

APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AMENDING RESOLUTION NO. 88716 C.M.S., WHICH ESTABLISHED THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2021-22, AND RESOLUTION NO. 89228 C.M.S., WHICH ESTABLISHED THE APPROPRIATION LIMIT FOR FISCAL YEAR 2022-23, TO AMEND AND ESTABLISH THE APPROPRIATIONS LIMITS FOR FISCAL YEAR 2021-2022 AND 2022-2023

WHEREAS, Article XIII B of the California Constitution (Limitation of Government Appropriations) was passed by the California electorate on November 6, 1979, and became effective on July 1, 1980; and

WHEREAS, Article XIII B establishes a limit on the amount of tax revenue local governments can appropriate in any fiscal year (FY) and requires that local governments calculate appropriations limits annually; and

WHEREAS, Title 1, Division 9 (commencing with Section 7900) of the California Government Code implements Article XIII B and provides the method for calculating annual appropriations limits based on appropriations limit for the prior fiscal year adjusted for cost of living and changes in population; and

WHEREAS, Article XIII B, section 4 of the California Constitution allows the electors of a local government to increase the appropriations limit by a majority vote for up to four years from the most recent vote; and

WHEREAS, On March 3, 2020, City of Oakland voters passed Measure S (hereinafter "Appropriations Limit Override"), which increased the City's appropriations limit until March 3, 2024 by the amount of revenue collected from local taxes previously approved by Oakland voters, including Measure M (The Emergency Medical Services Retention Act of 1997), Measure N (The Paramedic Services Act of 1997), Measure Q (The Library Services Retention and Enhancement Act of 2004), Measure C (Transient Occupancy Tax - Hotel Tax), Measure Z (The 2014 Public Safety and Services Violence

Prevention Act), Measure HH (Sugar Sweetened Beverage Distribution Tax), Measure D (The 2018 Oakland Public Library Preservation Act), and Measure W (Oakland Vacant Property Tax Act); and

WHEREAS, Article XIII B of the California Constitution provides that the annual calculation of the appropriations limit shall be reviewed as part of an annual financial audit; and

WHEREAS, on June 17, 2021, the City Council approved Resolution No. 88716 C.M.S., which established the appropriations limit for fiscal year 2021-2022 to be \$932,905,145; and

WHEREAS, on June 7, 2022, the City Council approved Resolution No. 89228 C.M.S., which established the appropriations limit for fiscal year 2022-2023 to be \$921,479,012; and

WHEREAS, the City of Oakland has received notification from the contracted independent auditor, MGO Certified Public Accountants, that the City's adopted FY 2021-22 appropriations limit is noncompliant with accepted methodology because the adopted FY 2021-22 appropriations limit is calculated based upon the final FY 2020-21 Appropriations Limit inclusive of the Appropriation Limit Override restorations rather than the FY 2020-21 Appropriations Limit figure before the restorations; and

WHEREAS, the FY 2021-22 and FY 2022-23 appropriation calculations inadvertently included restorations for tax revenue from The 2020 Oakland Parks and Recreation Preservation, Litter Reduction, and Homelessness Support Act (Parks Measure Q) and the FY 2022-23 calculation included restorations for tax revenues from The Children's Initiative (Measure AA), however these revenues were not included in the Appropriations Limit Override measure; and

WHEREAS, City of Oakland has received notification from the California State Department of Finance (DOF) through the League of California Cities that the Budget Act of 2022 revised Government Code Section 7903(b) to require city governments to include specified state subventions within their appropriations limits; and

WHEREAS, DOF has identified that the City of Oakland is a recipient of a total \$65,600,000 in subventions; and

WHEREAS, DOF has instructed city governments to use the state identified subventions (\$65,600,000) for the FY 2021-22, FY 2022-23, and FY 2023-24 appropriations limit calculations; and

WHEREAS, DOF has further instructed city governments that to the extent that the subventions cause the City to exceed the appropriations limit in FY 2021-22, FY 2022-23, and FY 2023-24, those excess values shall be reported to the DOF for inclusion in the State's appropriations limits; and

WHEREAS, after analysis, City staff has determined that the subventions do not cause the City to exceed the appropriations limit in FY 2021-2022, therefore, staff will include the full \$65,600,000 in subventions; and

