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June 29, 2004

Honorable City Council
Oakland CA

Re: Community Policing and Violence Prevention Ballot
Measure for the November 2004 General Election

President De La Fuente and Members of the Council:

As requested by the City Council on June 15, 2004, this report provides an analysis and comparison of the common elements of three proposals for a violence prevention ballot measure presented to the Council, and further analysis of the revenue mechanisms to support the measure. In addition, the City Attorney (OCA) has drafted a resolution with initial ballot language for the Council's review and further direction.

For the proposed parcel tax, staff and OCA recommend use of a taxing formula similar to that adopted in Measure Q (Library Retention Act of 2004). At the base rate of \$88 per single family residential parcel, such a tax would raise approximately \$12 million, subject to finalizing the tax rates to meet legal requirements. An increase in the parking tax to 18.5 % (from the current 10.0%) would raise an additional \$7.75 million. Together these may raise up to \$19.75 million in 2005-06, the first year of full implementation. Other taxing alternatives include raising the transient occupancy tax, or the utility consumption tax, or imposing a fee or tax on car rentals or car rental companies. These alternatives are discussed in this report.

COMPARISON OF THREE PROPOSALS FROM COUNCILMEMBERS

Three proposals were submitted to the City Council by its members: one by Councilmember Brunner, one by Councilmember Nadel and one by President De La Fuente and Councilmembers Reid and Quan. The Council requested a comparison of the proposals in six areas, and a draft ballot measure that provided for a minimum of 63 sworn police officers. An allocation of \$4 million for Fire Department staffing is also included. The six common elements of the Councilmembers' proposals are presented in Attachment A. The proposals represent a commitment to community-oriented policing, street outreach workers, domestic violence, truancy, and parolee interventions, and a model jobs program. However, they differ somewhat in their approaches to these goals.

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Community Policing and Crime Reduction Teams

One common theme among all three proposals is that the Oakland Police Department (OPD) needs to have a number of specially trained personnel who are not responsible for responding to routine calls for service. These officers must be specifically dedicated to performing targeted services ranging from community/problem oriented policing, truancy enforcement, prostitution enforcement, and proactive crime-reduction efforts. This approach is consistent with OPD's recent success in reducing violence in certain "hot spots" throughout the City, and has been proven successful in other cities as well.

The De La Fuente/Reid/Quan plan for 63 officers assigns a community policing officer to defined geographic areas or to school sites to address neighborhood priorities, including truancy, domestic violence/prostitution enforcement. The Nadel plan focuses on bicycle and foot patrol officers in designated geographic areas. The Brunner proposal addresses community policing by bolstering the Department's Crime Reduction Teams and traffic staffing to augment successful crime reduction strategies already in place.

In fact, all three plans recommend building on the success of the Crime Reduction Teams (CRTs). The De La Fuente/Reid/Quan proposal would add an extra CRT for city-wide deployment (eight officers and one sergeant). The Brunner plan would fund the entire CRT program (six CRT teams consisting of eight officers and one sergeant, for a total of 54 positions) with monies generated by the ballot measure, thus protecting the teams from any future General Purpose Fund cuts in the OPD budget. Staff estimates the cost of these 54 positions at \$7.3 million in 2005-06. The Nadel proposal and a Brunner alternative suggest an augmentation to fully staff the six existing CRTs (six officers, whose estimated cost, not including training or equipment, is approximately \$770,000.)

The De La Fuente/Reid/Quan plan suggests the creation of two new positions with OPD: truancy officers and domestic violence/prostitution support officers. If approved, the responsibilities and roles of these positions would need to be clarified.

Outreach Workers/Case Managers

All proposals recommend the use of case managers and/or street outreach workers. In Councilmember Brunner's proposal, the outreach workers are focused on formerly incarcerated youth and at risk adults and have access to wage subsidies to place program participants in jobs. In both the De La Fuente/Reid/Quan and Nadel proposals, the outreach workers are associated with multi-disciplinary neighborhood service teams and link people to services, build community, and focus on specific issues like truancy. This is similar to the pilot work being done with the City-County Violence Prevention Task Force. In the De La Fuente/Reid/Quan proposal, there are case managers who focus on at-risk youth and high need families as well as outreach workers who perform a similar function.

