

FILED
OFFICE OF THE CITY CLERK
OAKLAND

DAN KALB, Council President Pro Tempore
CITY HALL ROOM 500 FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA
94612

CITY OF OAKLAND



To: City Council and Members of the Public
From: Council President Pro Tempore Dan Kalb
Date: October 28, 2019
Subject: File #18-2332 – Parcel Tax For Parks Maintenance And To Address Homelessness – Amendments for Stormwater Improvements and Litter Reduction

Colleagues and Members of the Public:

RECOMMENDATION

ADOPT A RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE MARCH 3, 2020 STATEWIDE PRIMARY ELECTION, A PROPOSED ORDINANCE TO ADOPT A SPECIAL PARCEL TAX TO MAINTAIN AND IMPROVE CITY OF OAKLAND PARKS AND RECREATIONAL FACILITIES, PROVIDE SERVICES TO UNHOUSED/ UNSHELTERED PERSONS, **REDUCE TRASH AND LITTER POLLUTION IN THE CITY'S WATERSHED AND STORM DRAIN SYSTEM**, AND TO PROVIDE, MAINTAIN, AND IMPROVE OTHER MUNICIPAL SERVICES AS THE CITY COUNCIL MAY DEEM APPROPRIATE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE MARCH 3, 2020 STATEWIDE GENERAL ELECTION

SUMMARY

This memorandum accompanies the draft Resolution and Ordinance to adopt a special parcel tax to maintain and improve Oakland Parks and Recreation Facilities and provide services to unhoused/unsheltered persons.

In light of significant needs to reduce litter along our streets, creeks and waterways, and maintain, repair and invest in Oakland's storm water infrastructure, Councilmember Kalb proposes to include in the proposed ballot measure a specific commitment to fund capital investments, system assessments, and operations/maintenance of Oakland's watershed and storm drain management system for the purposes of reducing litter and trash, preventing flooding, and complying with State mandates on litter reduction.

BACKGROUND

Oakland's watershed is comprised of 15 main creeks, over 30 tributaries, Lake Merritt and the Estuary. The Oakland storm water program, within the Oakland Department of Public Works (OPW), manages rain water that runs off impervious surfaces such

as concrete, roofs, streets and channels the water out to the Bay. The City's program uses education, inspections, maintenance, and capital projects to minimize pollutants such as automobile fluids, PCB, mercury, pesticides, trash, etc. being discharged into the Creeks and the San Francisco Bay.

The city has a substantial litter problem along our streets, in our creeks and waterways and in our storm drain system. The city's storm drain system is in need of substantial maintenance in order to prevent flooding.

According to Oakland Public Works (Jan. 28, 2019 staff report on Stormwater Trash Load Reduction Compliance), "Meeting the trash reduction requirements set forth in the MRP has always required a significant financial investment. However, achieving the final reduction requirements will be even more difficult and costly as many of the easier projects and programs have already been implemented. The MRP will be renewed in 2020 and the City anticipates the possibility of new requirements and trash reduction targets."

ANALYSIS

The City of Oakland is subject to the San Francisco Bay Regional Water Quality Control Board's (Water Board) National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP). Under the MRP, the City is *mandated* to reduce trash and litter in its storm drain system and receiving water bodies.

In 2012, Oakland's Public Works Agency conducted an evaluation of the city's storm water infrastructure and gave itself a "D" grade. Furthermore, it stated that "Without a dedicated source of funding for ongoing maintenance, capital improvements, and water quality programs, the existing stormwater system will continue to deteriorate, damage related to flooding and infrastructure failure will continue, and compliance with regulations will be jeopardized."

These problems have only worsened. Additional delays in updating the city's storm water infrastructure will only increase the overall costs. Unlike most other municipalities in Alameda County, Oakland has never implemented a stormwater fee to support maintenance and necessary improvements to this system.

The City works to meet its permit compliance targets through program efforts including the installation of new underground full trash capture systems in the City storm drain system, and above ground efforts to remove litter in the streets before it enters inlets and waterways. These above ground efforts include volunteer programs and events, the Excess Litter Fee Program, the Business Improvement Districts, street sweeping programs, and clean-up of illegal dumping sites and homeless encampments.

While the most recent report from OPW (see January 28, 2019 Agenda Report attached in Attachment A) indicates that progress has been made, the report focuses on credits received from "reduction measures" taken to reduce trash load, and does

not actually measure the amount of trash and debris that is currently flowing into Oakland's storm water system. For example, Oakland is currently receiving trash reduction credit through: extent of full trash capture systems installed in the City's storm drain system that capture trash; volume of trash removed during volunteer cleanup events at creeks and shorelines; implementation of source control bans on plastic bags and polystyrene foam food service ware; and reduction in trash on the City's streets and sidewalks as measured by on-land visual assessments.

