

# MISSING EXECUTED LEGISLATION FORM

Resolution / Ordinance Number: 87483

City Council Meeting Date DEC 14 2018

Agenda Item No. S14

Recorded Vote 5 Ayes, 2 No's - Grullen, Kaplan, 1 Excused - Brooks

**Status of Resolution/Ordinance:**

- |   |  |
|---|--|
| <input type="checkbox"/> Filed without signature                | <input type="checkbox"/> No signed version will be filed |
| <input checked="" type="checkbox"/> Council amended legislation | <input type="checkbox"/> No signed version will be filed |

**Author Contact Information:**

Department Council Office

Contact Person/Ext. Sarah Tiney

Notes (if any)

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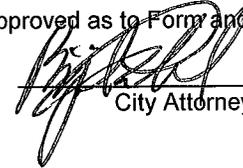
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City Attorney's Office

18 DEC -6 PM 2:25 OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

INTRODUCED BY PRESIDENT PRO TEM GUILLÉN AND COUNCILMEMBER  
KAPLAN

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**RESOLUTION SETTING FORTH OAKLAND'S PUBLIC LANDS POLICY  
FRAMEWORK AND DIRECTING STAFF TO RETURN TO COUNCIL WITH AN  
ORDINANCE TO CODIFY THESE POLICIES**

**WHEREAS**, the City Council recognizes that the 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**, the City has many diverse and vibrant communities with differing needs and interests; and

**WHEREAS**, the City owns a variety of parcels zoned for a variety of land uses; even after setting aside parks, open space, and parcels with active uses or commitments, there are approximately 25 City-owned properties currently available for development; and

**WHEREAS**, public land is an asset of the people of the City 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 City seeks to create a public lands disposition process that is sufficiently transparent, accountable and inclusive of the many diverse communities and entities that may be impacted by the sale or long term lease of the City's parcels; and

**WHEREAS**, the City is facing a national housing and homelessness crisis; Nationwide, 22 states also saw an increase in homelessness last year; the homeless population in the City 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; and

**WHEREAS**, the City's unsheltered residents are truly everyone's neighbors – in the last biennial count, 86 percent of this population reported they were Alameda County residents before living on the streets, 62 percent had lived in the County for

more than 10 years, and about 30 percent said they were experiencing homelessness for the first time; and

**WHEREAS**, homelessness is a racial equity issue, as it disproportionately affects African-American residents, especially in the City, where African-Americans made up 68 percent of the homeless population in 2017;

**WHEREAS**, according to the City's 2017 Economic Development Strategy report, the City's overall unemployment rate has fallen from a high of 16 percent in 2009 to under 6 percent by the end of 2015; however, inequitable outcomes in employment persisted—the unemployment rate remained higher for Black Oaklanders at 9 percent, Latinos at 7 percent and Asians at 8 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, bolster the economy to add 2,800 jobs each year, allow 12,000 Oakland residents to have access to job training services each year, and 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, so as to allow 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 provide 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 lands 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 Oakland Municipal Code sections regarding disposition of City lands so as to include a process for soliciting proposals for affordable housing development, a provision that all residential projects include at least 15 percent of units as affordable, and a requirement that 30 percent of net sale proceeds be directed to the AHTF; but, at the urging of community organizations, the City Council delayed action on the proposed ordinance and committed to further community engagement and a more deliberative process to consider potential amendments to the public lands policy; and

**WHEREAS**, in light of the housing crisis and an increasing desire to activate sites, it is an opportune time to establish policies that will ensure the City's 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 City 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 12<sup>th</sup> 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, as set forth below; and now therefore, be it

**RESOLVED:** That the City of Oakland does hereby establish a public lands policy applying to all City-owned parcels greater than 5,000 square feet, including lands owned by the Successor Agency or received from the State or federal government, that are offered for sale or long term lease, as set forth herein; and be it

**FURTHER RESOLVED:** That all City-owned parcels shall follow the Surplus Land Act; and be it

**FURTHER RESOLVED:** That the City shall establish an accountable and inclusive process for the disposition of City land by establishing a standing Community Advisory Committee (CAC), with 16 members appointed pursuant to the City Charter; the CAC shall reflect the racial, socioeconomic, gender, age, and ability diversity of communities of concern, as shall be defined every four years by staff in a four-year public land strategy report developed by staff; the CAC shall have the responsibilities to make recommendations:

1. To the City Council on property usage and priority project types based on community input, which recommendations shall be considered by the City Council prior to taking any action authorizing a Request for Proposals (RFP), exclusive negotiating agreement (ENA), or disposition of City land;
2. To the City Administrator regarding the evaluation of project proposals against defined equity indicators and other data developed by staff, including the Departments on Race and Equity, Planning and Building Department, and Housing and Community Development;
3. To the City Administrator regarding its monitoring of the implementation and outcomes of projects on City property; and be it

**FURTHER RESOLVED:** That the City shall further improve transparency of the

availability and process applicable to City lands by taking the following actions:

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 of such unsolicited requests;
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. Staff shall provide letter notification to all tenants within a four-block radius of a City parcel proposed to be disposed, in accordance with the City's public noticing requirements within the City 60 days prior to request for authorization of an Exclusive Negotiating Agreement being considered by the City Council;
4. To the extent consistent with the Sunshine Ordinance and the Public Records Act, the City staff shall provide open public property data including accessible online maps and documentation that includes up-to-date parcel status and relevant staff contact information;
5. Every four years, in conjunction with the Housing Element, staff shall develop a public land strategy report that includes annual housing outcomes and goals 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 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. 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 the equity metrics established by the four-year public land strategy;
8. For purposes of this policy, the fair market value determination of any proposed transaction shall be based on an appraised value derived no more than 90 days from the date of the City Council's proposed consideration for final authorization, such as LDDA or DDA; and be it

**FURTHER RESOLVED:** That any proposed transaction shall demonstrate consistency with Resolution No. 85324 C.M.S., whereby 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 on each site that the City plans to sell or long-term lease City property for development, the City must consult with community-based organizations and engage with community members to help inform the Request for Proposals (RFP); smaller sites in the same neighborhood may be "bundled" into a single community engagement process; 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 examine each parcel in the City's portfolio for its potential for use for temporary shelter for the unsheltered and permanently affordable housing;
2. Staff shall examine each parcel for zoning and parking requirement changes that may allow for additional housing density or affordable housing development feasibility;
3. For sites suitable for more than 300 housing units, at least 25% of the units must be affordable to extremely low-, very low-, and low-income households;
4. For sites suitable for less than 300 housing units, staff shall give first right of refusal to 100 percent affordable housing development proposals;
5. In the case where no affordable housing development proposal are submitted or housing is not legally permissible in the respective parcel(s), staff shall bring a staff report to a full City Council meeting providing written justification and analysis on the potential alternative uses of the parcel(s) for direction from the City Council;
6. In reviewing potential for housing development for all City-owned parcels or properties with highest priority on permanently affordable housing projects that serve extremely low-, very low-, low-, and moderate-income households;
7. For all housing projects being considered by staff on City-owned parcels, projects with the highest percentage of affordability and deepest levels of affordability shall be given favorable points in project selection;
8. Project selection must prioritize proposals from organizations that serve low-asset and low-income individuals and families, such as but not limited to non-profits and mission-driven organizations;
9. For consideration of proposals that involve sale of units to individuals and families, project selection should also include favorable points for models that retain long-term affordability for low-asset and low-income individuals and families, such as but not limited to community land trusts;
10. Every four years, in conjunction with the Housing Element, staff shall develop a public land strategy report that includes annual housing goals and 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.);
11. Staff shall develop, track, and report on housing equity indicators 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;
12. 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 are not restricted to uses other than affordable housing;
13. The City shall comply with the California Surplus Land Act codified in California Government Code Sections 54220, et seq., including the allowance of a 60-day window for priority entities to submit proposals and a 90-day good faith negotiation period;
14. The City shall apply the minimum lot size requirements of the California Surplus Lands Act to all City real property;
15. For all sites, including sites smaller than the legal minimum size, the City must publish the site's availability on the City's website;