Case managers or outreach workers could be contracted, or could be employed by Department of Human Services, as are those case managers who now work with seniors and persons with disabilities. In order to be most effective, the model chosen must meet the objective of fully integrating the case managers' work with existing city and county public agency service systems.

Truancy

The De La Fuente/Reid/Quan proposal recommends hiring police officers to assist youth and their families to break the patterns affecting their attendance. Their proposal also recommends hiring case managers to work with at-risk youth and their families (in particular those who are truant) and assist them in connecting to available resources to help them break the cycle of destitution, violence, and hopelessness. These case managers will work as part of a neighborhood service team with the Neighborhood Services Coordinators, Oakland Police Department, Oakland Unified School District and City and County agencies.

The Brunner proposal recommends developing and establishing truancy centers that are staffed by case managers who will help to get at the root causes of the students' truancy.

Domestic Violence Prevention and Intervention

The Nadel proposal recommends providing young children exposed to violence with intervention, counseling and violence prevention curriculum through a contracted service provider. The proposal put forth by De La Fuente, Reid and Quan recommends hiring Domestic Violence/Prostitution Support Officers who will be responsible for following up on violence against women and children (domestic violence, child prostitution, etc.) and work with the victims to break the patterns of abuse.

Ex-Offender/Parolee Interventions

All three proposals are unified in underscoring the need to provide adult parolees and/or youth offenders with case management and support services upon their release to Oakland.

The Brunner proposal recommends providing pre- and post-release case management and support services to 500 parolees. It also recommends providing youth involved in the criminal justice system with case management support through the Safe Passages' Pathways to Change program. The Nadel proposal is similar, developing case management services for parolees through the current City-led Project Choice program, and intervention and case management for youth offenders through Safe Passages. The De La Fuente/Reid/Quan proposal recommends focusing intervention on parolees re-entering Oakland through case management. The Nadel proposal also recommends providing job stipends for adult parolees.

Model Job Program

The Nadel proposal recommends job stipends, sheltered employment and wage supports for youth and adult offenders. The Brunner proposal recommends wage subsidies for formerly incarcerated youth and young adults who participate in the street outreach program.

Wage supports for on-the-job (OJT) training may encourage employers to hire clients they otherwise would not consider. This strategy is equally effective for youth and adults, particularly those who have barriers to employment such as little or no work history and criminal records. Wage supports also leverage employer resources, since typically the employer pays half the wages and the program pays the other half for up to six months. The contract normally specifies that participants who successfully complete the defined training period are then retained by the employer as a regular employee and/or given a promotion or raise. A six month on-the-job training position at \$15 per hour would cost the program approximately \$10,400 in wages and benefits and an additional \$2,000 per client in job development, service coordination, and payroll administration—\$12,400 per trainee.

Job stipends could include school-based and summer employment and training services for up to 300 14 to 18 year-olds per year coordinated by one or more of the Oakland Workforce Investment Board's youth service providers. The projected cost, including pre-employment training, job coaching, more than 500 hours of paid work experience and payroll administration, is approximately \$6,500 per youth.

Sheltered employment and training enables unemployed, under-prepared adults to develop valuable work experience, basic and vocational skills, and, most important, confidence. Such programs may be structured to provide individual placements throughout departments, or to create work crews for a specific task. In either case, a successful program must have strong institutional commitment from the top down and a support structure for the department staff responsible for supervising the participants. It takes time to get an organization to accept new responsibilities that are outside of its core business. Supervising people with no work experience and multiple barriers to employment is a social service that requires knowledge and experience that probably is not currently common within City departments. If this program is geared toward parolees, it should be closely aligned with another program such as Project Choice that provides strong support outside of the work setting

In addition to the costs of wages and benefits, a sheltered employment program must include funds for staff time dedicated to overseeing the program and supervising the participants, classroom training, tools, equipment, and support services, which are estimated at approximately \$5,000 per participant.

