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CITY OF OAKLAND



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April 21, 2009

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Honorable City Council
City Hall
Oakland, California

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

Dear President Brunner and Members of the City Council:

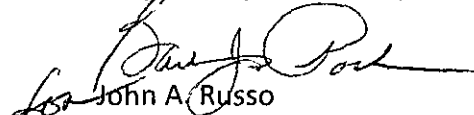
At its April 21, 2009 meeting, the Council will consider passing a resolution declaring an emergency that necessitates placing general tax measures on the special election ballot. The City Council is contemplating placing three general taxes on the ballot for a Special Municipal Election: (1) real estate transfer tax clarification; (2) cannabis business classification tax; and (3) a transactions and use tax (sales tax) that would be applicable for three years. The California Constitution requires that general taxes be placed on the ballot for a regularly scheduled general election for members of the City Council unless the Council by a unanimous vote declares an emergency. Article XIII(C), section 2(b) of the California Constitution provides:

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

(b) No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. **The election by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body.** (Emphasis added.)

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

Respectfully submitted,

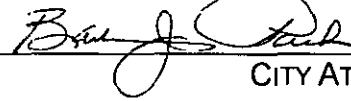

John A. Russo
City Attorney

Attorney Assigned: Barbara J. Parker

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APPROVED AS TO FORM AND LEGALITY



CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

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

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

WHEREAS, in order to raise revenue to address the emergency confronting the City, the City Council is contemplating submitting to the electors the following general tax measures: (1) an ordinance that would clarify the application of the City's real estate transfer tax to transfers of real estate resulting from changes in the ownership and control of corporations and other legal entities; (2) an ordinance that would impose a business tax on a new "cannabis" classification; and (3) an ordinance that would impose a transactions and use tax (sales tax) for three years, pursuant to Revenue and Taxation Code Section 7251 et seq. (the "General Tax Measures"); and

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

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

WHEREAS, at a regularly scheduled Council meeting scheduled for April 21, 2009, the City Council will consider a Resolution calling for a special election to be held on July 21, 2009 at which the City Council is considering submitting the General Tax Measures to the electors of the City; now therefore be it

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

FURTHER RESOLVED: The City Council of the City of Oakland hereby finds and declares that a fiscal emergency in the nature of a staggering budget imbalance and funding crisis exist in Oakland and that these emergency conditions are projected to

continue and intensify during the upcoming 2009-2010 and 2010-2011 Fiscal Years, which necessitates placing on the ballot at a special municipal election the General Tax Measures, which are intended to increase general tax revenues to the City. The facts justifying this declaration of emergency are as follows:

- A. The revenue estimates prepared by the City of Oakland for Fiscal Year 2009-10 show a deficit of \$83 million in the General Purpose Fund if the City is to maintain existing levels of service. The deficit continues to balloon. Analysis of the deficit as of March 31, 2009 was projected to be \$58,000,000 for 2009-2010 Fiscal Year. As of April 8, 2009, increasing downward trends suggest shortfalls an additional \$25,000,000.
- B. The deficit has been caused by steep reductions in revenues resulting from the economic downturn and increases in City operational expenses:
 - (1) Real estate related revenues have decreased. Declining property values have led to reduction of property taxes resulting in decreases in the City's share of falling property tax revenues. Also, waning in real estate market has led to drastic decrease in real estate transfer tax revenues. By the end of 2009, real estate transfer tax revenue is expected to drop by as much as \$2.9 million if recent trends hold.
 - (2) Parking tax revenue has declined. By the end of 2009, parking tax revenues are expected to drop by \$1 million due to reduced collection projected based on current trends. The primary source of reduction in collections is the Oakland airport and the decline is attributed to the economic downturn.
 - (3) Additional labor-management costs associated with negotiating union concessions to achieve personnel services savings.
- C. Because of declining revenues, the City has made every attempt to decrease costs by:
 - (1) Reductions in employee workforce. As recently as October 2008, the City instituted permanent staff reductions eliminating 152 positions, including laying off 70 full time employees.
 - (2) Reduction of City services. The City has reduced parks and recreation services and maintenance.
 - (3) Department budget cuts. City departments and agencies made drastic cuts from their budgets in the 2008-2009 Fiscal Year. They have been asked to present proposed budget cuts of 10%, 15% and 20% for the 2009-2010 Fiscal Year.
 - (4) No employee cost of living adjustments. No employee cost of living adjustments (except for the arbitrator-imposed increases for sworn police officers) were reflected in the October 2008 Budget Revision and are not anticipated in the proposed FY 2009-11 budget.
 - (5) City shut downs. The City shut its doors and laid off all non-emergency personnel this fiscal year for 13 days to assist in balancing the budget.
- D. Because of changes in State law, particularly the approval of Propositions 62 and 218, the City has very few means available for increasing General Fund revenue. However, the City has attempted to increase revenues by:

(1) Ensuring that service fees charged to the public cover the actual cost of services provided.

(2) Increasing rates for parking meters, parking citations and street sweeping citations.

(3) Instituting a facility closure and business shutdown equivalent to once per month, and City-owned properties and facilities to generate one-time revenues

E. The City cannot continue to make deeper cuts to services without having serious impacts on the peace, health, safety, and welfare of its residents, creating hazards to life and property, and endangering the City's ability to respond to emergency situations. In particular, unless staff and services are at least partially restored, public facilities and property will not be properly maintained, public safety standards will degrade, crime and violence will increase, the City's children will not have adequate and safe recreational opportunities, and youth summer employment opportunities will be severely curtailed, and library and senior center hours would be reduced.

F. The new general tax revenues from the General Tax Measures that are being considered could enable the City to reduce the extent of the cuts to vital services that would otherwise need to be made.

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

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

Attest: _____

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