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2009 APR -8 PM 8:04

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney

(510) 238-3601

John A. Russo

FAX: (510) 238-6500

City Attorney

April 21, 2009

TTY/TDD: (510) 238-3254

Honorable City Council  
City Hall  
Oakland, California

**Re: Resolution Of The City Council Of The City Of Oakland, California, (1) Calling And Giving Notice For The Holding Of A Special Municipal Election On Tuesday, July 21, 2009 For The Purpose Of Submitting To The Electors Of The City Of Oakland Various Proposed Measures, Including But Not Limited To, A Charter Amendment And Ordinances, (2) Authorizing The City Administrator To Enter Into A Contract With A Consultant To Provide Assistance In Preparing For And Conducting The Special Municipal Election If Necessary, (3) Waiving The Request For Proposal Process For Such Consulting Contract; And (4) Authorizing And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With Applicable Legal Requirements**

Dear President Brunner and Members of the City Council:

On April 21, 2009 the Council will consider a resolution calling a special election for the purpose of submitting various measures to the Oakland electorate, including but not limited to, a City Charter amendment and ordinances.

The City Council can pass the resolution calling the election only after it adopts the ordinance that it introduced on March 31, 2009; that ordinance authorizes the City Council to call the special election on July 21, 2009.

The measures that the City Council currently is contemplating for the Special Municipal Election are:

- (1) a parcel tax for parks, landscaping and lighting

(This item was continued to the April 21, 2009 City Council agenda.)

- (2) an amendment to the City's real estate transfer tax to clarify the application of the tax to transfers of real estate resulting from changes in the ownership and control of corporations and other legal entities

(The City Council passed this item at its March 17, 2009 meeting. However, because this item is a general tax, the item needs to be voted upon again after the Council declares an emergency. California Constitution Article XIII(C), section 2(b) provides that general taxes shall be consolidated with a regularly scheduled general election for members of the City Council, except in case of emergency declared by a unanimous vote of the governing body.)

- (3) an increase in the City's transient occupancy tax (hotel tax)

(The City Council passed this item at its March 17, 2009 meeting.)

- (4) a City Charter amendment that would amend the Kids First! Oakland Fund for Children and Youth provided for in City Charter section 1300

(The City Council passed this item at its March 31, 2009 meeting.)

- (5) cannabis business classification tax

(This general tax will be on the April 21, 2009 City Council agenda.)

- (6) transactions and use tax (sales tax) that would be applicable for three years

(This general tax will be on the April 21, 2009 City Council agenda.)

Respectfully submitted,



John A. Russo  
City Attorney

Attorney Assigned: Barbara J. Parker

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OAKLAND  
2009 APR -8 PM 8:04

APPROVED AS TO FORM AND LEGALITY



# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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

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**Resolution Of The City Council Of The City Of Oakland, California, (1) Calling And Giving Notice For The Holding Of A Special Municipal Election On Tuesday, July 21, 2009 For The Purpose Of Submitting To The Electors Of The City Of Oakland Various Proposed Measures, Including But Not Limited To, A Charter Amendment And Ordinances, (2) Authorizing The City Administrator To Enter Into A Contract With A Consultant To Provide Assistance In Preparing For And Conducting The Special Municipal Election If Necessary, (3) Waiving The Request For Proposal Process For Such Consulting Contract; And (4) Authorizing And Directing The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With Applicable Legal Requirements**

**WHEREAS**, the California Constitution, Article XI, section 5(b) grants chartered cities the power to provide in their charters for the conduct of city elections; and

**WHEREAS**, Oakland City Charter section 1103 provides that all elections and procedures relating thereto shall be in accordance with the applicable provisions of state law, except as otherwise may be provided by ordinance or the City Charter; and

**WHEREAS**, in accordance with City Charter section 1103, Oakland Municipal Code section 3.08.040 authorizes the City Council to call a special municipal election for July 21, 2009, provided that the election date must be at least 88 days after the date that the City Council calls the election and notwithstanding any other provision of state law; and