Fire Department allocation

In addition to the elements described above, the Councilmembers have requested that \$4 million from the measure be allocated to the Fire Department to fully staff 25 engine and 7 truck companies. (Note that this allocation is for FY 2005-06, and, if a consistent level of service is to be funded through the ballot measure, would increase in future years with the increases in labor costs).

Administration

In keeping with recent ballot measures and the Councilmembers' proposals, the draft measure establishes a separate fund for tax proceeds and requires an annual audit. In addition, staff recommends including a provision that annually increases the taxes by the consumer price index (CPI), up to a maximum of 5% per year, in order to help keep pace with salary and benefit costs. Staff requests direction on the matter of the oversight committee.

FISCAL IMPACT

Revenue Options from June 15, 2004 Presentation

At the June 15th presentation, staff provided five different funding options:

- Parcel Tax (including an option based on Measure R assessment structure)
- Parking Tax
- Transient Occupancy Tax
- Utility Consumption Tax, and
- Potential Rental Car Tax at \$2 per day per vehicle

Since that presentation on June 15th, the City Attorney has advised that *the \$2 Rental Car Tax has legal impediments*, and an attorney-client memo from OCA on this subject has been issued separately. Staff is currently doing further research on the feasibility of establishing a basis for a car rental fee.

- In lieu of the potential revenue of \$4.6 million from the Rental Car Tax, Budget Office and City Attorney staff worked with Francisco & Associates (City consultant for local assessments) to apply a different rate structure to the Parcel Tax assessment. The new rates would include: a) \$88 for a single-family unit (as proposed by Councilmembers Reid, Quan, and President De La Fuente), b) \$30.06 to \$60.12 per occupied residential unit for multiple residential parcels, and c) \$45.07 for every Single Family Resident Unit Equivalent for non-residential parcels. This rate structure is similar to the Library Ballot Measure Q, and can potentially yield approximately \$12 million annually. The actual

text of imposing such a tax is provided under Part 2, Section 2 of the accompanying draft resolution. (Note that the City Attorney's Office is still finalizing the rate structure, and any significant changes to the above rates would impact the annual revenue estimate. *The final rates and revenue figure will be provided prior to the City Council vote on the attached resolution.*)

- An increase of the Parking Tax from 10 percent to 18.5 percent can generate another \$7.75 million for a total of \$19.75 million for Police, Fire, and Prevention/Intervention programs beginning in FY 2005-06.
- Should the City Council decide to consider other potential revenue sources, the June 15th staff report discussed increases in the Transient Occupancy Tax and Utility Consumption Tax, along with the estimated annual revenues raised. The attached draft resolution contains references to these taxes, should the City Council decide to include them.

Once staff receives further direction from the City Council on the specific revenues to include in the Violence Prevention Measure, the exact amounts raised from those revenues, and the exact programs / activities / spending items to fund with the proceeds, *a detailed spending plan will be developed in time for the Council's final vote on the resolution.*

Alternative Revenue Options

At the June 15 meeting, the De La Fuente/Reid/Quan memo proposed the use of a \$2 per day tax on car rentals to raise approximately \$4.6 million. In addition, it has been suggested that Workforce Investment Act funding might be dedicated to one or more uses defined in the ballot measure. Staff is providing the following information for the Council's discussion.

- In recent years the City has explored several methods of raising revenues from car rentals. One option is the use of a car rental fee; a second is the car rental tax; and a third is an increase in the business license tax on car rental companies. The City Attorney's office has advised that the first two options may be pre-empted by state law, creating procedural barriers to using the rental fee or the rental tax. As noted above, staff is continuing to research the feasibility of establishing a car rental fee. Raising the business license tax for car rental companies also could be considered; however this option will not likely generate substantial revenue. Currently, car rental companies are part of a services category that pays \$1.80 per thousand on gross receipts. Together these fifteen companies generate approximately \$200,000 per year in business license taxes. In order to raise the \$4.6 million, as proposed, the business license rate would need to be raised to \$43 per thousand of gross receipts for these companies.
- It has been suggested that the City's allocation of federal Workforce Investment Act funding could be targeted toward job programs such as those discussed in this report.