Discussions with city staff, water quality advocates and staff of the Regional Water Quality Control Board itself indicate that Oakland's next permit will contain even more stringent requirements. It is not at all clear that Oakland is fully prepared to achieve compliance and to substantially reduce litter as required. According to the 2019-21 Adopted Capital Improvement Program and 5-Year-Plan, storm drainage system improvements and water quality/trash capture projects that are required to meet various regulations and requirements are "critically unfunded with no available funding."

In summary, there is an urgent need to identify new funding sources in order to:

- Reduce and prevent litter in our creeks, streets, storm water system, waterways, and Bay.
- Keep harmful chemicals and other substances from poisoning our waterways, creeks, Lake and Bay.
- Prevent flooding of city streets, home basements, and buildings by repairing our storm drain system.
- Avoid large fines and judgements that could occur if City fails to address existing Regional Water Quality Control Board storm water state mandates.

FISCAL IMPACT

The proposed amendments to the Parks/Homelessness Ballot Measure would set aside 10% -- (Less than \$15 per single-family parcel) of the overall parcel tax revenue to invest in litter reduction and improve the city's storm water drainage and watershed management system.

PUBLIC OUTREACH / INTEREST

The Councilmember's office conducted outreach about this proposal to several local organizations focused on water issues, environmental organizations focused on San Francisco Bay water quality, and the Water Board staff, as well as the city's Environmental Services staff.

COORDINATION

The City Attorney's office and Oakland Public Works staff members were consulted on this proposal.

SUSTAINABLE OPPORTUNITIES

Economic: The amendments to this proposed ordinance are intended to protect the economic vitality of Oakland by helping to prevent future fines and potential lawsuits from organizations and regulatory bodies that oversee municipalities' compliance with pollution reduction requirements in the San Francisco Bay Area.

Environmental: The amendments to this proposed legislation aim to reduce and prevent litter in our creeks, streets, storm water system, waterways, and Bay, prevent flooding, and keep harmful chemicals and other substances from poisoning our waterways, creeks, Lake and Bay.


Social Equity: The amendments to this proposed ordinance are intended to promote social equity by protecting Oakland's watershed and San Francisco Bay, and protect against flooding which could greatly impact Oakland's low income residents and property owners.

ACTION REQUESTED BY THE CITY COUNCIL

Councilmember Kalb recommend the City Council:

ADOPT A RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE MARCH 3, 2020 STATEWIDE PRIMARY ELECTION, A PROPOSED ORDINANCE TO ADOPT A SPECIAL PARCEL TAX TO MAINTAIN AND IMPROVE CITY OF OAKLAND PARKS AND RECREATIONAL FACILITIES, PROVIDE SERVICES TO UNHOUSED/ UNSHELTERED PERSONS, **REDUCE TRASH AND LITTER POLLUTION IN THE CITY'S WATERSHED AND STORM DRAIN SYSTEM**, AND TO PROVIDE, MAINTAIN, AND IMPROVE OTHER MUNICIPAL SERVICES AS THE CITY COUNCIL MAY DEEM APPROPRIATE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE MARCH 3, 2020 STATEWIDE GENERAL ELECTION

Respectfully submitted,



Dan Kalb, Council President Pro Tempore, Councilmember District 1

Attachments:

1. Proposed Amendments to the proposed Resolution & Ordinance
2. Letter from Thomas Mumley, Assistant Executive Officer, San Francisco Bay Regional Water Quality Control Board

2019 OCT 28 PM 4:13

Approved to: [redacted] Legality
DRAFT

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

AMENDMENTS INTRODUCED BY COUNCILMEMBER KALB

RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE MARCH 3, 2020 STATEWIDE PRIMARY ELECTION, A PROPOSED ORDINANCE TO ADOPT A SPECIAL PARCEL TAX TO MAINTAIN AND IMPROVE CITY OF OAKLAND PARKS AND RECREATIONAL FACILITIES, PROVIDE SERVICES TO UNHOUSED/UNSHELTERED PERSONS, REDUCE TRASH AND LITTER POLLUTION IN THE CITY'S WATERSHED AND STORM DRAIN SYSTEM, AND TO PROVIDE, MAINTAIN, AND IMPROVE RELATED OTHER MUNICIPAL SERVICES AS THE CITY COUNCIL MAY DEEM APPROPRIATE; AND DIRECTING THE CITY CLERK TO FIX THE DATE FOR SUBMISSION OF ARGUMENTS AND PROVIDE FOR NOTICE AND PUBLICATION IN ACCORDANCE WITH THE MARCH 3, 2020 STATEWIDE GENERAL ELECTION