**WHEREAS**, Oakland Municipal Code section 3.08.040 further authorizes the City Council to utilize alternative voting procedures, including but not limited to mail-ballot, electronic voting, and extended voting periods to conduct such special election, in addition to traditional in-person voting at polling places; and

**WHEREAS**, the City Council desires that various proposed measures, including but not limited to, a City Charter amendment and various ordinances shall be submitted to the electors of the City of Oakland at a Special Municipal Election to be held on July 21, 2009; and

**WHEREAS**, the City Council desires that the July 21, 2009 Special Municipal Election utilize mail-ballot voting and that the election be conducted wholly by mail; and

**WHEREAS**, the City Council has passed resolutions submitting on the Council's own motion to the electors at the next special municipal election that is held at least 88 days but no more than 150 days after the passage of such resolutions, (1) a measure that would amend City Charter Section 1300 on Kids First! Oakland Fund for children and Youth to set aside three percent (3.0%) of the actual unrestricted general purpose fund City revenue for programs for children and youth and (2) an ordinance that would add a three percent (3%) surcharge to the City's transient occupancy tax (hotel tax) that visitors staying in Oakland hotels pay; and

**WHEREAS**, attached to this resolution is a true and correct copy of the foregoing resolutions submitting the City Charter amendment related to Kids First! (Exhibit A, hereto) and the ordinance that would add a three percent (3%) surcharge to the City's transient occupancy tax (hotel tax) (Exhibit B, hereto); and

**WHEREAS**, the following proposed measures are being contemplated:

- (1) a parcel tax for parks, landscaping and lighting;
- (2) an amendment to the City's real estate transfer tax to clarify the application of the tax to transfers of real estate resulting from changes in the ownership and control of corporations and other legal entities;
- (3) a business tax applicable to persons engaged in a cannabis business; and
- (4) a transactions and use tax (sales tax); and

**WHEREAS**, the election will not be consolidated with a local or state-wide election, it may be necessary to enter into a contract with a consultant to provide assistance in preparing for and conducting the election; and

**WHEREAS**, given the time constraints and requirements that apply to the conduct of a special municipal election, there will not be time to comply with the City's request for proposal process; and

**WHEREAS**, the City Council finds that the contract authorized hereunder is for services of a professional, scientific or technical and temporary in nature; and

**WHEREAS**, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now therefore be it

**RESOLVED:** That pursuant to Oakland City Charter section 1103 and Chapter 3.08.040 of Chapter 3.08 of the Oakland Municipal Code, there is called and ordered to be held in the City of Oakland, California on Tuesday, July 21, 2009, a Special Municipal Election for the purpose of submitting the following proposed measures and such other measures as the City Council may approve for the ballot prior to the 88<sup>th</sup> day before the election:

1. "A Proposed Ordinance Amending the City's Transient Occupancy Tax (Hotel Tax) to Provide an Additional Three Percent (3%) Surcharge That Will Be Paid by Persons Who Stay In Oakland Hotels, In Order To Provide Additional Revenue to Several Oakland Programs"

*"To provide additional funding to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, cultural arts programs and festivals and the Oakland Convention and Visitor's Bureau, shall the City of Oakland add a three percent (3%) surcharge to the current eleven percent (11%) Transient Occupancy Tax (Hotel Tax) that persons who stay in Oakland hotels pay?"*

2. "An Amendment To The Oakland City Charter Section 1300 to Provide Funding For the Kids First! Oakland Fund For Children And Youth In The Amount Of Three Percent (3.0%) Of The Actual Unrestricted General Purpose Fund (Fund 1010) City Revenue"

*"Shall the City Charter be amended to require that the City (1) set aside 3.0% of its annual unrestricted General Purpose Fund revenues for grants to children's and youth services, (2) in addition to the set aside, continue to spend the amount that the City already spends on children and youth, and (3) every twelve years extend these requirements for twelve more years or seek voter approval of the extension?"; and be it*

**FURTHER RESOLVED:** That the July 21, 2009 Special Municipal Election will utilize mail-ballot voting and that the election will be conducted wholly by mail; and be it