Staff notes that the Workforce Investment Board must concur with the City Council and Mayor on any substantial shift in program or funding policy with regard to WIA funds.

In FY 2004-05 Oakland will receive approximately \$6.5 million in new WIA funding. Of this, 36% is restricted for serving up to 295 Dislocated Workers and victims of plant closures and mass lay-offs. Approximately 32% is restricted to serving up to 580 high risk Youth who are in school or who are idle, some of whom are court-involved. Funding for Adults is set at 32%, roughly half of which serves up to 7,000 drop-in clients at six career centers, with the other half dedicated to serving 295 chronically unemployed clients.

WIA funds come with strict performance requirements imposed by the Department of Labor and enforced by the State Workforce Investment Board and the Employment Development Department. Oakland has a carefully constructed system which allows for the enrollment of the greatest number of clients with multiple barriers to employment as possible, while still meeting the State's performance requirements. Diverting funds to help other challenging clients would put Oakland in jeopardy of failing to meet Adult performance requirements. Furthermore, any shift in funding—Youth or Adult—would take services away from one very high risk population to serve another.

PROPOSED MEASURE

For the Council's discussion, initial draft ballot language has been prepared, incorporating the use of tax proceeds for the following purposes:


1. Expanding Community Policing;
2. Expanding Outreach Workers and Programs;
3. Targeting Truancy;
4. Targeting Domestic Violence;
5. Expanding Parolee/ Young Offender Intervention;
6. Encouraging Employment;
7. Allocating \$4 Million for the Fire Department to fully staff 25 engine and 7 truck companies.

The draft measure contains language authorizing a number of new taxes, for the Council's consideration, including a new parcel tax based on the Measure Q formula and an increase in the parking tax to 18.5%, which together would raise \$19.75 million in 2005-06. The draft measure allows these taxes to increase annually in accordance with the CPI, but no greater than 5% per year. The tax proceeds will be held in a separate fund, subject to an annual audit.

ACTION REQUESTED OF THE CITY COUNCIL

We request that the Council review this draft proposal and provide additional direction to staff. The Council may wish to amend or provide further detail in the description of programs; to amend the proposed tax rate structure and/or include additional taxing mechanisms; and/or to expand on the administrative and operating features to be included in the ballot proposal.

Respectfully submitted,


Deborah A. Edgerly
City Administrator

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Comparison of Three Councilmember Plans for a Violence Prevention and Reduction Ballot Measure

COMMON PROGRAM ELEMENTS	Brunner	Cost (staff estimate)	Nadel	Council Member's Suggested Commitment	De la Fuente, Reid, Quan	Council Members' Suggested Commitment
Community Policing	Directed patrol at "hot spots" through: <ul style="list-style-type: none"> CRTs (discussed below) Proactive, targeted traffic enforcement (e.g. Operation Impact) 		Bicycle and foot patrols, working with Outreach Workers, in highest crime areas	\$6,000,000	Community Policing Officer for every beat School Resource Officers to respond to and prevent violence at school sites Annual allocation split between training/equipment for sworn officers, and prevention programs	Totals 63 positions (57 officers/6 sergeants) for all sworn @ \$9 million \$ 1,000,000
Crime Reduction Teams	Full funding of all CRTs (48 officers, 6 sergeants) -or- at least add six officers to bring each CRT team to full staffing (8 officers per team)	\$7.3 m \$ 770K (Figures do not include training or equipment)	Fully fund CRTs	\$2,000,000	Add at least one CRT	(included in 63 sworn, above)
Truancy and youth violence prevention	Truancy centers that provide case management for youth		Focus of Outreach Workers		Truancy Officers to assist youth and families Focus of Outreach Workers	(included in 63 sworn, above)
Domestic Violence			Intervention, Counseling, and curriculum for young children	\$ 600,000	DV/ Prostitution Support Officers	(included in 63 sworn, above)