WHEREAS, park maintenance staffing has plummeted since its zenith in the early 1970s, but the reductions occurred slowly over the years as Proposition 13 curtailed City revenues; and

WHEREAS, in 1989, and as a result of a deficit in the City's General Purpose Fund (GPF), voters approved the Landscaping and Lighting Assessment District (LLAD) whose funds were to be dedicated to the maintenance of parks, grounds and medians, ball fields, open space; for the provision of custodial services at recreational facilities and free-standing restrooms at parks and ball fields, tree services and repairs to streetlights; and

WHEREAS, in 1994, Oakland voters rejected a ballot measure challenging the LLAD and since then Oakland has acquired additional acres of parkland and constructed new recreational facilities; and

WHEREAS, the LLAD currently generates approximately \$20.0 million dollars in revenue annually (including delinquency assessments from prior years) which provides funding to maintain grounds and landscaped medians, open space, pools, and custodial services at about 130 park and recreation facilities, 44 stand-alone restrooms, community gardens and ball fields, and many other recreation-related buildings and infrastructure in the City of Oakland, as well as, pays utility costs for City street lights and water use at parks and fields; and

WHEREAS, costs have escalated, (e.g. utility rates, and personnel costs), and with no provision for a cost of living adjustment (COLA) in the LLAD, by 2005 the GPF had to begin supplementing the LLAD by \$5.5 million dollars annually, and that pattern has persisted in each budget since; and

WHEREAS, the City will contribute approximately \$8.0 million dollars in fiscal year (FY) 2019-20 from other funding sources for the maintenance of parks and recreational facilities; and

WHEREAS, new and renovated parks and plans are being developed primarily funded by voter-supported Measure DD, Measure WW, State Park Bonds and former Redevelopment funds (still funding projects in process); and

WHEREAS, bonds and former Redevelopment funds are restricted to supporting the creation of a park or other facility and are not available to fund staff or materials for ongoing maintenance; and

WHEREAS, there have been insufficient funds budgeted to maintain these newly constructed parks; and

WHEREAS, parks require more care as years pass, and deferred maintenance at can result more in expensive repairs and renovations; and

WHEREAS, parks and recreational facility maintenance is essential to the accessibility vitality, and livability of Oakland; and

WHEREAS, in their report titled *Continuing Crisis: The 2018 Report on the State of Maintenance in Oakland Parks*, the Oakland Parks and Recreation Foundation states, "Our parks should reflect Oakland's commitment to becoming a more inclusive and equitable city. While there are some bright spots, there is much work to be done"; and

WHEREAS, Oakland's parks provide spaces for all Oaklanders to be physically active, provide vital green space, generate economic benefits, and protect natural areas; and

WHEREAS, Oakland's parks and recreation centers host a variety of events, including infant and toddler play groups, after-school programs and summer camps for our children, arts instruction to students of all ages, community meetings and events, fitness classes, sports, and many more; and

WHEREAS, the City is subject to the San Francisco Bay Regional Water Quality Control Board's National Pollutant Discharge Elimination System Municipal Regional Permit (the "NPDES Permit"), which mandates that the City eliminate trash and litter in its storm drain system and in receiving water bodies by 2022; and

WHEREAS, the City has not identified revenue sufficient to meet its obligations pursuant to the NPDES Permit and may face significant legal, financial, and reputational consequences as a result; and

WHEREAS, in addition to being a legal requirement, proper storm drain maintenance and repair preserves quality of life for all Oakland residents by reducing litter, keeping streets and creeks clean, and preventing flooding; and

WHEREAS, all revenues received from the Act will be expended exclusively for the benefit of parks and recreational facilities, homelessness services, and to reduce trash and litter pollution along our streets and in the City's storm drain system; and now therefore be it

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

FURTHER RESOLVED: That the Oakland City Council does hereby submit to the voters, at the March 3, 2020, Statewide Primary Election, an Ordinance that shall read as follows:

PART 1. General

SECTION 1. Title and Purpose.

- A. TITLE. This Ordinance may be cited as the "The Oakland Parks & Recreation Preservation, Litter Reduction, and Homelessness Services Act of 2020".
- B. PURPOSE. The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to maintain, protect and improve parks and recreational facilities and services, to provide homeless support services, to improve water quality, and to pay for certain administrative expenses related to the taxes.