**FURTHER RESOLVED:** That in accordance with Oakland Municipal Code section 3.08.200, the City Clerk shall transmit a copy of the proposed measures to the City Attorney and the City Attorney shall prepare impartial analyses of the proposed measures, showing the effect of the proposed measures on the existing law and the operation of the proposed amendments; and be it

**FURTHER RESOLVED:** That in accordance with Oakland Municipal Code section 3.08.210, the City Clerk shall transmit a copy of the proposed measures to the City Auditor and the City Auditor shall prepare impartial financial analyses of the measures; 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, and be it;

**FURTHER RESOLVED:** That, for the reasons set forth above, the City Council finds and determines that it is in the best interests of the City to waive the requirement for a competitive Request For Proposals/Qualifications process for the consulting contract to assist in the preparation for and conduct of the special election, and hereby authorizes the City Administrator to do so pursuant to Oakland Municipal Code Title 2.04, Section 2.04.051.B; and, be it

**FURTHER RESOLVED:** that the City Administrator is hereby authorized to select a consultant and enter into a contract to assist in the preparation for and conduct of the special municipal election in an amount not-to-exceed \_\_\_\_\_ dollars (\$\_\_\_\_,\_\_\_\_.00); and, be it;

**FURTHER RESOLVED:** that notice of the election hereby is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner required by 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 City Charter of the City of Oakland, the Government Code, the Elections Code of the State of California, and other applicable laws; 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 and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct said special municipal election, in accordance with the requirements of applicable laws.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION

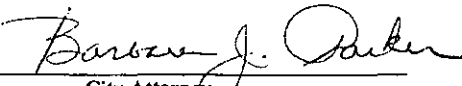
Attest: \_\_\_\_\_

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2009 APR -8 PM 8:05

OFFICE OF THE CITY CLERK  
OAKLAND  
09 APR -7 AM 10:02

APPROVED AS TO FORM AND LEGALITY

  
City Attorney

## OAKLAND CITY COUNCIL

81887

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**A Resolution Submitting On The City Council's Own Motion, To The Electors, At The Next Special Municipal Election That Is Held At Least 88 Days But No More Than 150 Days After The Passage Of This Resolution, A Measure (1) To Amend Charter Section 1300 On Kids First! Oakland Fund For Children And Youth Adopted By The Voters On November 4, 2008 (Measure OO) To, Among Other Things, Set Aside Three Percent (3.0%) Of The Actual Unrestricted General Purpose Fund (Fund 1010) City Revenue For Programs For Children And Youth And (2) Direct The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With Applicable Legal Requirements**

**WHEREAS**, The Kids First! Oakland Fund for Children and Youth was established by voter approved ballot Measure K in 1996 to set money aside for programs and services benefiting children and youth, such as after-school programs, mentoring programs, recreational programs, pre-school and job training programs; and

**WHEREAS**, it is critical to continue funding to services and programs that benefit Oakland's children and youth at a level that is fiscally responsible; and

**WHEREAS**, in 2008 the voters repealed Measure K and replaced it with Measure OO; and

**WHEREAS**, the Council wishes to amend City Charter section 1300, Measure OO; now therefore be it

**RESOLVED:** That the City Council of the city of Oakland does hereby submit to the voters at the next municipal election the following:

**AN AMENDMENT TO THE OAKLAND CITY CHARTER TO PROVIDE FUNDING FOR THE KIDS FIRST! OAKLAND FUND FOR CHILDREN AND YOUTH IN THE AMOUNT OF THREE PERCENT (3.0%) OF THE ACTUAL UNRESTRICTED GENERAL PURPOSE FUND (FUND 1010) CITY REVENUE**

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

**Section 1. Title.**

This Act shall be known and may be cited as “Kids First! —The Oakland Fund for Children and Youth Act.”

**Section 2. Findings and Purpose.**

The people of the City of Oakland hereby make the following findings and declare their purpose in enacting the Act is as follows:

(a) Teens and young adults comprise too many of Oakland’s homicide victims every year. Many of these deaths are due to gun violence.

