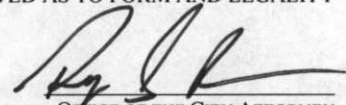


FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

14 JUL -1 PM 4:32

REVISED

APPROVED AS TO FORM AND LEGALITY

  
OFFICE OF THE CITY ATTORNEY

**OAKLAND CITY COUNCIL**

**RESOLUTION NO. 85098 C.M.S.**

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**RESOLUTION SUBMITTING ON THE COUNCIL'S OWN MOTION A PROPOSED CHARTER AMENDMENT TO BE VOTED UPON AT THE MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 4, 2014 THAT WOULD (1) GRANT THE CITY THE OPTION TO PURCHASE A GROUP ANNUITY CONTRACT FROM A REPUTABLE AND STABLE ANNUITY PROVIDER TO GUARANTEE PAYMENT OF THE BENEFITS PROVIDED BY THE OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM (OMERS) TO THE APPROXIMATELY 22 REMAINING MEMBERS AND BENEFICIARIES AND (2) SAVE THE CITY THE COSTS OF ADMINISTERING OMERS, WHICH WAS CLOSED TO NEW MEMBERS IN SEPTEMBER, 1970; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND TO PROVIDE NOTICE AND PUBLICATION IN ACCORDANCE WITH THE LAW AND AUTHORIZING CERTAIN OTHER ELECTION ACTIVITIES**

**WHEREAS**, Oakland City Charter Article XX established the Oakland Municipal Employees' Retirement System ("OMERS") to provide retirement benefits for all City employees except sworn members of the Police and Fire Departments and created the Board of Administration to administer and manage the funds of the retirement system; and

**WHEREAS**, OMERS is a qualified pension plan under the requirements of the United States Internal Revenue Code and is subject to the provisions of the California Constitution pertaining to public retirement systems, which confers upon the retirement boards of public retirement systems plenary authority and fiduciary responsibility for the investment of moneys of those systems necessitating that the OMERS board conduct actuarial valuations, pay pensions, retain investment advisors and otherwise comply with the board's fiduciary duties; and

**WHEREAS**, OMERS was closed to new members in September, 1970 and thereafter all new miscellaneous (non-sworn) employees became eligible for membership in the California

Public Employees Retirement System ("CalPERS") and OMERS members were given the option to transfer their retirement benefits to CalPERS; and

**WHEREAS**, the annual administrative costs of maintaining OMERS now exceed the annual cost of benefit payments; and

**WHEREAS**, federal and state pension laws provide that a qualified retirement system can be terminated by purchasing an annuity contract with a qualified insurance provider whereby each member or beneficiary receives an individual annuity guaranteed and administered by the insurance provider; and

**WHEREAS**, termination of OMERS will allow the Board of Administration to be dissolved and the administrative costs to be eliminated; and

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

**WHEREAS**, the Internal Revenue Service provides a procedure for termination of OMERS that will confirm the tax-qualified status of the remaining benefits for members and beneficiaries; and

**WHEREAS**, under federal pension law assets remaining in OMERS after purchasing the annuity contract and satisfaction of all other outstanding liabilities, including payment of all retirement benefits provided by OMERS to all remaining members and beneficiaries, may revert to the City; and

**WHEREAS**, notwithstanding the annuity contract will guarantee payment of all benefits provided by OMERS to the remaining members and beneficiaries, the City shall retain any OMERS funds in a trust account until such time as all members and beneficiaries have expired; and

**WHEREAS**, the City Council desires to amend Oakland City Charter Article XX to authorize the City Council to terminate OMERS by subsequent ordinance and to require the performance of such functions as are necessary and proper for the termination of OMERS; and

**WHEREAS**, section 10400 et seq. of the Elections Code allows for the Oakland municipal election of November 4, 2014 to be consolidated with the statewide election to be held on the same date; now, therefore be it

**RESOLVED:** That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to November 4, 2014 to file with the Alameda County Board of Supervisors and the County Clerk certified copies of this resolution; and be it