COMMON PROGRAM ELEMENTS	Brunner	Cost (staff estimate)	Nadel	Council Member's Suggested Commitment	De la Fuente, Reid, Quan	Council Members' Suggested Commitment
Outreach Workers	Street Outreach workers to work with previously incarcerated, at-risk youth and young adults		Outreach workers in Neighborhood Core Teams in targeted areas working on truancy, blight, service referrals	\$1,600,000	Case Managers to work with at-risk youth and their families Outreach Workers (neighborhood organizers) to refer families to services	\$ 5,250,000
Parole Services	Case management and support services to 500 pre- and post-release parolees Pathways to Change – case management for youth involved in criminal justice system		Project Choice – case management for parolees Pathways to Change – intervention and case management for youth offenders	\$ 500,000 \$ 500,000	Case management for parolees returning to Oakland	(included in \$5.25M above)
Model Job Program	Wage subsidies for businesses to hire youth and young adult participants in the Street Outreach program		Job stipends, sheltered employment and wage supports for youth and adult offenders	\$ 3,600,000		
Differences/ Other programs mentioned	Competitive grants for providers of violence prevention programs		Violence Prevention /conflict resolution curriculum in elementary and middle schools to reduce fighting, truancy Programs for older teens/ alternatives to "hanging out"	\$ 800,000 \$ 600,000	Conflict resolution training for youth and city staff Targeted mentoring, tutoring, recreation programs for at-risk youth Fire Department	included in \$5.25M included in \$5.25M \$ 4,000,000
Total cost		Not calculated		\$16,200,000		\$19,250,000

Administration and Oversight	Brunner		Nadel		De La Fuente/Reid/Quan	
Funding	50% for prevention and intervention; 50% for suppression Competitive grant process for prevention programs		Provides \$8.2 M for prevention and intervention; \$8 M for police. Competitive process for domestic violence, school curriculum, and programs for older teens		Provides \$ 9M for police; \$5.25M for case management, outreach, and middle school and parolee programs; \$1M split between sworn training/equipment and prevention programs; \$4M for Fire	
Oversight	Violence Prevention Advisory Committee, appointed by City Councilmembers		Human Services Commission and Community Policing Advisory Board			
Evaluation/ Management			Leadership Team (OPD, DHS, Mayor's Office, coordinated by CAO's Neighborhood Services Manager) Programs subject to annual evaluation against performance measures			

SPECIAL
 CITY COUNCIL
 JUN 29 2004
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FILED
OFFICE OF THE CITY CLERK
OAKLAND

INTRODUCED BY COUNCILMEMBER _____

2004 JUN 23 PM 6:18

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

Resolution Submitting, On The City Council's Own Motion, To The Electors At The November 2, 2004 General Election, A Proposed Ordinance (1) Creating A Special Parcel Tax And (2) Increasing The Parking Tax, (3) Transient Occupancy Tax, And (4) Utility Consumption Tax And (5) Increasing The Business License Tax For Car Rental Businesses To Fund Violence And Crime Prevention Programs; Consolidating The Election With The Statewide Presidential Election; And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With The November 2, 2004, Statewide Presidential Election.

WHEREAS, the citizens of the City of Oakland (the "City") are committed to a community-oriented approach to violence prevention in Oakland; 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, 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, at the general election of November 2, 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:

3
SPECIAL
COUNCIL

JUN 29 2004

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

PART 1. GENERAL

Section 1. TITLE AND PURPOSE.

(A) Title. This ordinance may be cited as the "Violence and Crime 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 to prevent violence and crime 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. It is an excise tax on the privilege of using and use of municipal services. Such municipal services will become more available to Owners of Parcels when programs aimed at preventing violence and crime in Oakland are enhanced. Because the proceeds of the tax are deposited in a special fund restricted for the services and programs specified herein, the tax is a special tax.