WHEREAS, in FY 2022-23, the state subventions cause the City to exceed the appropriations limit, therefore, staff will include only \$44,150,000 in subventions, which puts that City at the maximum appropriations limit and the Finance Department will report to the DOF the \$21,450,000 in subventions that would cause the City to exceed the FY 2022-23 Appropriations Limit by the November 1, 2023 deadline; and

WHEREAS, the FY 2021-22 appropriations limit is recalculated to \$803,338,743, which includes revisions to 1) change the starting figure from \$789,088,180 to \$692,196,713 and 2) remove Parks Measure Q revenue from the Appropriations Limit Override restorations, and 3) add \$65,600,000 in state subventions; and

WHEREAS, the FY 2022-23 appropriations limit is recalculated to \$855,101,188, which includes revisions to 1) remove Measure AA and Parks Measure Q revenue from the Appropriations Limit Override restorations, and 2) add \$44,150,000 in state subventions; now, therefore, be it

RESOLVED: That Resolution No. 88716 C.M.S. is hereby amended and the Fiscal Year 2021-22 appropriations limit for the City of Oakland is recalculated and established to be \$803,338,743, which includes \$65,600,000 in subventions, as reflected in Exhibit A; and be it

FURTHER RESOLVED: That Resolution No. 89228 C.M.S. is hereby amended and the Fiscal Year 2022-23 appropriations limit for the City of Oakland is recalculated and established to be \$855,101,188, which includes \$44,150,000 in subventions, as reflected in Exhibit B.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of
the City of Oakland, California

**ARTICLE XIII B APPROPRIATIONS LIMIT
Fiscal Year 2021-22**

Article XIII B of the California Constitution was created by the passage of Proposition 4 in November 1979 and establishes a limit on the amount of tax revenue which can be appropriated by government jurisdictions. This limit is popularly known as the Gann Limit. Each year, the limit is recalculated by multiplying the previous year's limit by adjustment factors for population growth and inflation. Proposition 111, passed in June 1990, gave cities the option of using their own growth or the growth of the entire county in which the city is located as the population adjustment factor. Cities were also given the option of using the increase in California Per Capita Income or the increase in the assessed valuation of non-residential property in the City as the inflation adjustment factor. Cities have the option each year of deciding which factor to use. For 2021-22 Oakland is using the population growth of the County of Alameda and the increase in California Per Capita Income. These adjustment factors must be applied to retroactively recalculate the appropriations limit for 1987-88 (i.e., the base year) and each year thereafter in order to arrive at the limit for 2021-22.

In March 2020, City of Oakland voters passed Measure S, which increased the City's appropriations limit until March 3, 2024 to allow the City to continue to spend tax revenue from voter-approved local tax measures, including Measure M (The Emergency Medical Services Retention Act of 1997), Measure N (The Paramedic Services Act of 1997), Measure Q (The Library Services Retention and Enhancement Act of 2004), Measure C (Transient Occupancy Tax - Hotel Tax), Measure Z (The 2014 Public Safety and Services Violence Prevention Act), Measure HH (Sugar Sweetened Beverage Distribution Tax), Measure D (The 2018 Oakland Public Library Preservation Act), and Measure W (Oakland Vacant Property Tax Act).

FY 2020-21 Appropriations Limit \$692,196,713

FY 2021-22 Adjustment Factors

County of Alameda Population Change = -1.0037 (-0.37%)
California Per Capita Income Change = 1.0573 (5.73%)
Combined Change = (-1.0037) x 1.0573 = 1.0534

**FY 2021-22 Appropriations Limit
(After Adjustment for Growth Factor of 1.0534) \$729,160,017**

Appropriations Limit Override (Measure S Restorations):
\$74,178,726 Emergency Medical Services (Measure M)
2,355,034

Paramedic Services (Measure N)	1,874,212
Library Services (Measure Q)	17,976,561
Hotel Tax (Measure C)	4,337,272
Public Safety and Violence Prevention Services (Measure Z)	19,003,466
Sugar Sweetened Beverages (Measure HH)	8,188,920
Public Libraries Preservation (Measure D)	13,443,261
Vacant Properties (Measure W)	7,000,000

TOTAL FY 2021-2022 Appropriation Limitation with Override \$ 803,338,743

Not all City appropriations are subject to the limitation of Article XIII B. The intent of Proposition 4 was to restrict only the appropriation of “proceeds of taxes.” Determining which appropriations are subject to the limit requires classifying each funding source as either proceeds of taxes or non-proceeds of taxes. Property tax and local taxes are subject to limitation. State taxes that are subvented to the City count against the City’s limit if their use is unrestricted, as in the case of sales tax and motor vehicle in lieu. State subventions that are restricted in use are applied against the State’s limit rather than the City’s, so they are considered non-proceeds of taxes for the City’s calculation. This includes Measure B sales tax, gas tax, and state grants and state-mandated cost subventions included in the Grants and Subsidies category. Interest income is prorated so that the interest earned on tax revenue is included as proceeds of taxes.

