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INTRODUCED BY COUNCILMEMBER _____

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APPROVED AS TO FORM AND LEGALITY

Michelle S. ...
CITY ATTORNEY

OAKLAND CITY COUNCIL

REVISED

RESOLUTION NO. _____ C.M.S.

RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT THE MARCH 2, 2004 SPECIAL ELECTION, A PROPOSED ORDINANCE CREATING A SPECIAL TAX TO FUND YOUTH, FAMILY AND VIOLENCE PREVENTION PROGRAMS; CONSOLIDATING THE SPECIAL ELECTION WITH THE STATEWIDE PRESIDENTIAL PRIMARY; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE MARCH 2, 2004, STATEWIDE PRESIDENTIAL PRIMARY.

WHEREAS, the citizens of the City of Oakland (the "City") are concerned about the future for children and youth, and are concerned about preventing violence in Oakland; and

WHEREAS, innovative programs exist in Oakland that have been proven to help young people get on the right track and turn their lives around, and help those young people at risk of committing crimes to get on the path towards being productive members of society; and

WHEREAS, the unemployment rate in Oakland is currently more than 10% and Oakland has a population of over 3,000 people on parole, many of whom have difficulty finding work; and

WHEREAS, the City of Oakland has partnered with the State of California to work with parolees, to make sure they have an opportunity for successful reentry into society, including job opportunities; and

WHEREAS, currently these programs are limited in scope by funding constraints; and

WHEREAS, the homicide rate in Oakland rose 40% ~~jump~~ in 2002, and has increased even more in 2003; and

WHEREAS, increasing the scale of programs for children, youth and people in the criminal justice system, combined with increased law enforcement, would reduce the violent crime in Oakland; and

24
ORA/COUNCIL
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WHEREAS, the City would need to raise \$10,000,000 to fully implement these services and significantly decrease crime in Oakland, while providing better opportunities for our youth; and

WHEREAS, the imposition of a temporary special tax is necessary in order to fund these programs and services; and

WHEREAS, at the general election of November 5, 1996, the voters of the State of California amended the state constitution, adding Article XIII C, which requires that all *new or increased special taxes be submitted to the voters prior to becoming effective*,

NOW, THEREFORE BE IT RESOLVED:

That the City Council of the City of Oakland does hereby submit to the voters at the March 2, 2004 special election, the text of the proposed ordinance, which shall be as follows:

Section 1. TITLE AND PURPOSE.

(A) Title. This ordinance may be cited as the "Youth, Family and Violence Prevention Act of 2004."

(B) Purpose. The tax imposed under this ordinance is solely for the purpose of raising revenue necessary to retain and enhance services and programs for youth, jobs and community police in the City of Oakland.

This special tax is not an ad valorem tax on real property, nor a transaction tax, nor sales tax on the sale of real property.

Section 2. USE OF PROCEEDS

The proceeds of this tax may only be used in accordance with the following objectives:

1. Expanding counseling and mentoring programs for at-risk youth;
2. Expanding after-school programs in the Oakland schools;
3. Expanding parent involvement programs in the Oakland schools;
4. Expanding violence prevention programs in the Oakland schools;
5. Expanding truancy enforcement programs to keep kids in schools;
6. Expanding early childhood intervention program for children exposed to violence in the home at an early age;

7. Expanding programs to get Oakland police out of their squad cars and walking beats;
8. Expanding specialized undercover police sting operations to target crime hot-spots and target drug dealing and gang activities;
9. Expanding the Oakland Police Department's Drug Taskforce to crack down on drug dealing and the violence that it creates;
10. Establishing community-based specialist teams within the Oakland Police Department trained to deal with mental health, domestic violence, and conflict resolution;
11. Providing job training, employment opportunities, and other support services to parolees;
12. Expanding job training and employment opportunities for young adults;

A Citizen's Oversight Committee will be established by the City Manager to conduct an annual audit of expenditures to guarantee that all funds are spent on youth, family, and violence prevention programs and services as delineated above.

Section 3. DEFINITIONS.

For purposes of this ordinance only, the following terms shall be defined as set forth below:

(A) "Family" shall mean one or more persons related by blood, marriage or adoption, who are living together in a single residential unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(B) "Non-Residential" shall mean all parcels that are not classified by this ordinance as Single Family Residential Parcels, and shall include, but not be limited to, industrial, commercial and institutional improvements, whether or not currently developed.

(C) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

(D) "Parcel" shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

(E) "Person" shall include individuals, and for-profit and nonprofit organizations, including, but not limited to, corporations, partnerships, business associations and trusts.

(G) "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.

Section 4. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all parcels in the City of Oakland. The tax imposed by this Section shall be assessed to the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of any Possessory Interest in such parcel, unless such holder is also by law exempt from taxation.