(b) Many students in Oakland public schools do not graduate from high school. The percentage of Oakland students who do not graduate high school is much higher than the statewide average.

(c) It is critical to address root problems before they start by providing support services for children and youth and their families, like after-school and community based programs that keep children and youth out of trouble, encourage parent involvement and teach non- violent conflict resolution.

(d) *The Kids First!--Oakland Fund for Children and Youth was established by a voter approved ballot measure in 1996. The measure set aside two and one-half percent (2.5%) a portion of the City’s actual unrestricted general purpose fund (Fund 1010) revenues every year for services benefiting children and youth, such as after-school programs, mentoring, recreational programs, job training and pre-school programs. The set aside supplemented a base line amount that the City already provided to fund programs for children and youth.*

(e) Kids First! The Oakland Fund for Children and Youth puts money into programs that work. The Center on Juvenile and Criminal Justice reported that Oakland has a 69 percent drop in juvenile crime from 1995 to 2005, making Oakland the city with the lowest juvenile crime rate out of the eight largest cities in California. This is because of programs funded through measures like Kids First!

(f) *In order to This Act will provide increase funding for after-school programs, sports and recreation programs, youth gang prevention and other programs for children and youth, the City of Oakland shall set aside three percent (3.0%) of the City’s actual unrestricted General Purpose fund (Fund 1010) revenues for the Oakland Fund for Children and Youth, to two and a half percent of all City revenue.*

(g) This Act will protect and expand the services that help keep Oakland children and youth on the right track. Programs funded by this measure will provide after-school programs that give children and youth positive alternatives and safe places away from the negative influences of the streets.



~~(h) This Act makes the Oakland Fund for Children and Youth a permanent part of the Oakland City budget.~~

### **Section 3. Amendment to Article XIII of the City Charter of the City of Oakland.**

Article XIII of the City Charter of the City of Oakland is hereby amended to read as follows:

#### **ARTICLE XIII KIDS FIRST! OAKLAND CHILDREN'S FUND**

##### **Fund Revenue**

**Section 1300.** Notwithstanding any other provision of law, effective July 1, 2009 and continuing through June 30, ~~2014~~ 2021, the KIDS First! The Oakland Fund for Children and Youth ("Fund") shall receive revenues in an amount equal to ~~1.5%~~ three percent (3.0%) of the City of Oakland's annual ~~total~~ actual unrestricted General Purpose Fund (Fund 1010) revenues and appropriated as specified in this Act each year, together with any interest earned on the Fund and any amounts unspent or uncommitted by the Fund at the end of any fiscal year. The actual funds deposited in the Fund pursuant to this Act shall only come from actual unrestricted General Purpose Fund (Fund 1010) revenues of the City of Oakland. For purposes of this Act, Fund shall mean the fund established pursuant to Measure K which was approved by the voters of Oakland in 1996 and which shall continue in existence.

The annual amount of actual unrestricted General Purpose Fund (Fund 1010) revenues shall be estimated by the City Administrator and verified by the City Auditor. Errors in calculation for a fiscal year shall be corrected by an adjustment in the set aside depending upon whether the actual unrestricted General Purpose Fund (Fund 1010) revenues are greater or less than the estimate. Actual unrestricted General Purpose Fund (Fund 1010) revenues shall not include funds granted to the City by private agencies or by other public agencies and accepted and appropriated by the City.

~~Notwithstanding any other provision of law, effective July 1, 2011, the Fund shall receive revenues in an amount equal to 2.5% of the City of Oakland's annual total revenues and appropriated as specified in this Act each year, together with any interest earned on the Fund and any amounts unspent or uncommitted by the Fund at the end of any fiscal year. The actual funds deposited in the Fund pursuant to this Act shall only come from unrestricted revenues of the City of Oakland.~~

No less than 90% of the monies in the Fund shall be used to pay for eligible services for children and youth. No more than 10% of the monies in the Fund may be used for independent third-party evaluation, strategic planning, grant-making, grants management, training and technical assistance, and communications and outreach to ensure effective public participation.