**FURTHER RESOLVED:** That the City of Oakland does hereby submit to the voters at the November 4, 2014 general election, a proposed Amendment to Article XX of the Charter, which reads as follows (additions are indicated by underscoring and deletions are indicated by strike through type):

## **“Termination and Winding Up of Retirement System**

**Section 2017.** Notwithstanding any contrary provision herein, the Council may by an ordinance adopted by four-fifths of the Council terminate the Retirement System and in connection therewith direct the Retirement Board to wind-up said Retirement System by performing the following actions:

- (a) Purchase life annuities for retired members, former members or other persons currently receiving Benefits under the Retirement System through a reputable and stable annuity provider provided that such annuities provide payments that are equal to the Benefits due under the Retirement System;
- (b) Provide for payment of any other outstanding liabilities; and
- (c) Any other actions which are necessary and prudent to terminate the Retirement System.

## **Notification of Termination and Winding Up**

**Section 2018.** The City must give notice, or cause notice to be given, of its intention to terminate and wind up the Retirement System, in writing, to the following:

- (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.

The notice required under subsection (1) must give the effective date of termination and start of the winding up process, explain the manner in which Benefits will continue to be provided, and be given at least 60 days before the effective date of the ordinance terminating the Retirement System.

## **Reversion of Assets**

**Section 2019.** Notwithstanding any contrary provision herein, in the event the Retirement System is terminated pursuant to Section 2017 herein, none of the assets of the Retirement System shall revert to the benefit of the City until provision has been made for the funding or purchase of Benefits accrued but unpaid under the Retirement System. Any remaining surplus shall revert to the City provided that such surplus shall be held in a reserve account with the necessary restrictions to ensure that the assets thereof shall not be used by the City, other than to satisfy any liabilities of the Retirement System which are not fulfilled by the selected annuity provider, until such time as the last retired member, former member or beneficiary thereof dies. For this purpose, the term “surplus” shall mean the assets of the Retirement System remaining after satisfaction of all liabilities.

**Effect of Termination and Winding Up**

**Section 2020.** If the Council adopts an ordinance to terminate and wind up the Retirement System, the Retirement System shall continue to be subject to the requirements of this Article XX and Ordinance 713, as amended, until all the assets of the Retirement System have been disbursed. Once the assets have been disbursed, the Retirement System shall terminate and the Retirement Board shall be dissolved."

;and be it

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

PROPOSED CITY CHARTER AMENDMENT

MEASURE TO AMEND THE CITY CHARTER TO AUTHORIZE THE CITY COUNCIL TO ELIMINATE THE COSTS OF ADMINISTERING THE OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM ("OMERS") BY PURCHASING ANNUITIES TO PAY ALL RETIREMENT BENEFITS DUE TO OMERS RETIREES AND BENEFICIARIES

MEASURE \_\_\_\_\_

Measure ____. Shall the Charter of the City of Oakland be amended to authorize the City Council to adopt an ordinance by a four-fifths vote, that would eliminate the costs of administering the Oakland Municipal Employees' Retirement System ("OMERS") by purchasing annuities to pay all retirement benefits due to OMERS retirees and beneficiaries, provided the City holds all remaining OMERS assets in a trust for the benefit of retirees and beneficiaries until all benefits have been paid?	Yes	
	No	

;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 Charter amendment, and said date shall be posted in the Office of the City Clerk; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter amendment in the manner provided for by law; and be it

**FURTHER RESOLVED:** That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the November 4, 2014 election and appropriate all monies necessary for the City Administrator and City Clerk to prepare for and conduct the November 4, 2014 election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, - JUL 15 2014

PASSED BY THE FOLLOWING VOTE:


AYES - BROOKS, GALLO, GIBSON, MCELHANEY, KALB, KAPLAN, REID, SCHAAF  
AND PRESIDENT KERNIGHAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST: \_\_\_\_\_

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