Because the proceeds of the parcel tax will be deposited in a special fund or funds restricted for the services and programs specified in Section 3, the tax is a special tax.

SECTION 2. Findings.

This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA"), since in accordance with CEQA Guidelines Section 15061, subd. (b)(3), 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 3. Use of Proceeds.

- A. Objectives. The tax proceeds raised by these special taxes may be used only to pay for costs or expenses relating to or arising from efforts to achieve the following desired outcomes and objectives:
1. *[Outcome and Objectives for Parks];*
 2. *[Outcome and Objectives for Homelessness];*
 3. Reduce litter in city's storm drain system, along our creeks and streets and in receiving water bodies pursuant to the San Francisco Bay Regional Water Quality Control Board's pollution discharge elimination system municipal permit; repair city's storm water system to prevent flooding and reduce harmful substances in the system; and
 4. Cover the direct and indirect administrative expenses associated with the special tax.
- B. Uses. Taxes collected pursuant to the special taxes imposed herein shall be used only in connection with programs and services that further the objectives set forth in Section 3(A), such as the following:
1. Direct parks and recreational services. Includes costs associated with maintaining, protecting, and improving parks and recreational facilities and services throughout Oakland, such as:
 - (a) *[examples].*
 - (b)
 2. Services to address homelessness. Includes costs associated with alleviating homelessness or its impacts within Oakland, such as:
 - (a) *[examples].*
 - (b)
 3. Services and projects to reduce litter and trash along our creeks and streets, and in our storm water system and receiving waterways; to repair Oakland's storm water system to reduce flooding; and to comply with State requirements on litter reduction. This includes, but is not limited to:
 - (a) Acquisition, installation and maintenance of full trash capture systems, including hydrodynamic separator and connector pipe screens;

- (b) City-sponsored Creek and Shoreline Clean-ups;
- (c) Expansion of illegal dumping enforcement and education to reduce trash in our creeks, storm water system, and waterways;
- (d) Expansion of Street Sweeping program;
- (e) Green infrastructure to reduce litter and improve water quality;
- (f) Support for Adopt-a-Drain and Adopt-a-Spot programs and related educational efforts to reduce trash;
- (g) Repairs to City's storm water system to reduce potential for flooding;
- (h) Conducting inspections of facilities contributing to trash overflow into our storm drains;
- (i) Implementation of City's Direct Trash Discharge Control Plan or related plans approved by the San Francisco Bay Regional Water Quality Control Board; and
- (j) Enforcement of ordinances seeking to reduce the use and disposal of plastic foodware and packaging.

4. Administrative Expenses. Includes direct and indirect costs associated this special tax, such as:

- (a) Any fees charged by County of Alameda to collect and remit the special tax; and
- (b) Any fees related to an audit of the special tax, to implement a performance tracking system, or to conduct an evaluation of the effectiveness of services or programs that are funded by the special tax.

C. Allocation. Revenue Allocation. Except as otherwise expressly authorized by this Ordinance, the special taxes authorized and collected pursuant to this Ordinance shall be allocated by service type as follows:

- 1. **Direct parks and recreational services.** [] amount of proceeds collected as part of this special tax shall be allocated to direct parks and recreational services defined herein and also described in Section 3 of this ordinance.

2. **Services to address homelessness.** [_____] amount of proceeds collected as part of this special tax shall be allocated to direct services to prevent homelessness as described in Section 3 of this ordinance.

3. **Services and projects to reduce trash and litter in the City's storm drain system and receiving water bodies, and prevent flooding.** Ten percent (10%) of proceeds collected as part of this special tax shall be allocated to direct services and projects to improve trash and litter collection in our creeks, streets, storm drain system and waterways, repair the City's storm drain system and prevent flooding as described in Section 3 of this ordinance.

D. Authorized Uses of Tax Revenues. Except as otherwise expressly authorized by this Ordinance, the special taxes authorized and collected pursuant to this Ordinance shall be used only for the purposes and projects set forth in Section 3.

SECTION 4. Planning and Accountability

A. Commission. The City Council shall assign to one or more existing Board(s) or Commission(s), the responsibility for citizen oversight of this measure.

1. This Board or Commission shall review reports related to the expenditure of all revenue collected by the City from the special tax imposed by this Ordinance and provide reports to the City Council when necessary.

OR

1. Duties of the Commission: The Commission shall perform the following duties:

(a) Evaluate, inquire, and review the administration, coordination, and evaluation of strategies and practices mandated in this Ordinance.