~~Not later than 90 days after the end of each fiscal year, beginning with fiscal year 2009~~

~~2010, the City Auditor shall complete a financial audit, and verify that the City of Oakland set aside for the Fund the correct amount of monies for that fiscal year, together with any interest earned on the Fund and any amounts unspent by the Fund at the end of that fiscal year. If the City Auditor finds that in any fiscal year the amount of funds set aside for the Fund is less than the prescribed percentage of all City of Oakland revenues, the City of Oakland shall provide monies to the Fund so that the correct amount is received by the Fund within the next two fiscal years.~~

### **Eligible Services**

**Section 1301.** Monies in the Fund shall be used exclusively to:

1. support the healthy development of young children through pre-school education, school-readiness programs, physical and behavioral health services, parent education, and case management;
2. help children and youth succeed in school and graduate high school through after-school academic support and college readiness programs, arts, music, sports, outdoor education, internships, work experience, parent education, and leadership development, including civic engagement, service-learning, and arts expression;
3. prevent and reduce violence, crime, and gang involvement among children and youth through case management, physical and behavioral health services, internships, work experience, outdoor education, and leadership development, including civic engagement, service-learning, and arts expression;
4. help youth transition to productive adulthood through case management, physical and behavioral health services, hard-skills training and job placement in high-demand industries, internships, work experience, and leadership development, including civic engagement, service-learning, and arts expression.

### **Excluded Services**

**Section 1302.** Monies in the Fund shall not be appropriated or expended for:

1. any service which merely benefits children and youth incidentally;
2. acquisition of any capital item or real property not for primary and direct use by children and youth;
3. maintenance, utilities or any similar operating cost of any facility not used primarily and directly by children and youth;
4. any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure.

### **Strategic Investment Plan**

**Section 1303.** Appropriations from the Fund shall be made pursuant to a Three-Year

Strategic Investment Plan, with the first Plan beginning July 1, 2010.

Grants Appropriations made by the Fund for fiscal year 2008-2009 shall be carried forward to fiscal year 2009-2010 subject to including modifications recommended by the Planning & Oversight Committee, pursuant to performance review, and adjusted as needed to conform with the actual amount of the set-aside in fiscal year 2009-2010 based on the 3.0% of actual unrestricted General Purpose Fund (Fund 1010) formula set forth in this Act.

Each Three-Year Strategic Investment Plan shall be developed with the involvement of young people, parents, and service providers throughout the city, and the Oakland Unified School District, the County of Alameda, and the City of Oakland. Each Three-Year Strategic Investment Plan shall take into consideration the results and findings of the independent third-party evaluation.

Each Three-Year Strategic Investment Plan shall:

1. identify current service needs and gaps relative to addressing this measure's four outcome goals:
  - a. support the healthy development of young children;
  - b. help children and youth succeed in school and graduate high school;
  - c. prevent and reduce violence, crime, and gang involvement among young people;
  - d. prepare young people for healthy and productive adulthood.
2. describe specific three-year program initiatives that address the needs and gaps relative to each outcome goal, including:
  - a. target population
  - b. performance and impact objectives
  - c. intervention strategy
  - d. evaluation plan
  - e. funding allocations
3. describe how each three-year program initiative is aligned and coordinated with other public and private resources to achieve maximum service performance and youth impacts.

Each Three-Year Strategic Investment Plan shall be evaluated for its service performance and youth impact results by an independent third-party evaluator.

#### **Open and Fair Application Process**

**Section 1304.** All monies in the Fund shall be appropriated, pursuant to a Three-Year Strategic Investment Plan, to private non-profit and public agencies through an open and fair application process.