Most of the City’s other revenue sources are classified as non-proceeds of taxes: franchise fees, Landscape and Lighting Assessments (special benefit assessment districts are excluded from the limitation), fines and penalties, license and permit fees, service charges, rentals and concessions, federal grants, Oakland Redevelopment Agency reimbursements (redevelopment agencies are exempt from Article XIII B), internal service revenues, and other miscellaneous revenues. Enterprise funds – sewer service charges and golf course revenues – are also exempt from the limitation. Fund transfers are re-appropriations of revenue received in previous years; these funds were included in the calculation of appropriations subject to limitation in the year they were received and are not counted twice.

**REVISED FY 2021-22
ARTICLE XIII B - APPROPRIATIONS LIMIT**

Revenue	Total	Proceeds of Taxes	Non Proceeds of Taxes
PROPERTY TAX	\$409.74	\$409.74	
STATE TAX			
Sales Tax	87.35	58.97	28.38
Gas Tax	19.14		19.14
Subtotal, State Taxes	\$106.49	\$58.97	\$47.51
LOCAL TAXES			
Business License Tax	92.66	92.66	
Utility Consumption Tax	49.14	49.14	
Real Estate Transfer Tax	94.64	94.64	
Transient Occupancy Tax	20.57	20.57	
Parking Tax	15.27	15.27	
Sugar Sweetened Beverage Tax	8.19	8.19	
Special Taxes	89.95	89.95	
Subtotal, Local Taxes	\$370.43	\$370.43	
LANDSCAPE & LIGHTING ASSESSMENT	19.16		19.16
INFRASTRUCTURE BOND	89.93		89.93
OTHER LOCAL FEES	34.41		34.41
SERVICE CHARGES	225.13		225.13
GRANTS & SUBSIDIES	199.85	65.60	134.25
MISCELLANEOUS	141.28		141.28
FUND TRANSFERS	399.43		399.43
SUBTOTAL REVENUES	\$1,995.83	\$904.74	\$1,091.09
INTEREST (Prorated)	0.59	0.48	0.10
TOTAL REVENUE	\$1,996.41	\$905.23	\$1,091.19
EXEMPTIONS*		(157.08)	
APPROPRIATIONS SUBJECT TO LIMITATION		\$748.14	
APPROPRIATIONS LIMITATION WITH OVERRIDE		803.34	
AMOUNT OVER/(UNDER) LIMIT		(\$55.19)	

* Property tax revenue appropriated to service voter-approved debt is exempted.

ARTICLE XIII B APPROPRIATIONS LIMIT Fiscal Year 2022-23

Article XIII B of the California Constitution was created by the passage of Proposition 4 in November 1979 and establishes a limit on the amount of tax revenue which can be appropriated by government jurisdictions. This limit is popularly known as the Gann Limit. Each year, the limit is recalculated by multiplying the previous year's limit by adjustment factors for population growth and inflation. Proposition 111, passed in June 1990, gave cities the option of using their own growth or the growth of the entire county in which the city is located as the population adjustment factor. Cities were also given the option of using the increase in California Per Capita Income or the increase in the assessed valuation of non-residential property in the City as the inflation adjustment factor. Cities have the option each year of deciding which factor to use. For 2022-23 Oakland is using the population growth of the County of Alameda and the increase in California Per Capita Income. These adjustment factors must be applied to retroactively recalculate the appropriations limit for 1987-88 (i.e., the base year) and each year thereafter in order to arrive at the limit for 2022-23.

In March 2020, City of Oakland voters passed Measure S, which increased the City's appropriations limit until March 3, 2024 to allow the City to continue to spend tax revenue from voter-approved local tax measures, including Measure M (The Emergency Medical Services Retention Act of 1997), Measure N (The Paramedic Services Act of 1997), Measure Q (The Library Services Retention and Enhancement Act of 2004), Measure C (Transient Occupancy Tax - Hotel Tax), Measure Z (The 2014 Public Safety and Services Violence Prevention Act), Measure HH (Sugar Sweetened Beverage Distribution Tax), Measure D (The 2018 Oakland Public Library Preservation Act), and Measure W (Oakland Vacant Property Tax Act).