(b) Make recommendations to the City Administrator and, as appropriate, the independent evaluator regarding the scope of the annual program performance evaluation. Wherever possible, the scope shall relate directly to the efficacy of strategies to achieve desired outcomes and to issues raised in previous evaluations.

(c) Receive draft performance reviews to provide feedback before the evaluator finalizes the report.

- (d) Report issues identified in the annual fiscal audit to the Mayor and City Council.
 - (e) Review the annual fiscal and performance audits and evaluations.
 - (f) Report in a public meeting to the Mayor and the City Council on the implementation of this Ordinance and recommend ordinances, resolutions, and regulations to ensure compliance with the requirements and intents of this Ordinance.
 - (g) Provide input on strategies: At least every three (3) years, the department head or his/her designee of each department receiving funds from this Ordinance shall present to the Commission a priority spending plan for funds received from this Ordinance. The priority spending plan shall include proposed expenditures, strategic rationales for those expenditures and intended measurable outcomes and metrics expected from those expenditures. The first presentation shall occur within 120 days of the effective date of this Ordinance. In a public meeting, the Commission shall make recommendations to the Mayor and City Council on the strategies in the plans prior to the City Council adoption of the plans. Spending of tax proceeds of this Ordinance must be sufficiently flexible to allow for timely responsiveness to the changing causes of violent crime. The priority spending plans shall reflect such changes. The Commission will recommend to the Mayor and City Council those strategies and practices funded by tax proceeds of this Ordinance that should be continued and/or terminated, based on successes in responding to, reducing or preventing violent crime as demonstrated in the evaluation.
 - (h) Semi-Annual Progress Reports: Twice each year, the Commission shall receive a report from a representative of each department receiving funds from this Ordinance, updating the Commission on the priority spending plans and demonstrating progress towards the desired outcomes.
2. Meetings of the Commission: The Commission shall conduct regular meetings and such special meetings as it deems necessary.
 3. Audit: The City Auditor shall perform an annual audit to ensure accountability and proper disbursement of all revenue collected by the City from the special tax imposed by this Ordinance, in

accordance with the objectives stated herein and in compliance with provisions of State Law.

OR

3. Annual Audit Review: An independent audit shall be performed annually to ensure accountability and proper disbursement of the proceeds of this tax in accordance with the objectives stated herein as provided by Government Code sections 50075.1 and 50075.3. The City will, from time to time, retain an engineer for services pertaining to this parcel tax.

SECTION 5. Special Fund.

All funds collected by the City from the special tax imposed by this Ordinance shall be deposited into one or more special funds in the City treasury and appropriated and expended only for the purposes and uses authorized by this Ordinance.

SECTION 6. Savings Clause.

If any provision, sentence, clause, Section or part of this Act 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 Act and shall not affect or Act any of the remaining provisions, sentences, clauses, Sections or parts of this ordinance. It is hereby declared to be the intention of the city, that the City would have adopted this Act had such unconstitutional, illegal or invalid provision, sentence, clause Section or part thereof not been included herein.

If any tax or surcharge imposed by this Act is found to be unconstitutional, illegal or invalid, the amounts, services, programs and personnel required to be funded from such taxes and surcharges shall be reduced proportionately by any revenues lost due to such unconstitutionality, illegality or invalidity.

SECTION 7. Regulations.

The City Administrator may promulgate appropriate regulations to implement the provisions of this Act.

SECTION 8. Amendment.

Except as otherwise expressly provided herein, the tax rates set forth herein may not be increased by action of the City Council without the applicable voter approval but the City Council may make any other changes to this Ordinance as are consistent with its purpose.

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.

SECTION 10. Severability.

If any provision of this Act, or part of this Act, or the application of any provision or part to any person or circumstances, is for any reason held to be invalid, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable. If a court were to find in a final, unreviewable judgment that the exclusion of one or more entities or activities from the applicability of the Act renders the Act unconstitutional, those exceptions should be severed and the Act should be made applicable to the entities or activities formerly exempt from the Act. It is the intent of the voters that this Act would have been enacted regardless of whether any invalid provision had been included or any invalid application had been made.

SECTION 11. Conflicting Initiatives.

- A. In the event that this measure and one or more conflicting measures appear on the same City ballot, the provisions of the measure that receives the greatest number of affirmative votes shall prevail in their entirety, and the other measure or measures shall be null and void.
- B. If this measure is approved by the voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SECTION 12. Reimbursement.

At the discretion of the City Council, special tax revenues collected by the City pursuant to this Ordinance may be used to reimburse the City for costs incurred in connection with the election seeking voter approval of this Ordinance.