### **Planning & Oversight Committee**

**Section 1305.** The Children's Fund Planning and Oversight Committee ("Planning and Oversight Committee") established pursuant to Measure K which was approved by the voters of Oakland in 1996 shall continue to operate. Each City Councilmember shall appoint two Oakland residents, one of whom shall be a resident not older than 21 years, to serve as members of the Planning & Oversight Committee. The appointees shall demonstrate a strong interest in children and youth issues; and possess sound knowledge of, and expertise in, children and youth policy development and program implementation. Effective July 1, 2009, the Mayor shall only be permitted to appoint one (1) Oakland resident and shall therefore remove two of his previous appointments no later than June 30, 2009.

The Planning & Oversight Committee shall be responsible for:

1. preparing Three-Year Strategic Investment Plans;
2. soliciting funding applications from private non-profit and public agencies through an open and fair application process;
3. submitting to the Oakland City Council for its adoption Three-Year Strategic Investment Plans and funding recommendations;
4. submitting to the Oakland City Council for its adoption annual independent evaluation reports;
5. receiving City Auditor annual reports on the Fund's Financial Statement and the Base Spending Requirement.

### **Base Spending Requirement**

**Section 1306.** ~~Monies in the Fund shall be used exclusively to increase the total amount of City of Oakland expenditures for services to children and youth that are eligible to be paid from the Fund as defined in this section. The City of Oakland shall not reduce the amount of expenditures for eligible services in any fiscal year paid from sources other than the Fund below the Base Spending Requirement.~~

The Base Spending Requirement is the amount required based on the application of the base year percentage to the total audited actual City unrestricted General Purpose Fund (Fund 1010) expenditures in a fiscal year.

The Base Year Percentage is defined ~~as~~ by the ratio of audited-actual unrestricted General Purpose Fund (Fund 1010) expenditures-appropriations for eligible services for children and youth paid from sources other than the Fund to total City audited actual unrestricted General Purpose Fund (Fund 1010) appropriations expenditures in a fiscal year 1995-1996.

~~The base year is defined as the fiscal year beginning July 1, 2008 and ending June 30, 2009.~~

~~Not later than October 1, 2009 the City Auditor shall calculate and publish the Base Year Percentage, and shall specify by City Department each eligible service, budget expenditure amount, and funding source included in the calculation of the base year eligible services.~~

~~Not later than 90 days after the end of each fiscal year beginning with fiscal year 2009-2010, the City Auditor shall verify that the City of Oakland expended funds each year for eligible services in an amount no less than the amount required under the Base Spending Requirement, except to the extent that the City of Oakland ceases to receive federal, state, county, or private foundation funds that the funding agency required to be spent only on those services.~~

If the City Auditor finds that in any fiscal year the amount of funds expended for eligible services is less than the Base Percentage Requirement, the City of Oakland shall increase expenditures for eligible services within the following two years so that the correct amount of funds is expended.

Monies from the Fund shall not be appropriated for services that substitute for or replace services included in the City Auditor's Base Spending Requirement, except to the extent that the City of Oakland ceases to receive federal, state, county, or private foundation funds that the funding agency required to be spent only on those services.

Within 180 days following the completion of each fiscal year's external audit through 2020-2021 the City Auditor shall calculate and publish the actual amount of City of Oakland spending for children and youth services (exclusive of expenditures mandated by state or federal law).

#### **Section 4. Severability.**

If any provision of this Act or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provision or application of this Act that can be given effect without the invalid provision or application. To this end, the provisions of this Act are severable.

#### **Section 5. Reauthorization**

Section 1307. This section may be extended for an additional twelve years beginning July 1 2021 by a simple majority vote of the City Council. If the City Council does not itself extend this section, then the City Council shall place the question of whether to extend this section on the November 2020 ballot for a vote of the electorate. This process

will be repeated every twelve years or until reauthorization is rejected by a vote of the electorate.