Section 2. FINDINGS

1. Based on overall data collected from January 1, 2004 through June 15, 2004, XX% of violent and non-violent crime occurred in residential areas whereas XX% of violent and non-violent crime occurred in commercial and manufacturing areas. These statistics show that violent and non-violent crime is 1.8 times more likely to occur in residential areas than in commercial areas. Accordingly, the parcel tax is determined with regard to the incidence of crime in residential and commercial areas and the potential benefit from municipal services derived by each taxpayer.

2. Violence is an issue of public health and public safety, with the average total cost of a single gun-related crime as high as \$xxx with XX% (insert Oakland numbers/data) paid for by taxpayers' dollars.

3. Violent crime in Oakland disrupts local commercial activity, reduces business and industrial productivity, deters tourism and outside financial investments, and depreciates the value of real estate property.

4. Violence can occur at workplaces, on school grounds, and in residential neighborhoods within the Oakland community.

5. Investing in violence intervention and prevention efforts before injury occurs will reduce economic and emotional costs and be a cost-effective use of taxpayer dollars.

6. 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.

7. The imposition of a special tax is necessary to fund these programs and services, with each occupant of property deriving a benefit from living and working in a safer Oakland.

8. This special tax is based on a community assessment of innovative prevention strategies and is intended to be proportional to and based on estimates of typical use and benefit from these municipal services.

9. More outreach workers and programs, truancy prevention, domestic violence prevention, expansion of parolee/ young offender intervention, and encouraging employment combined with the hiring of more police officers will allow greater efficiency for law enforcement personnel, especially in redirecting services to those who pay the taxes under this ordinance.

10. There are existing general taxes in the form of parking, utility, and transient occupancy taxes, whose proceeds are designated for the general fund. Increases in those taxes specified by this ordinance will be earmarked for this special funding initiative.

Section 3. USE OF PROCEEDS

The additional tax proceeds raised by this ordinance may only be used in accordance with the following purposes:

1. Expanding community policing, including the hiring of 63 new police officers;
2. Expanding outreach workers and programs;
3. Targeting truancy;
4. Targeting domestic violence;
5. Expanding parolee/ young offender intervention;
6. Encouraging employment;
7. Allocating \$4 million for the Fire Department;

Section 4. ANNUAL AUDIT.

An annual audit shall be performed to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objectives stated herein. Tax proceeds may be used to pay for the audit.

Section 5. SPECIAL FUND

All funds collected by the City from the additional taxes imposed by this ordinance shall be deposited into a special fund in the City treasury and appropriated and expended only for the purposes authorized by this Ordinance.

Only the incremental taxes generated by this ordinance shall be dedicated to the purposes specified by this ordinance. Any portion of the parking, transient occupancy, utility users and business license tax rate that were general taxes prior to the enactment of this ordinance shall remain general taxes.

Section 6. SAVINGS CLAUSE.

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 the City have adopted this ordinance had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 7. 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 8. NO AMENDMENT.

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

Section 9. CHALLENGE TO TAX.

Any action to challenge the taxes imposed by this ordinance shall be brought pursuant to Government Code section 50077.5 and Code of Civil Procedure section 860 et seq.

PART 2. PARCEL TAX

Section 1. DEFINITIONS.

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

(A) "Building" shall mean any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind. The word "Building" includes the word "structure".

(B) "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.

(C) "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.

(D) "Occupancy" shall mean the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any Hotel for dwelling, lodging or sleeping purposes.

(H) "Operator" shall mean the Person who is a proprietor of a Hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the Operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall be deemed an Operator for the purposes of this Ordinance.

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

(J) "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.

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

(L) "Possessory Interest" as it applies to property owned by any agency of the government of the United States, the State of California, or any political subdivision thereof, shall mean possession of, claim to, or right to the possession of, land or Improvements and shall include any exclusive right to the use of such land or Improvements.

(M) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

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

(O) "Transient" shall mean any individual who exercises Occupancy of a hotel or is entitled to Occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any individual so occupying space in a Hotel shall be deemed to be a Transient until the period of thirty (30) consecutive days as elapsed .

Section 2. IMPOSITION OF PARCEL TAX.