The tax hereby imposed shall be at the following rates:

(A) For all Single Family Residential Parcels, the tax shall be at the annual rate of \$90 per Parcel, subject to annual adjustment as provided in Section 6.

(B) All Parcels other than Single Family Residential Parcels shall be taxed at rates adjusted as follows:

Small Multiple Residential (2-4 units)	\$135
Large Multiple Residential (5 or more)	\$180
Commercial	\$135
Industrial	\$135
Rural	\$90
Institutional	\$90

The rates for these land uses shall be adjusted at the same percentage change as for Single Family Residential Parcels.

All funds collected by the City from the imposition of the tax shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

Section 5. EXEMPTIONS.

(A) Low income household exemption. Exempt from this tax are owners of single family residential units in which they reside whose combined family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low income" for a Family of such size under Section 8 of the United States Housing Act of 1937 (42 U.S.C.A. Sections 1437 et. seq.,) for such year. Owners must apply for the exemption provided for in this section annually by petition to the Director of the Finance and Management Agency of the City of Oakland ("Director of Finance") in the manner and time set forth in procedures established by the Director of Finance. Such petitions shall be on forms provided by the Director of Finance and shall provided such information as the Director of Finance shall require, including, but not limited to,

federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

Section 6. REDUCTION IN TAX; RATE ADJUSTMENT.

(A) Subject to paragraph (B) of this Section 4, the tax rates imposed by this ordinance are maximum rates and may not be increased by the City Council above such maximum rates. The tax imposed by the ordinance may be reduced or eliminated by the City Council for a subsequent fiscal year upon a vote of the City Council on or before June 30th in any year in which the City Council determines that after such reduction or elimination there will be sufficient revenues available to balance the City Council's Adopted Policy Budget and provide the services and programs described in Section 2 above. Such reduction or elimination shall be effective for the fiscal year following such vote.

(B) Beginning in Fiscal Year 2004-2005, and each year thereafter, the City Council may increase the tax imposed hereby only upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics, has increased; the increase of the tax imposed hereby shall not exceed such increase, using Fiscal Year 2003-2004 as the index year. It is further provided that in no event shall the tax rate adjustment imposed hereby exceed, on an annual basis, five percent (5%) of the tax rates imposed by the City of Oakland pursuant to this ordinance during the immediately preceding fiscal year.

Section 7. ANNUAL AUDIT.

The City Auditor will perform an annual audit to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objectives stated herein.

Section 8. DUTIES OF THE DIRECTOR OF FINANCE; NOTICE OF DECISIONS.

It shall be the duty of the Director of the Finance to collect and receive all taxes imposed by this ordinance, and to keep an accurate record thereof.

The Director of Finance is charged with the enforcement of this ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this ordinance, including provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to this ordinance, the Director of Finance shall mail written notice thereof to the claimant at his/her address as shown on the Alameda County Assessor's property tax rolls.

Section 9. EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES.

The Director of Finance, or his/her designee, is hereby authorized to examine assessment rolls, property tax records, records of the Alameda County Recorder and any other records of the County of Alameda deemed necessary in order to determine ownership of Parcels and computation of the tax imposed by this ordinance.

The Director of Finance or his/her designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this ordinance for the purpose of verifying the accuracy of any petition, claim or return filed and to ascertain the tax due. The Director of Finance, or his/her designee, is hereby authorized to examine any person, under oath, for the purpose of verifying the accuracy of any petition, claim or return filed or to ascertain the tax due under this ordinance and for this purpose may compel the production of books, papers and records before him/her, whether as parties or witnesses, whenever s/he believes such persons have knowledge of such matters. The refusal of such examination by any person subject to the tax shall be deemed a violation of this ordinance.

Section 10. COLLECTION OF TAX; INTEREST AND PENALTIES.

The City Council of the City of Oakland is authorized to have the taxes imposed by this ordinance collected by the County of Alameda in conjunction with the County's collection of property tax revenues for the City of Oakland. In the event that the County of Alameda collects the taxes imposed by this ordinance, the imposition of penalties, additional fees and interest upon persons who fail to remit any tax imposed by this ordinance, or who fail to remit any delinquent remittance under this ordinance, shall be subject to and governed by the rules, regulations, and procedures utilized by the County of Alameda in its collection of property taxes for the City of Oakland and its collection of this additional tax for the City of Oakland.

In addition to any other penalties otherwise imposed, a one-time penalty at a rate set by the City Council, which in no event shall exceed 25% of the tax due per year, is hereby imposed by this ordinance on all taxpayers who fail to timely pay the tax provided by this ordinance; in addition, interest shall be assessed at the rate of 1% per month on the unpaid tax and the penalty thereon.

