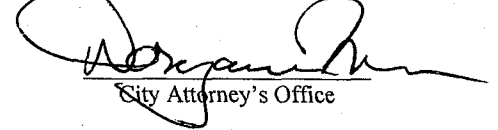


Alternative Recommendations of the Rules Committee Made at its February 20, 2020 Meeting
2020 FEB 27 PM 4:11

Approved as to Form and Legality



City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCIL PRESIDENT KAPLAN

RESOLUTION APPROVING THE RECOMMENDATIONS OF THE CITY AUDITOR'S NOVEMBER 19, 2019 REPORT ENTITLED, "OAKLAND PROMISE INVESTIGATION: RESPONSE TO WHISLEBLOWER ALLEGATIONS AND THE CITY COUNCIL'S QUESTIONS REGARDING THE USE OF CITY FACILITIES BY OTHER ORGANIZATIONS," AND DIRECTING THE CITY ADMINISTRATOR AND CITY ATTORNEY TO RETURN WITH LEGISLATION AND/OR REGULATIONS TO IMPLEMENT THE AUDITOR'S RECOMMENDATIONS

WHEREAS, Oakland Municipal Code 2.42.110, requires that "real property must be leased for a rent or fee, payable in cash or other consideration, equal to or exceeding the property's fair market rental value, unless the City Council has made a finding and determination that the lease of the property for less than its fair market rental value is in the best interests of the City;" and

WHEREAS, the Council's practice is to make findings and determinations required for below market rentals or leases of City's real property by approving a resolution; and

WHEREAS, on November 19, 2019, City Auditor Courtney Ruby issued the following report, "*Oakland Promise Investigation: Response to Whistleblower Allegations and the City Council's Questions*" (herein referred to as "Audit") that documented outright noncompliance with the Oakland Municipal Code; and

WHEREAS, the Audit concluded that "employees of an Oakland Promise partner organization used the space for approximately two years, without the City and the partner organization formally agreeing to lease terms, insurance requirements, or rent payments and that the use of City Hall space "did not comply with the Oakland Municipal Code (OMC 2.42.110) which gives the City Council the responsibility of approving leases and requires City property to be leased for payment; and

WHEREAS, the Audit made recommendations to remedy the issues covered in the report; and the Council wishes to clear up any confusion regarding the scope of authorizations and fairness; and

WHEREAS, the recommendations by the City's Auditor are stated on page 16 of the Audit as follows:

1. The Mayor and the City Administration should comply with the Oakland Municipal Code in providing space to other organizations;
2. The City Council should request the Administration to annually report on leases or other arrangements with organizations using City facilities, and this report should include the level of subsidy these organizations are receiving from the City;
3. The City Council should develop a formal policy on appropriate justifications for allowing other organizations to use City facilities;
4. The City Council should establish a policy for non-City employees working at City facilities to have a formal agreement that protects the interests of both parties;
5. The City Council should develop a policy that establishes when in-kind contributions of personnel are appropriate, and the policy should require such in-kind contributions be formally authorized in advance and any risk to the City appropriately addressed; now, therefore, be it,

RESOLVED: That the City Council approves the five (5) recommendations of the City Auditor in her November 19, 2019 Audit report and directs the City Administrator and City Attorney to return to Council with legislation and/or regulations, as necessary, to implement the Auditor's recommendations; and be it

FURTHER RESOLVED: That the implementing legislation/regulations shall require the City Administrator to provide an annual report to the Council on leases or other arrangements with organizations that are allowed to use City facilities, and the report shall include the level of subsidy these organizations receive from the City.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR,
THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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