet's report, "Oakland at Home."

The CWN discussions over the past two years included representatives from 10 or more community organizations representing housing, social justice, labor, environment, and other

issues affecting low-income Oakland residents and workers, and communities of color in neighborhoods that have historically experienced segregation and disinvestment. The public lands discussion has been the subject of workshops and community meetings that staff and CWN members have participated in. The CWN undertook a survey that was completed by 250 Oakland residents and stakeholders, and was used to inform its proposals.

The staff PLS was modified based on feedback from the CWN who wanted none (or as few as possible) of the 20 sites to be designated for market-rate sale and development, which is why staff's final proposal is designating only 6 of the 20 sites for market-rate development, compared to earlier staff versions which designated 9 of the 20 sites for market-rate development.

COORDINATION

This report has been prepared by the Economic & Workforce Development Department in collaboration with the City Administrator's and Mayor's Office, Housing and Community Development Department, the City Attorney's Office, and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Staff's proposed Public Lands Strategy would allow the City to continue to promote economic development goals today through the development of some of its properties. The proposal would also increase transparency and expectations regarding development projects and the opportunity to increase the supply of affordable housing from use of public lands.

Environmental: Staff's proposed Public Lands Strategy would allow the City to continue to expand options to promote new development that will be required to meet the current high standards for sustainable development including the City's Green Building Ordinance for Private Development Projects. Most of the City sites for development are appropriate for higher density transit oriented development near Bay Area Rapid Transit ("BART") Stations or along major Alameda-Contra Costa Transit District bus lines on commercial corridors.

Social Equity: Staff's proposed Public Lands Strategy would expand the opportunity to develop affordable housing and provide additional resources to promote affordable housing projects. It will also add more transparency and opportunity for community engagement in the development evaluation and selection process.

CEQA

Amending the O.M.C. regarding real estate disposition policies to adopt the PLS and related policies would not have any potential environmental effects and is exempt from CEQA under Sections 15061(b)(3) (general rule, which exempts activities that can be seen with certainty to have no possibility for causing a significant effect on the environment), 15301(existing facilities), 15378(b)(5) (administrative activities of government that will not result in direct or indirect

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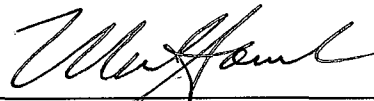
physical changes in the environment), 15162 (projects consistent with general plan and zoning) and 15262 (feasibility and planning studies).

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council receive this report on the public lands policy process and analysis to inform Council direction to prepare legislation to implement a City public lands policy and/or strategy.

For questions regarding this report, please contact Mark Sawicki, Director of Economic & Workforce Development, at 510.238.2992.

Respectfully submitted,



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Attachments (7):

- A. Draft of Staff's Proposed Resolution
- B. Maps of 28 Sites Identified for Disposition and Development
- C. 20 Sites Categorized for Future Development – A Model of (1) Staff's Public Lands Strategy vs. (2) CWN Proposals vs. (3) Surplus Land Act 15% Inclusionary
- D. Summary Tables of Affordable Housing Outcomes Under Various Development Scenarios
- E. Map and Table of Affordable Housing Concentration
- F. Citywide Network Proposal: Draft as of April 2018
- G. Public Lands Strategy: Site-By-Site Profiles

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