Every penalty imposed and such interest as accrues under the provisions of this ordinance shall become a part of the tax herein required to be paid.

Section 11. COLLECTION OF UNPAID TAXES.

The amount of any tax, penalty, and interest imposed under the provisions of this ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.

Section 12. REFUND OF TAX, PENALTY, OR INTEREST PAID MORE THAN ONCE; OR ERRONEOUSLY OR ILLEGALLY COLLECTED.

Whenever the amount of any tax, penalty, or interest imposed by this ordinance has been paid more than once, or has been erroneously or illegally collected or received by the City it may be refunded provided a verified claim in writing therefore, stating the specific ground upon which such claim is founded, is filed with the Director within one (1) year from the date of payment. The claim shall be reviewed by the Director of Finance and shall be made on forms provided by the Director. If the claim is approved by the Director, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the Person from who it was collected or by whom paid, and the balance may be refunded to such Person, his/her administrators or executors.

Section 13. SAVINGS CLAUSE.

The provisions of this ordinance shall not apply to any Person, or to any property as to whom or which it is beyond the power of the City of Oakland to impose the tax herein provided. If any provision, sentence, clause, section or part of this ordinance is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such provision, sentence, clause, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared to be the intention of the City of Oakland, that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 14. MISDEMEANOR VIOLATION.

Any Person who fails to perform any duty or obligation imposed by this ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment.

The penalties provided in this section are in addition to the several remedies provided in this ordinance, or as may otherwise be provided by law.

Section 15. BOARD OF REVIEW.

Any person dissatisfied with any decision of the Director adversely affecting the rights or interests of such Person made by the Director under the authority of this ordinance, may appeal therefrom in writing to the Business Tax Board of Review (the "Board") within sixty (60) days from the date of mailing such decision by the Director. All filings with the Board relating to appeals or otherwise shall be made to the Chairperson of the Business Tax Board of Review in care of the Revenue Department, 250 Frank Ogawa Plaza, 1st Floor, Oakland, CA 94612. The Board may affirm, modify or reverse such decision or dismiss the appeal therefrom, as may be just, and shall prescribe such rules and regulations relating to appeals as it may deem necessary. The Board's decision on

appeal will become final upon mailing notice thereof to the Person appealing the Board's decision at such Person's last known address shown on the Tax Records.

Any tax, penalty or interest found to be owed is due and payable at the time the board's decision becomes final.

The Board shall approve, modify or disapprove all forms, rules and regulations prescribed by the Director in administration and enforcement of this tax; such forms, rules and regulations shall be subject to and become effective only on such approval.

All decisions rendered by the board shall be final, and no further administrative appeal of these decisions is provided or intended.

Section 16. REGULATIONS.

The City Council is hereby authorized to promulgate such regulations as it shall deem necessary in order to implement the provisions of this ordinance.

Section 17. NO AMENDMENT.

This ordinance may not be amended by action of the City Council without the applicable voter approval.

and be it

RESOLVED: That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide presidential primary election of March 2, 2004, consistent with provisions of State Law; and be it

FURTHER RESOLVED: That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to March 2, 2004, to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Board of Supervisors of Alameda County *include on the ballots and sample ballots the recitals and measure language contained in this resolution to be voted on by the voters of the qualified electors of the City of Oakland;* and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, the Government Code and the Elections Code of the State of California; and be it

FURTHER RESOLVED: Each ballot used at said municipal election shall have printed therein, in addition to any other matter required by law the following:

PROPOSED ORDINANCE

CREATING A SPECIAL TAX TO FUND YOUTH, FAMILY AND VIOLENCE PREVENTION PROGRAMS

MEASURE _____

<p><u>Measure _____</u>. For the purpose of providing: <u>Shall Oakland fund youth, family, and violence prevention programs by authorizing a special parcel tax to expand: (1) job training and employment opportunities for young adults; (2) counseling and mentoring for at-risk youth; (3) after-school, parent involvement, and violence prevention programs in schools; (4) early childhood intervention for children exposed to violence in the home; and (5) community-based policing programs; shall the City of Oakland authorize a special parcel tax, subject to audit by and establishing a Citizen's citizen's Oversight oversight Committee committeeto audit expenditures?</u></p>	<p>Yes</p>	
	<p>No</p>	

and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk is hereby directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland: and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed ordinance, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That the City Clerk and City Manager are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2004 special election and appropriate all monies necessary for the City Manager and City Clerk to prepare and conduct March 2, 2004 special election, consistent with law.

In Council, Oakland, California, December __, 2003

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

Attest: _____
CEDA FLOYD
CITY CLERK AND CLERK OF THE COUNCIL
OF THE CITY OF OAKLAND, CALIFORNIA

24
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