


2014 DEC 23 PM 4:53
INTRODUCED BY COUNCILMEMBER _____


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. 13290 C.M.S.

**ORDINANCE TO TERMINATE THE OAKLAND
MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM
PURSUANT TO SECTION 2017 OF ARTICLE XX OF THE
CHARTER OF THE CITY OF OAKLAND**

WHEREAS, the Oakland Municipal Employees' Retirement System ("OMERS") was established in 1939 with the adoption of Article XX of the City of Oakland Charter ("Article XX") to provide defined retirement benefits to non-sworn City employees and their beneficiaries; and

WHEREAS, OMERS was closed to new members in 1970; and

WHEREAS, the City contracted with the California Public Employees' Retirement System ("CalPERS") to provide retirement benefits for all non-sworn employees hired after OMERS was closed to new members and to OMERS members that elected to transfer to CalPERS; and

WHEREAS, OMERS continues to provide retirement benefits to retired members that did not elect to transfer to CalPERS, and their beneficiaries; and

WHEREAS, as of June 2014, OMERS was providing benefits to 22 retirees and beneficiaries with an average age of 81 years; and

WHEREAS, a Board of Administration ("Board") oversees the OMERS retirement fund and the payment of retirement benefits to the remaining retirees and beneficiaries; and

WHEREAS, the annual administrative costs of maintaining OMERS under the direction of the Board has now exceeded the annual benefits paid to OMERS retirees and beneficiaries and it is expected that the operational costs relative to OMERS will continue to increase while the retiree and beneficiary population continues to decline; and

WHEREAS, converting the benefits owed to OMERS retirees and beneficiaries to an annuity would eliminate the need for the Board, and would also eliminate the costs associated with staff salaries and benefits, actuarial services, audit services, trust fund custodians, investment managers, and investment consultants; and

WHEREAS, OMERS holds funds sufficient to purchase an annuity contract which will guarantee the payment of all current accrued benefits; and

WHEREAS, on November 4, 2014, the City's voters approved Measure EE which amended Article XX to authorize the City Council to adopt an ordinance by four-fifths vote to terminate OMERS and, therefore, eliminate the costs of administering OMERS through the following actions: (1) the purchase of annuities which provide payments to retirees and beneficiaries that are equal to the benefits due to them under OMERS; (2) payment of any other outstanding liabilities; and (3) any other actions which are necessary and prudent to terminate OMERS; and

WHEREAS, section 2018 of Article XX specifies that the City must provide notice of its intention to terminate OMERS to each retiree and beneficiary at least 60 days prior to the effective date of the ordinance terminating OMERS; and

WHEREAS, section 2019 of Article XX provides that all assets held by OMERS remaining after satisfaction of all liabilities, including the benefits owed by OMERS to retirees and beneficiaries, shall revert to the City provided that such surplus is held in a reserve account with the necessary restrictions to ensure that such assets are not used by the City, other than to satisfy any liabilities of OMERS which are not fulfilled by the selected annuity provider, until such time as the last retiree or beneficiary has died; and

WHEREAS, section 2020 of Article XX provides that once the assets of OMERS have been disbursed as authorized, OMERS shall terminate and the Board shall dissolve without further action by the City Council or Board; and

WHEREAS, the City Council has adopted Ordinance No. _____ to amend OMERS to ensure that the provisions therein are in compliance with the qualified plan rules under Section 401(a) of the Internal Revenue Code as are applicable to OMERS.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Pursuant to the authority conferred on the City Council by Section 2017 of Article XX, the Oakland Municipal Employees' Retirement System ("OMERS") shall be terminated effective as of the date the following actions, in the order specified, have been completed or 60 days after the notice required by Section 2018 of Article XX is given, whichever is later:

a. The OMERS Board of Administration ("Board") shall purchase life annuities for retired members, former members or other persons currently receiving benefits under OMERS through a reputable and stable annuity provider

provided that such annuities provide payments that are equal to the benefits due to retired members, former members or other persons under OMERS; and

b. The Board shall provide for payment of any other outstanding liabilities of OMERS; and

c. Any remaining assets remaining after provisions under a. and b. above have been made shall revert to the City, provided that such remaining assets shall be held in a reserve account with the necessary restrictions to ensure that such remaining assets are not be used by the City, other than to satisfy any liabilities of OMERS which are not fulfilled by the annuity provider selected by the Board, until such time as the last retired member, former member or beneficiary thereof dies.

SECTION 2. Consistent with Section 2018 of Article XX, OMERS staff is hereby directed to provide notice to the following persons which provides the effective date of the termination of OMERS, specifies that the winding up process has begun, explains the manner in which benefits will continue to be provided, and is given at least 60 days before the effective date of the termination of OMERS:

a. Each retired member and former member; or

b. If a retired member or former member has died, the surviving spouse, designated beneficiary or personal representative of the estate of the retired member or former member as ascertainable by the City.

SECTION 3. OMERS staff shall be authorized to take any other actions that are necessary and prudent to terminate OMERS, including but not limited to the submission of a voluntary correction program application to the Internal Revenue Service to obtain a ruling that OMERS is in compliance the qualified plan rules under Section 401(a) of the Internal Revenue Code which are applicable to OMERS.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall only become effective immediately on final adoption if it receives seven or more affirmative votes; however, the effective date of the termination of OMERS shall be as specified in Section 1 above.

IN COUNCIL, OAKLAND, CALIFORNIA,
PASSED BY THE FOLLOWING VOTE:

JAN 20 2015

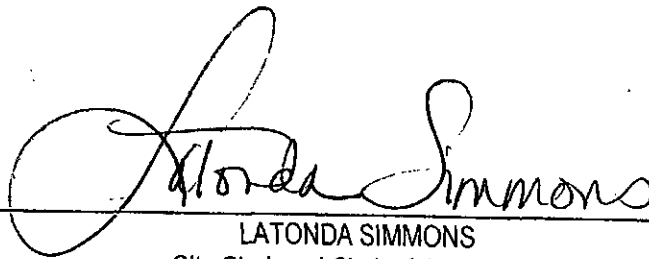
AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, CAMPBELL WASHINGTON, GUILLEN, AND REID. - 8

NOES - 0

ABSENT - 0

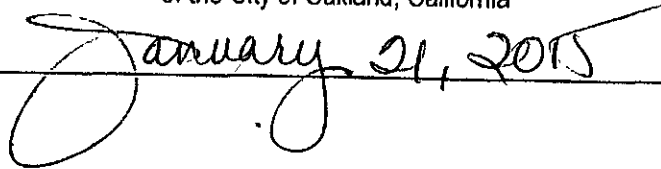
ABSTENTION 0

ATTEST:



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

Date of Attestation:



Introduction Date

= **JAN 06 2015**

NOTICE AND DIGEST

**ORDINANCE TO TERMINATE THE OAKLAND MUNICIPAL
EMPLOYEES' RETIREMENT SYSTEM PURSUANT TO SECTION 2017
OF ARTICLE XX OF THE CHARTER OF THE CITY OF OAKLAND**

**FILED
OFFICE OF THE CITY CLERK
OAKLAND**

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