

Kathleen S. Boyd
CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION SUBMITTING TO THE VOTERS AT THE JUNE 7, 2011 STATEWIDE SPECIAL ELECTION (OR SUCH LATER DATE THE ELECTION IS SET) A PROPOSED ORDINANCE AMENDING THE REAL PROPERTY TRANSFER TAX, CHAPTER 4.20 OF THE OAKLAND MUNICIPAL CODE, INCREASING THE TAX RATE ON TRANSFERS OF REAL ESTATE OVER \$5 MILLION (OR SUCH HIGHER OR LOWER AMOUNT AS CITY COUNCIL MAY CHOOSE) TO TWO PERCENT; REQUESTING THE SERVICES OF THE REGISTRAR OF VOTERS; DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE SPECIAL ELECTION; AND CONSOLIDATING THE ELECTION WITH THE STATEWIDE SPECIAL ELECTION

WHEREAS, pursuant to Chapter 4.20 of the Oakland Municipal Code, the City of Oakland imposes a real property transfer tax on transfers of real property located in Oakland; and

WHEREAS, the General Fund is the primary source of funding for functions such as police, fire, parks and libraries; and

WHEREAS, state and federal budget takeaways put many of these vital City services and programs at risk of being eliminated; and

WHEREAS, the City of Oakland has already made large cuts to essential services, eliminated hundreds of positions, and reduced employee compensation by 10% for almost all positions; and

WHEREAS, the City Council determines that it is in the best interest of the City of Oakland to submit an amended real property transfer tax to the voters that will increase the tax rate all transfers of real property over \$5 million; and

WHEREAS, the City Council of the City of Oakland desires to amend Chapter 4.20, section 4.20.020 of the Oakland Municipal; and

WHEREAS, all revenues received from the tax will be deposited in the general fund of the City to be expended for general fund purposes; now, therefore, be it

RESOLVED: That the City Council of the City of Oakland does hereby submit to the voters at the June 7, 2011 statewide special election (or on such later date the election is set), the text of the proposed ordinance, which shall be as follows:

AN ORDINANCE AMENDING THE REAL PROPERTY TRANSFER TAX, CHAPTER 4.20 OF THE OAKLAND MUNICIPAL CODE, INCREASING THE TAX RATE ON TRANSFERS OF REAL ESTATE OVER \$5 MILLION.

Be it ordained by the People of the City of Oakland:

Section 1. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. Code Amendment. Section 4.20.020 of the Oakland Municipal Code is hereby amended to read as follows:

4.20.020 Imposition of tax.

There is imposed a tax on all transfers by deeds, instruments, writings, or any other document, or changes in control and ownership of legal entities, by which any lands, tenements or other interests in real property located in the city, are or is granted, assigned, transferred, or otherwise conveyed to or invested in a transferee, or transferees thereof, which shall be levied at the rate of: (i) one and one-half (1.50) percent of the value of consideration when the value of consideration is less than or equal to \$5,000,000.00 or fractional part thereof; or (ii) two (2%) percent of the value of consideration when the value of consideration is greater than \$5,000,000.00.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. Majority Approval; Effective Date. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

Section 5. Council Amendments. The City Council of the City of Oakland is hereby authorized to amend Sections 4.20.020 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the rate of the real estate transfer tax, otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution or entirely dispense with the requirement for independent audits stated in Section 4.28.190.

Section 6. California Environmental Quality Act Requirements. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation Public Resources Code section 21065, CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

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

PROPOSED ORDINANCE INCREASING THE OAKLAND REAL PROPERTY TRANSFER TAX ON PROPERTIES VALUED IN EXCESS OF ____.

Measure __. Shall the City increase its real property transfer tax rate from 1.5% to 2% for transfers of real property valued more than \$5 million?	Yes	
	No	

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 June 7, 2011, statewide special election (or such later date the election is set), to file with the Alameda County Clerk certified copies of this resolution; and be it

FURTHER 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 special election of June 7, 2011, (or such later date the election is set), consistent with provisions of State Law; 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: That in accordance with the Elections Code and Chapter 3 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 rebuttals, and said date shall be posted in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, KAPLAN, KERNIGHAN, NADEL, SCHAAF, DE LA
 FUENTE AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION

Attest: _____

LaTonda Simmons
City Clerk and Clerk of the
Council of the City of Oakland, California