SECTION 13. Liberal Construction.

This Act shall be liberally construed to effectuate its purposes.

SECTION 14. Effective Date.

The taxes imposed by this Ordinance shall be effective only if approved by two-thirds of the voters voting in the election held on March 3, 2020 and shall go into effect ten (10) days after the vote is declared by the City Council.

SECTION 15. Term of Tax Imposition.

The taxes enacted by this Ordinance shall be imposed and levied for a period of twenty (20) years. The City shall place delinquencies on subsequent tax bills.

PART 2. Parcel Tax

SECTION 1. Definitions.

For purposes of this Part 2 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. "City" shall mean the City of Oakland, California.
- C. "Direct Parks and Recreational Services" shall mean the maintenance of parks, grounds and medians, ball fields, open space; for the provision of custodial services at recreational facilities and free-standing restrooms at parks and ball fields, and tree services.
- D. "Family" shall mean one (1) or more persons related by blood, marriage, domestic partnership, or adoption, legal guardianship, 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.
- E. "Hotel" shall be as defined by Oakland Municipal Code Section 4.24.020.
- F. "Landscape Lighting Assessment District" or "LLAD" shall be mean that district authorized by the Oakland City Council in 1989 and that authorized the collection of a parcel tax, and dedicate the proceeds of said tax to the to the maintenance of parks, grounds and medians, ballfields, open space; for the provision of custodial services at recreational facilities and free-standing restrooms at parks and ballfields, tree services and repairs to streetlights.
- G. "Multiple Residential Unit Parcel" shall mean a parcel zoned for a Building, or those portions thereof, that accommodates or is intended to contain two (2) or more residential units, whether or not developed.
- H. "Non-Residential" shall mean all parcels that are not classified by this Act as Single Family Residential or Multiple Residential Unit Parcels, and shall include, but not be limited to, parcels for industrial, commercial and institutional improvements, whether or not developed.

- I. "Occupancy" shall be as defined by Oakland Municipal Code Section 4.24.020.
- J. "Operator" shall be as defined by Oakland Municipal Code Section 4.24.020.
- K. "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.
- L. "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.
- M. "Person" shall mean an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- N. "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.
- O. "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.
- P. "Single Family Residential Parcel" shall mean a parcel zoned for single-family residences, whether or not developed.
- Q. "Tax" shall mean the parcel tax created by this Act and further described in Part 2, Section 2, below.
- R. "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 has 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 municipal services and the availability of such 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 is imposed as of July 1 of each year on the person who owned the parcel on that date. The tax shall be collected at the same time, by the same officials, and

pursuant to the same procedures as the one percent imposed pursuant to Article XIII A of the California Constitution.

The tax hereby imposed shall be set as follows subject to adjustment as provided in Section 4 of this Act:

- A. For owners of all Single-Family Residential Parcels, the tax shall be at the annual rate of \$148.00 per Parcel.
- B. For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of \$101.08 per occupied Residential Unit.
- C. The tax for Non-Residential Parcels is calculated using both frontage and square footage measurements to determine total single-family residential unit equivalents (SFE). A frontage of eighty (80) feet for a commercial institutional parcel, for example, is equal to one (1) single family residential unit equivalent. (See matrix.) An area of six thousand four hundred (6,400) square feet for the commercial institutional parcel is equal to one (1) single family residential unit equivalent. For tall buildings (more than five (5) stories), the single-family residential unit equivalent computation also includes one (1) single family residential unit equivalent for every five thousand (5,000) square feet of net rentable area. The tax is the annual rate \$148.00 multiplied by the total number of single-family residential unit equivalents (determined by the frontage and square footage).

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

Tall Buildings > 5 stories	80	6,400	5,000
----------------------------	----	-------	-------

Example: assessment calculation for a Commercial Institutional Parcel with a Frontage of 160 feet and an Area of 12,800 square feet:

Frontage 160 feet + 80 = 2 SFE
Area 12,800 square ÷ feet 6,400 = 2 SFE

 2 SFE + 2 SFE = 4 SFE

 4 SFE x \$148.00 = \$592.00 tax

- 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.

- E. The tax imposed by this Act shall be imposed on each Hotel within the City as follows:
 - 1. Residential Hotels. Rooms in a Hotel occupied by individuals who were not Transients for eighty percent (80%) or more of the previous fiscal year shall be deemed Residential Units and the parcel on which they are located shall be subject to the Parcel tax imposed on Multiple Residential Unit Parcels. The remainder of the Building shall be subject to the applicable tax computed in accordance with the single-family residential unit equivalent formula set forth in Section 2(c) of this Act.