There is hereby imposed a special tax on all owners of parcels in the City of Oakland for the privilege of using and the availability of municipal services. The tax imposed by this Section shall be assessed on 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: **[THESE BASE FIGURES MAY CHANGE DEPENDING ON LEGAL REQUIREMENTS.]**

(A) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate of **\$88.00** per Parcel, subject to annual adjustment as provided in Section 6.

(B) For owners of all Multiple Residential Unit Parcel, the tax shall be at the annual rate of **\$60.12** per occupied Residential Unit. Units that are vacant for six months or more per year, the rate shall be reduced by 50% to **\$30.06** per Residential Unit located on the Parcel.

(C) For owners of all Non-Residential Parcels, the tax shall be at the annual rate of **\$45.07** for every Single Family Resident Unit Equivalent. Single Family Residential Equivalents will be based on square footage and frontage and by land use category as follows:

LAND USE CATEGORY	FRONTAGE	AREA (SF)
Commercial Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000
Golf Course	500	100,000
Quarry	1,000	250,000

Example: assessment calculation for an owner of a commercial parcel with a frontage of 160 feet and an area of 12,800 square feet:

<u>Frontage</u>	<u>Area</u>
160 feet	12,800 sf
80 ft./SFE = 2 SFE	6,400 SF/SFE = 2 SFE
2 SFE + 2 SFE = 4 SFE	4 SFE x \$45.07 = \$180.28

(D) An Owner of An Undeveloped Parcel is exempt from this parcel tax if the owner can prove that the parcel was undeveloped for at least six months of the year in question.

Section 3. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City in accordance with the following:

1. Residential Hotels. If rooms in a Hotel were occupied by individuals who were not Transients for 80% or more of the previous fiscal year, such Hotel shall be deemed a Residential Hotel, and such rooms shall be deemed Residential Units and shall be subject to the Parcel tax imposed on Residential Units. The remainder of the Building shall be subject to the applicable Square Footage tax computed in accordance with the Single Family Residential Unit Equivalent calculations.

2. Transient Hotels. Notwithstanding the previous sub-section, if 80% or more of the Operator's gross receipts for the previous fiscal year were reported as rent received from Transients on a return filed by the Operator in compliance with Section 5, Article 20 of the Oakland Municipal Code (commonly known as the Uniform Transient Occupancy Tax of the City of Oakland), such Hotel shall be deemed a Transient Hotel. The entire Building shall be deemed a Non-Residential Parcel, categorized as Commercial, Industrial, and shall be subject to the Square Footage and Single Family Residential Unit Equivalent calculations set forth in Section 4(C), and the Parcel tax imposed on Residential Units shall not apply.

SECTION 4. 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 5. REDUCTION IN TAX; RATE ADJUSTMENT.

(A) Subject to paragraph (B) of this Section 6, 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 6. 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 7. 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 8. COLLECTION OF TAX; INTEREST AND PENALTIES.

The tax levied and imposed by this ordinance shall be due and payable on July 1 of each year, but it may be paid in two installments due no later than December 10 and April 10. The tax shall be delinquent if not received on or before the delinquency date set forth in the notice mailed to the Owner's address as shown on the most current assessment roll of the Alameda County Tax Collector and shall be collected in such a manner as the City Council may decide.

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.

The City is authorized, at its option, to have the taxes imposed by this ordinance collected by the County of Alameda in conjunction with and at the same time and in the same manner as the County's collection of property taxes for the City of Oakland. If the City elects to so collect the tax, penalties and interest shall be those applicable to the nonpayment of property taxes.

Regardless of the method of collection, in no event shall anything herein be construed to impose a tax lien on the Parcel to secure payment of the tax.

Section 9. 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 10. 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 filed by the person who paid the tax or such person's guardian, conservator of the executor of her or his estate. No claim may be filed on behalf of other taxpayers or a class of taxpayers. 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. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax.

Section 11. 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 12. 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.