16. The City shall develop a policy for all developments on City property wherein the City shall prohibit housing providers on City real property from inquiring about criminal history until they have determined an applicant's eligibility under all other criteria, and require that providers engage in an individualized assessment of criminal history (the "Fair Chance Access to Affordable Housing");
17. Housing providers utilizing City real property shall not discriminate against immigrants without documents to the extent not prohibited by funding sources; 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; extremely low-income shall be defined as at or below 30% of AMI, very low-income is at or below 30-50% of AMI, low-income is at or below 50-80% of AMI, and moderate-income is at or below 80-120% of AMI;
2. Affordable homes shall include a deed restriction for at least 55 years and up to 99 years for ownership and rental, with a preference for permanent affordability;
3. For any proposed affordable or mixed-income housing project, Staff shall examine the potential to fund the project with Section 8 of the United States Housing Act or other available voucher programs funding to increase affordability of the project;
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. Housing Choice Vouchers and Veterans Affairs Supportive Housing vouchers must be allowed and accepted in all units; the City must work with the Housing Authority to secure Project-Based Section 8 vouchers;
6. At least twenty percent of the housing units constructed on the City-owned parcels, portfolio-wide, must be to serve affordable to extremely low-income households, to the extent permissible by the City's land use regulations;
7. At least twenty percent of the housing units on public land portfolio-wide must be reserved as affordable and/or supportive housing for people with disabilities and/or formerly unhoused residents, which may overlap with the above extremely low-income requirement;
8. 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;
9. 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;
10. Preferences for Oakland residents/workers and displaced households in tenant selection shall extend to all affordable units developed on City land, even in cases when no subsidy is provided;
11. Project selection must consider the provision of free or discounted transit passes, childcare, and technology including high-speed internet and computers on site; and be it

**FURTHER RESOLVED:** That the City of Oakland shall promote and measure

equitable job outcomes for all Oaklanders through its public land 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 (from pre-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. Small/Local Business Entity ("S/LBE"), local employment and any other City contracting requirements shall apply to all construction on all 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:** That the City shall allow for 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, housing primarily for low-income and low-asset residents; and be it

**FURTHER RESOLVED:** That organizations that provide benefit to the public including but not limited to fresh food, community health services, affordable childcare, open space, parks and recreational facilities, housing primarily for low-income and low-asset residents and existing locally owned businesses must have the first right of refusal to rent commercial space on City-owned property, at a zero cost or below market rate, as determined and recommended by staff; 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 PLA must be compatible with Small/Local Business Entity ("S/LBE"), local employment and any other City contracting requirements for construction projects
- For affordable housing projects, the purchaser/developer of any property sold or leased by the City must enter into a PLA with the Alameda County Building Trades Council in accordance to 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.

- Trades groups that do not provide a public report on demographic data to the City Administrator shall not qualify to participate in PLAs on City-owned properties.
- Staff shall consult the Department of Race and Equity and shall include stakeholder meetings with community-based organizations, including those specifically working on racial equity in the development of the ordinance language for the PLA policy.
- 18 months after the Public Land Policy has been adopted, the City Council shall evaluate the PLA policy outcomes and amend the policy as necessary.
- The PLA requirements may be waived by Council in cases where prohibited by law or by a condition of state or federal funding; and be it

**FURTHER RESOLVED:** That quality jobs are created and maintained by establishing:

1. **Living Wage:** The City's of Oakland's Living Wage policy shall apply to all construction projects and operations jobs on City-owned parcels;
2. **Local and Disadvantaged Hire:** Staff shall return with standards that reflect the following goals
  - a. **For construction jobs**, targeted hire and jobs standards based on the Oakland Army Base (OAB) Horizontal Construction Jobs Policy and the targeted hire language in the OAB Project Labor Agreement;
  - b. **For operations jobs** (except staff of 100% affordable housing buildings), 50% of the total work hours (annually) must be performed by Oakland residents and 25% of the total work hours (annually) must be performed by disadvantaged workers: those living in low-income zip codes and with barriers to entry, including formerly or currently unhoused, formerly incarcerated, single custodial parent, former foster youth, veterans, people with disabilities, chronically unemployed, and those receiving public assistance; Employers must call the appropriate union hiring hall, if applicable, followed by the West Oakland Jobs Resource Center and then other hiring sources;
  - c. **Jobs Oversight:** Potentially expanding the Oversight Commission to review workforce compliance reports quarterly for the first year of the development and annually thereafter to ensure compliance with targeted hire requirements; Liquidated damages may be assessed for non-compliance;
3. **Ban the Box:** Implement a Ban the Box policy for employment, which requires the following:

- a. In the hiring process, including application, an employer may not inquire about involvement with the criminal justice system, criminal record or arrest record;
  - b. If a background check is required by law, the employer must conduct the background check only after the first interview or conditional offer of employment;
  - c. The employer may only review and consider job-relevant convictions within the last 7 years, and must consider age of offense, circumstances, efforts to rehabilitate, and time passed since conviction;
  - d. If the employer makes an adverse hiring decision because of a job-related conviction, the applicant must be provided with a written notice of rejection, including how the conviction may be related to the job, and given the opportunity to correct any inaccuracies in the conviction record information and to offer any other evidence of rehabilitation or other mitigating circumstances;
4. **Immigration Status:** Employers on public land shall maintain a sanctuary workplace, as set forth by ordinance.
  5. **Labor Peace Agreements:** Labor Peace agreements should be designed to help promote both quality jobs, economic development opportunities and affordable housing;
    - a. **For construction jobs**, the Project Labor Agreement (PLA) policy model adopted by the Alameda County Board of Supervisors to govern Measure A1 funds, must apply to all 100% affordable housing projects on City-owned parcels; Developers for market-rate and mixed-income projects on public land must negotiate area standards for private project labor agreements with the Alameda County Building Trades Council, and at a minimum, the negotiated PLA should include targeted hire and jobs standards based on the Oakland Army Base Horizontal Construction Jobs Policy and the targeted hire language in the OAB Project Labor Agreement;
    - b. **For operational jobs** (applies to employers with 10 or more employees, 100% affordable housing buildings exempt), to the extent feasible, projects shall negotiate labor peace agreements when the City has an ongoing proprietary interest in the project;
  6. **Evaluation:** Every year, an evaluation will be undertaken by the City, in collaboration with the CAC, to review the implementation and impact of the Public Lands Policy, including a staff report on jobs outcomes; and be it

**FURTHER RESOLVED:** For all projects on City property that are not 100 percent affordable housing, the primary contractor shall be required to set aside 30 cent per work hour for job training, job access, and pre-apprenticeship programs; and be it

**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 of Oakland shall further ensure that its public land is used in a way that protects the health and environment of its citizens by requiring the following of developments on public land:

1. **Public Information:** The City of Oakland shall share information with the public regarding past soil testing and remediation and the existing requirements for truck routes surrounding public land parcels to those living in the surrounding area as a part of the community engagement process;
2. **Trees:** Projects must incorporate and maintain trees on the site and adjacent street frontage (as specified by Oakland Municipal Code Chapter 17.124); there must be a net tree increase, so that trees that are cut must be replaced; there must be community engagement for the relocation or replanting of trees;
3. **Renewable Energy:** Project selection must consider on-site renewable energy infrastructure such as solar, wind, geothermal, or biomass with production capacity of at least 5% of the project's annual electrical and thermal energy cost;
4. **Solar:** Projects must maximize opportunities for solar panel installation, including, but not limited to, applying for AB 693 funds for solar panels on affordable housing or other grant or subsidy programs when available;
5. **Low-VOC Paints:** Projects must use low-VOC paints;
6. **Indoor Air Quality:** Projects must install air filtration systems, as economically feasible specifically for affordable housing developments; Projects must incorporate measures to improve indoor air quality and reduce exposure to air pollution in new development projects, as required in Standard Conditions of Approval (SCA) 20 and 21; 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, to the extent legally and practically permissible, no later than the first Community and Economic Development Committee meeting in March 2019 and present the housing and shelter equity indicators and tracking system for the housing equity indicators no later than the first full Council meeting in April 2019.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES -  
 NOES -  
 ABSENT -  
 ABSTENTION -

ATTEST:

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