 - 2. Transient Hotels. Notwithstanding paragraph (1) of this subdivision, if eighty percent (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 4.24.010 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/institutional, and shall be subject to the applicable tax computed in accordance with the single-family residential unit equivalent formula set forth in Section 2(c) of this Act, and the parcel tax imposed on Multiple Residential Units shall not apply.

SECTION 3. Exemptions.

- A. Very-Low income household exemption. The following is exempt from this tax: an Owner of a Single-Family Residential Unit (1) who resides in such

unit and (2) whose combined family income, from all sources for the previous year, is at or below the income level qualifying as sixty percent (60%) of area median 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.), or successor legislation, for such year. The Director of Finance shall set forth procedures for annual applications from Owners for the exemption, which may require information such as federal income tax returns and W-2 forms of owner occupants eligible for the exemption, or procedures for an alternative process.

- B. Senior household exemption. The following is exempt from this tax: an Owner of a single family residential unit (1) who resides in such unit, (2) who is sixty-five (65) years of age or older and (3) whose combined family income, from all sources for the previous year, is at or below the income level qualifying as eighty percent (80%) of area median 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.), or successor legislation, for such year. The Director of Finance shall set forth procedures for annual applications from Owners for the exemption, which may require information such as federal income tax returns and W-2 forms of owner occupants eligible for the exemption, or procedures for an alternative process.
- C. Exemption for affordable housing projects. Rental housing owned by nonprofit corporations and nonprofit-controlled partnerships for senior, disabled, and low-income households that are exempt from ad valorem property tax pursuant California Revenue and Taxation Code Sections 214(f), (g) and (h) are exempt from this tax.

OR

Fifty percent reduction for affordable housing projects. Rental housing owned by nonprofit corporations and nonprofit-controlled partnerships for senior, disabled and low-income households that are exempt from ad valorem property tax pursuant California Revenue and Taxation Code 214(f), (g) and (h) shall be liable for only 50% of the parcel tax. The exemption shall apply in the same proportion that is exempted from ad valorem property tax.

- D. Rebate to tenants in foreclosed single-family homes. The City will provide a rebate of one-half (1/2) of the tax and subsequent increases thereto to tenants in single family homes that have been foreclosed upon who have paid a passed through Parcel Tax. To qualify for this rebate, a tenant must: (1) have lived in the unit before foreclosure proceedings commenced; and (2) be at or below the income level qualifying as sixty percent (60%) of area median 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.), or successor legislation, for such year. The City will provide this rebate for

every month that the tax was applied and the tenant occupied the unit. The City will provide this rebate at the end of each year, or when the tenant vacates the unit, whichever is earlier. The City Administrator will promulgate regulations to effectuate this subdivision.

- E. Real property owned by a religious organization or school that is exempt from property taxes under California law is exempt from this tax. To qualify for this exemption, each religious organization or school seeking such exemption shall submit such information required to determine eligibility for such exemption.

SECTION 4. Reduction in Tax Rate; Rate Adjustment.

- A. Subject to paragraph (B) of this section, 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 suspended, reduced or eliminated by the City Council to the full extent allowed by Section 2 of Article XIIC of the Constitution of the State of California.
- B. Beginning in the Fiscal Year 2020-2021, and each year thereafter, the City Council may increase the tax imposed and/or the LLAD tax assessment of 1989 by a percentage that is less than or equal to:
 - 1. The percentage change in the cost of living in the immediate San Francisco Bay Area, as determined by the twelve-month (12) month Annual Percentage Change in the Consumer Price Index (CPI) for all items in the San Francisco Bay Area as published by the U.S. Department of Labor Statistics; or
 - 2. The percentage change in California per capita personal income, as determined by the California State Department of Finance and shown in the Price Factor and Population Information Report issued each May.

SECTION 5. Parcel Tax Not To Replace General Fund Appropriations

[Maintenance of Effort Term, TBD]

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 Act. The Director of Finance is charged with the enforcement of this Act and may adopt rules and regulations relating to such enforcement.

SECTION 7. Examination of Books, Records, Witnesses; Penalties.

The Director of Finance or the Director of Finance's 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 Act.

The Director of Finance or the Director of Finance's designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this Act, including any person who claims an exemption, 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 the Director of Finance's 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 Act and for this purpose may compel the production of books, papers and records, whether as parties or witnesses, whenever the Director of Finance 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 Act and of the Oakland Municipal Code and subject to any and all remedies specified therein.