PART 3. PARKING TAX

Section 1. IMPOSITION OF PARKING TAX

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 4.16.030 of the Municipal Code is hereby amended to read as follows:

4.16.030 Imposition and rate of tax.

Subject to the provision of this chapter, there is imposed a tax at the rate of ~~XX~~ ten percent of the rental of every parking space in a parking station in the city. The tax imposed by this chapter shall be paid upon any occupancy on and after July 1, 1992, although such occupancy is had pursuant to a contract, leasing or other arrangements made prior to such date. Where the rent is paid, or charged or billed, or falls due on either an hourly, daily, weekly, monthly or other term basis, the rent so paid, charged, billed or fallen due shall be subject to the tax herein imposed to the extent that it covers any portion of the period from July 1, 1992, and such payment, bill, charge or rent due shall be apportioned on the basis of the ratio of number of days covered thereby. Where any tax has been paid hereunder upon any rent without any right of occupancy therefor, the Tax Administrator may, by regulation, provide for credit or refund of the amount of such tax upon application therefor as provided in Section 4.16.160. (Prior code § 5-31.02)

PART 4. TRANSIENT OCCUPANCY TAX

Section 1. IMPOSITION OF TRANSIENT OCCUPANCY TAX

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 4.28.030 of the Municipal Code is hereby amended to read as follows:

4.24.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~XX (XX)~~ eleven (11) percent of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax Administrator may require that such a tax shall be paid directly to the Tax Administrator. (Ord. 11629 § 1, 1993: prior code § 5-20.03)

PART 5. UTILITY CONSUMPTION TAX

Section 1. IMPOSITION OF UTILITY CONSUMPTION TAX

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). Sections 4.28.040 and 4.28.050 of the Municipal Code are hereby amended to read as follows:

4.28.040 Electricity users tax imposed.

There is imposed a tax upon every person, other than an electrical corporation (as defined by and licensed by the California Public Utilities Commission), who receives electrical energy within the limits of the city from an electrical corporation. The tax imposed by this Section shall be at the rate of ~~XXXX seven and one-half (7.50)~~ XXXX seven and one-half (7.50) percent of all charges made for such energy, including minimum charges for service but excluding charges for energy supplied to streetlights, and shall be paid by the person paying for such energy. Excepted from this tax increase are persons qualifying for the low-income rate assistance program (LIRA) offered by the Pacific Gas & Electric Corporation ("PG&E"). (Prior code § 5-23.04)

4.28.050 Gas users tax imposed.

A. There is imposed a tax upon every person, other than a gas corporation (as defined by and licensed by California Public Utilities Commission) who receives gas (including but not limited to propane, butane, and any other gas used for fuel) within the limits of the city which is delivered through mains or pipes by a gas corporation or delivered by any means of transportation. The tax imposed by this section shall be at the rate of ~~XXXX seven and one-half (7.50)~~ XXXX seven and one-half (7.50) percent of all charges made for such gas, including but not limited to minimum charges for service, or pipeline usage and shall be paid either by the persons paying for such gas, or collected by the service supplier. Excepted from this tax increase are persons qualifying for the low income rate assistance program (LIRA) offered by the Pacific Gas & Electric Corporation ("PG&E").
B. Charges made for gas to be used in the generation of electrical energy by an electrical corporation shall be excluded from the charges on which the tax imposed by this section is computed. (Prior code § 5-23.05)

PART 6. BUSINESS LICENSE TAX – AUTOMOBILE RENTAL BUSINESSES

Section 1. BUSINESS LICENSE TAX – AUTOMOBILE RENTAL BUSINESSES

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 4.28.030 of the Municipal Code is hereby amended to read as follows:

5.04.295 Automobile Rental.

A. Every person engaged in the business of renting automobiles shall pay a business tax of sixty dollars (\$60.00) per year or fractional part thereof for the first thousand dollars (\$.00) or less of gross receipts, plus (\$) for each additional one thousand dollars (\$1,000.00) of gross receipts or fractional part thereof in excess of thousand dollars (\$).

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 election of November 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 November 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: 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 November 2, 2004, general election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA, JULY , 2004

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

3

SPECIAL
COUNCIL

JUN 29 2004