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 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 3 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 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 hereby is directed to obtain printing, supplies and services as required; and be it

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

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 31 2009, 2009  
PASSED BY THE FOLLOWING VOTE:

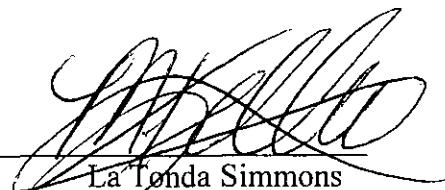
AYES - ~~BROOKS, DE LA FUENTE~~, KAPLAN, KERNIGHAN, NADEL, QUAN,  
REID AND PRESIDENT BRUNNER - 6

NOES - Brooks, De La Fuente - 2

ABSENT - 0

ABSTENTION - 0

Attest:


  
La Tonda Simmons  
City Clerk and Clerk of the Council  
Of the City of Oakland, California

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY

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

09 MAR 19 PM 4: 24

  
CITY ATTORNEY

**OAKLAND CITY COUNCIL**

81855  
RESOLUTION NO. \_\_\_\_\_ C.M.S.

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RESOLUTION SUBMITTING, ON THE COUNCIL'S OWN MOTION, TO THE ELECTORS AT A SPECIAL MUNICIPAL ELECTION THAT IS NOT LESS THAN 88 DAYS AND NO MORE THAN 150 DAYS AFTER THE DATE THE COUNCIL PASSES THIS RESOLUTION, A PROPOSED ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE IN ORDER TO PROVIDE FOR A THREE PERCENT SURCHARGE TO THE CITY'S TRANSIENT OCCUPANCY TAX (HOTEL TAX) TO PROVIDE FUNDING TO THE OAKLAND CONVENTION AND VISITORS BUREAU (OCVB) TO SUPPORT PROGRAMS TO INCREASE TOURISM IN OAKLAND, AND TO THE OAKLAND ZOO, OAKLAND MUSEUM OF CALIFORNIA, CHABOT SPACE AND SCIENCE CENTER AND THE CULTURAL ARTS PROGRAMS AND FESTIVALS

**WHEREAS**, the City Council of the City of Oakland desires to amend the Oakland Municipal Code in order to provide for a supplemental three percent (3%) transient occupancy tax, in addition to the eleven percent tax specified in Section 4.24.030; and

**WHEREAS**, tourism promotions and marketing programs will build greater awareness of the City of Oakland as a tourist, meeting, and event destination; and

**WHEREAS**, Oakland visitors and residents benefit from quality cultural and educational experiences and institutions located within the city; and

**WHEREAS**, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center, and Cultural Arts programs and Festivals are valuable assets that enhance the quality of life of Oakland residents; and

**WHEREAS**, the increasing costs of maintenance and operations and dwindling private resources are ongoing threats to the viability of Oakland's most valuable institutions; and

**WHEREAS**, it is the desire of the City Council to establish a steady stream of revenue for Oakland Convention And Visitors Bureau ("OCVB"), the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, in many cities tourism programs and regional cultural institutions such as these, are funded from hotel taxes; and

**WHEREAS**, these institutions attract a large number of visitors to the City of Oakland; and

**WHEREAS**, all revenues received from the 3% increase in transient occupancy tax shall be allocated as follows: 50% to OCVB for its expenses and promoting tourism activities, and 12.5% each to the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and Cultural Arts Programs and Festivals; and

**WHEREAS**, this economic investment in OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space & Science Center, and the Cultural Arts Programs & Festivals will enhance the City of Oakland's attractiveness to visitors and provide employment and enrichment to the City's residents; and

**WHEREAS**, OCVB, the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals shall engage in marketing efforts to promote the City of Oakland; now, therefore be it

**RESOLVED**: That the City Council hereby authorizes and directs the City Clerk, at least 88 days prior to the next municipal election 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 Council of the City of Oakland does hereby submit to the voters at a special municipal election that is not less than 88 days and no more than 150 days after the date the council passes this resolution the following:

SECTION 1. The Oakland Municipal Code is hereby amended by adding Section 4.24.031 to read as follows:

**Section 4.24.031. Imposition of surcharge.**

A. There shall be a tax of three percent (3%) of the rent charged by the operator of a hotel, in addition to the eleven percent tax specified in Section 4.24.030, for the privilege of occupancy in any hotel in the City of Oakland (the "Surcharge"). Subject to subsection E, below, the Surcharge so collected shall be appropriated to the Oakland Convention and Visitors Bureau (OCVB), the Oakland Zoo, the Oakland Museum of California, the Chabot Space and Science Center and the Cultural Arts Programs and Festivals as follows: 50% (fifty percent) to OCVB, 12.5% (twelve point five percent) to the Oakland Zoo, 12.5% (twelve point five percent) to the Oakland Museum of California, 12.5% (twelve point five percent) to Chabot Space and Science Center and 12.5% (twelve point five percent) for Cultural Arts Programs and Festivals. The Surcharge shall be not be appropriated for any purpose other than specifically set forth in this subsection. Appropriations will be subject to applicable City of Oakland policies.



B. Said Surcharge 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 Surcharge shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the Surcharge due is not paid to the operator of the hotel, the Tax Administrator may require that such a Surcharge shall be paid directly to the Tax Administrator.

C. All funds collected by the City from the Surcharge imposed by this section shall be immediately segregated from all other funds collected and shall be deposited into a special fund in the City treasury (the "Surcharge Fund"). All monies in the Surcharge Fund shall be distributed pursuant to subsection A herein on a monthly basis, following the month in which they were collected by the City.

D. Pursuant to Section 4.24.050, on the receipt provided to the transient, the operator may state the current eleven percent (11%) tax specified in Section 4.24.030 and the three percent (3%) Surcharge as a single transient occupancy tax of fourteen percent (14%).

E. Annual Audit. An independent audit or review shall be performed annually as provided by Government Code sections 50075.1 and 50075.3 to assure accountability and the proper disbursement of the proceeds of this Surcharge in accordance with the purposes stated herein. Surcharge proceeds may be used to pay for the audit or review.

SECTION 2. This ordinance shall be effective upon 2/3 vote approval by Oakland voters at an election, or such later date as required by state law, and may not be repealed or amended except by a subsequent vote of the voters of Oakland.

SECTION 3. Severability: If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

SECTION 4. 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.

SECTION 5. There are existing transient occupancy taxes that are general taxes, the proceeds of which are deposited in the general fund. The Surcharge revenues received as a result of this ordinance will be used for the purposes set forth in Section 4.24.031 and thus are special taxes.

**FURTHER RESOLVED:** The City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to the next general or special municipal election, to file with the Alameda County Clerk certified copies of this resolution.

**FURTHER RESOLVED:** 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.

**FURTHER RESOLVED:** The City Clerk is hereby directed to cause the posting, publication and printing of notices of this Resolution and proposed ordinance, pursuant to the requirements of the Charter of the City of Oakland, and the Government and Elections Codes of the State of California.

**FURTHER RESOLVED:** The City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election.

**FURTHER RESOLVED:** The City Clerk is hereby directed to obtain printing supplies and services as required for said election.

**FURTHER RESOLVED:** The City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the laws of the State of California and the Charter of the City of Oakland.

**FURTHER RESOLVED:** In accordance with the Election 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 measure, and said date shall be posted in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, MARCH \_\_\_\_, 2009 **MAR 17 2009**

PASSED BY THE FOLLOWING VOTE:

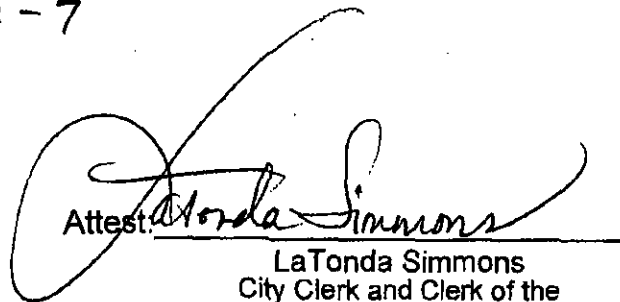
AYES- ~~DESBORC~~ DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, AND  
PRESIDENT BRUNNER - 7

NOES- 0

ABSENT- 0

ABSTENTION- Brooks - 1

Attest:



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