FY 2021-22 Appropriations Limit \$729,160,017

FY 2022-23 Adjustment Factors

County of Alameda Population Change = -1.0062 (-0.62%)
California Per Capita Income Change = 1.0755 (7.55%)
Combined Change = (-1.0062) x 1.0755 = 1.0688

FY 2022-23 Appropriations Limit
(After Adjustment for Growth Factor of 1.0688) **\$779,326,226**

Appropriations Limit Override (Measure S Restorations):

\$75,774,962	
Emergency Medical Services (Measure M)	2,428,283
Paramedic Services (Measure N)	1,933,936
Library Services (Measure Q)	18,724,130
Hotel Tax (Measure C)	6,541,894
Public Safety and Violence Prevention Services (Measure Z)	19,598,935
Sugar Sweetened Beverages (Measure HH)	6,911,494
Public Libraries Preservation (Measure D)	14,257,902
Vacant Properties (Measure W)	5,378,388

TOTAL Appropriation Limitation with Override **\$855,101,188**

Not all City appropriations are subject to the limitation of Article XIII B. The intent of Proposition 4 was to restrict only the appropriation of “proceeds of taxes.” Determining which appropriations are subject to the limit requires classifying each funding source as either proceeds of taxes or non-proceeds of taxes. Property tax and local taxes are subject to limitation. State taxes that are subvented to the City count against the City’s limit if their use is unrestricted, as in the case of sales tax and motor vehicle in lieu. State subventions that are restricted in use are applied against the State’s limit rather than the City’s, so they are considered non-proceeds of taxes for the City’s calculation. This includes Measure B sales tax, gas tax, and state grants and state-mandated cost subventions included in the Grants and Subsidies category. Interest income is prorated so that the interest earned on tax revenue is included as proceeds of taxes.

Most of the City’s other revenue sources are classified as non-proceeds of taxes: franchise fees, Landscape and Lighting Assessments (special benefit assessment districts are excluded from the limitation), fines and penalties, license and permit fees, service charges, rentals and concessions, federal grants, Oakland Redevelopment Agency reimbursements (redevelopment agencies are exempt from Article XIII B), internal service revenues, and other miscellaneous revenues. Enterprise funds – sewer service charges and golf course revenues – are also exempt from the limitation. Fund transfers are re-appropriations of revenue received in previous years; these funds were included in the calculation of appropriations subject to limitation in the year they were received and are not counted twice.

**REVISED FY 2022-23
ARTICLE XIII B - APPROPRIATIONS LIMIT**

Revenue	Total	Proceeds of Taxes	Non Proceeds of Taxes
PROPERTY TAX	\$454.66	\$454.66	
STATE TAX			
Sales Tax	92.47	62.60	29.87
Gas Tax	22.44		22.44
Subtotal, State Taxes	\$114.90	\$62.60	\$52.30
LOCAL TAXES			
Business License Tax	111.88	111.88	
Utility Consumption Tax	54.40	54.40	
Real Estate Transfer Tax	112.20	112.20	
Transient Occupancy Tax	30.53	30.53	
Parking Tax	21.99	21.99	
Sugar Sweetened Beverage Tax	6.91	6.91	
Special Taxes	129.50	129.50	
Subtotal, Local Taxes	\$467.41	\$467.41	
LANDSCAPE & LIGHTING ASSESSMENT	19.16		19.16
INFRASTRUCTURE BOND	120.39		120.39
OTHER LOCAL FEES	48.63		48.63
SERVICE CHARGES	224.79		224.79
GRANTS & SUBSIDIES	182.65	44.15	138.50
MISCELLANEOUS	143.26		143.26
FUND TRANSFERS	479.67		479.67
SUBTOTAL REVENUES	\$2,255.52	\$1,028.82	\$1,226.69
INTEREST (Prorated)	0.59	0.48	0.10
TOTAL REVENUE	\$2,256.10	\$1,029.31	\$1,226.79
EXEMPTIONS*		(174.20)	
APPROPRIATIONS SUBJECT LIMITATION		\$855.10	
APPROPRIATIONS LIMITATION WITH OVERRIDE		855.10	
AMOUNT OVER/(UNDER) LIMIT		\$0.00	

* Property tax revenue appropriated to service voter-approved debt is exempted.