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CITY OF OAKLAND



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March 7, 2011

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Honorable City Council
City Hall
Oakland, California

Re: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF OAKLAND FINDING AND DECLARING AN EMERGENCY PURSUANT TO ARTICLE XIII(C), SECTION 2(B) OF THE CALIFORNIA CONSTITUTION NECESSITATING SUBMISSION OF CERTAIN GENERAL TAXES TO THE VOTERS BEFORE THE NEXT REGULAR ELECTION FOR THE CITY COUNCIL

Dear President Reid and Members of the City Council:

At its March 7, 2011 meeting, the Council will consider passing a resolution declaring an emergency that necessitates placing general tax measures on the special election ballot. The City Council is contemplating placing one or more general taxes on the ballot for a Special Municipal Election. The measures under consideration include but are not limited to: (1) an increase in the real estate transfer tax rate for properties over a certain dollar amount; and (2) a temporary telephone access line tax.

The California Constitution requires that the Council place general taxes on the ballot for a regularly scheduled general election for members of the City Council unless the Council by a unanimous vote declares an emergency. Article XIII(C), section 2(b) of the California Constitution provides:

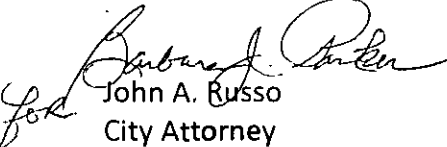
Section 2c. Local Government Tax Limitation. Notwithstanding any other provision of this Constitution

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election by this subdivision shall be consolidated with a

regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body. (Emphasis added.)

The resolution declaring the emergency is necessary in order for the City Council to place the general tax measures on the ballot for the special municipal election.

Respectfully submitted,


for John A. Russo
City Attorney

Attorney Assigned:
Barbara J. Parker

Barbara J. Parker
CITY ATTORNEY

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OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF OAKLAND FINDING AND DECLARING AN EMERGENCY PURSUANT TO ARTICLE XIIC, SECTION 2(B) OF THE CALIFORNIA CONSTITUTION NECESSITATING SUBMISSION OF CERTAIN GENERAL TAXES TO THE VOTERS BEFORE THE NEXT REGULAR ELECTION FOR THE CITY COUNCIL.

WHEREAS, the City Council of the City of Oakland, California, desires to submit to the electors at the next special municipal election certain proposed ordinances to increase general tax revenues in order to reduce the amount and extent of cuts and reductions in vital City services and programs; and

WHEREAS, in order to raise revenue to address the emergency confronting the City, the City Council is contemplating submitting to the electors certain general tax measures; and

WHEREAS, if approved by the electors, the general tax measures will impose or increase general taxes, as that term is defined in Article XIIC, section 1(a) of the California Constitution; and

WHEREAS, Article XIIC, section 2(b) of the California Constitution requires that the City Council by unanimous vote declare an emergency to place general tax measures on the ballot for a special municipal election that is not consolidated with a regularly scheduled election for members of the governing body; and

WHEREAS, at a special Council meeting scheduled for March 7, 2011 (and/or such other date thereafter as Council may determine), the City Council will consider a resolution calling for a special election to be held in June 2011 or on such date thereafter that the election is set, and the City Council will consider submitting one or more general tax measures to the electors of the City; now therefore be it

RESOLVED: The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED: The City Council of the City of Oakland hereby finds and declares that an emergency in the nature of a staggering budget imbalance and funding crisis exists in Oakland and that these emergency conditions are projected to continue and intensify during the upcoming 2011-2012 and 2012-2013 Fiscal Years,

necessitating that the Council place on the ballot at a special municipal election general tax measures, that are intended to increase general tax revenues to the City; and be it.

FURTHER RESOLVED: The facts justifying this declaration of emergency are as follows:

- A. The revenue estimates prepared by the City of Oakland for Fiscal Year 2011-12 show a deficit of \$46 million in the General Purpose Fund if the City is to maintain existing levels of service.
- B. The deficit has been caused by steep reductions in revenues resulting from the economic downturn and increases in City operational expenses:
 - (1) Real estate related revenues have decreased. Declining property values have led to reduction of property taxes resulting in decreases in the City's share of falling property tax revenues. Also, waning in real estate market has led to drastic decrease in real estate transfer tax revenues.
 - (2) Additional labor-management costs associated with negotiating union concessions to achieve personnel services savings.
- C. Because of declining revenues, the City has made every attempt to decrease costs by:
 - (1) Reductions in employee workforce. As recently as July 2010, the City instituted permanent staff reductions eliminating 80 sworn police officer positions;
 - (2) Reduction of City services. The City has reduced park and recreation services and maintenance;
 - (3) Department budget cuts. City departments and agencies made drastic cuts from their budgets in the - past four fiscal years. They have been asked to present additional proposed budget cuts of at least 15% for the 2011-2012 Fiscal Year;
 - (4) No employee cost of living adjustments. No employee cost of living adjustments are anticipated in the proposed FY 2011-12 budget;
 - (5) City shut downs. The City is shutting its doors this fiscal year for 13 days to assist in balancing the budget.
- D. Because of changes in state law, particularly the approval of Propositions 62 and 218, the City has very few means available to increase General Fund revenue. However, the City has attempted to increase revenues by:
 - (1) Ensuring that service fees charged to the public cover the actual cost of services provided;
 - (2) increasing rates for parking meters, parking citations and street sweeping citations;
 - (3) instituting a facility closure and business shutdown equivalent to once per month, and City-owned properties and facilities to generate one-time revenues.
- E. The City cannot continue to make deeper cuts to services without having serious impacts on the peace, health, safety, and welfare of its residents, creating

hazards to life and property, and endangering the City's ability to respond to emergency situations. In particular, unless staff and services are at least partially restored, public facilities and property will not be properly maintained, public safety have adequate and safe recreational opportunities, and youth summer employment opportunities will be severely curtailed, and library and senior center hours would be reduced.

F. The new general tax revenues from general tax measures that are being considered could enable the City to reduce the extent of the cuts to vital services that it otherwise would need to be make.

G. These circumstances constitute an emergency pursuant Article XIIC, section 2(b) of the California Constitution and necessitate that the Council have the ability to place general tax measures on the ballot before the next regularly scheduled election for members of the governing body.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2011

PASSED BY THE FOLLOWING VOTE:

AYES, NOES, ABSENT, ABSTENTIONS

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

Attest: _____

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