SECTION 8. Collection of Tax; Interest and Penalties.

The tax shall be delinquent if the City does not receive it 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 the tax shall be collected in such a manner as the City Council may decide. The City may place delinquencies on a subsequent tax bill.

A one-time penalty at a rate set by the City Council, which in no event shall exceed twenty-five percent (25%) of the tax due per fiscal year, is hereby imposed by this Act on all taxpayers who fail to timely pay the tax provided by this Act. In addition, the City Council may assess interest at the rate of one percent (1%) per month on the unpaid tax and the penalty thereon.

Every penalty imposed and such interest as accrues under the provisions of this Act shall become a part of the tax herein required to be paid.

The City may authorize the County of Alameda to collect the taxes imposed by this Act in conjunction with and at the same time and in the same manner as the County collects property taxes for the City. If the City elects to authorize the County of Alameda to collect the tax, penalties and interest shall be those applicable to the nonpayment of property taxes.

SECTION 9. Collection of Unpaid Taxes.

The amount of any tax, penalty, and interest imposed under the provisions of this Act shall be deemed a debt to the City. Any person owing money under the provisions of

this Act 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 Act 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 written claim for refund, stating the specific ground upon which such claim is founded, is received by the Director of Finance within one (1) year of the date of payment. The claim shall be filed by the person who paid the tax or such person's guardian, conservator, or the executor of her or his estate. No representative claim may be filed on behalf of a 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 of Finance. If the claim is approved by the Director of Finance, the excess amount collected or paid may be refunded or may be credited against any amounts then due and payable from the person from whom it was collected or by whom paid, and the balance may be refunded to such person, or such person's administrators or executors. Filing a claim shall be a condition precedent to legal action against the City for a refund of the tax; and be it,

FURTHER 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 state primary election of March 3, 2020, consistent with provisions of State Law; and be it,

FURTHER RESOLVED: That in accordance with applicable law, 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 accordance with legal requirements; and be it,

FURTHER RESOLVED: That each ballot used at said election shall have printed therein, in addition to any other matter required by law, the following:

AN ORDINANCE APPROVING A PARCEL TAX TO MAINTAIN, PROTECT AND IMPROVE PARKS & RECREATION FACILITIES AND SERVICES, TO PROVIDE HOMELESS SUPPORT SERVICES, AND TO REDUCE LITTER AND IMPROVE STORMWATER MANAGEMENT THROUGHOUT OAKLAND.

Measure ____ Shall a measure to provide: homeless support services and programs to help homeless individuals move into shelters and housing; clean, safe and well-maintained parks and trails throughout Oakland; clean and accessible park restrooms; park lighting and security; trash and debris removal from parks, <u>creeks and waterways</u>; and playgrounds and park facilities maintenance, by enacting an annual \$148 parcel tax, for 20 years, raising approximately \$21,000,000 annually with community oversight and exemptions for low-income seniors, be adopted?	Yes	
	No	

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 March 3, 2020, 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 recitals and measure language 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, Chapter 3 of the Oakland Municipal Code, the Government Code and the Election 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 in accordance with applicable law, 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 accordance with legal requirements; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2020 state primary election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the March 3, 2020 state primary election, consistent with law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

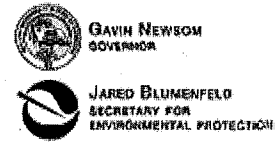
NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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



San Francisco Bay Regional Water Quality Control Board

October 28, 2019

Members of Oakland City Council
Oakland City Hall
One Frank H. Ogawa Plaza
Oakland, CA 94612

Subject: Oakland Stormwater System Funding

Dear Members of Oakland City Council:

I have worked in Oakland at the San Francisco Bay Regional Water Quality Control Board for 36 years, and I am very familiar with the many challenges Oakland continues to face while ever striving to enhance quality of life here. I am pleased that Oakland City Council is considering a ballot measure to raise money for Oakland parks.

I am also very pleased that Oakland City Councilmember Dan Kalb is advocating for some of the potential income to be invested in Oakland's aging stormwater system to prevent flooding and ensure that litter, debris and harmful substances do not flow into our creeks, lake, and San Francisco Bay. Integration of stormwater needs within other initiatives and opportunities is smart and a best management practice.

Unlike most cities in Alameda County, Oakland decided not to enact a stormwater fee in the 1990s and has never charged property owners for stormwater system maintenance. As a result, the system is deteriorating, while stormwater quality challenges continue to grow and opportunities to improve the stormwater system continue to be missed. Meanwhile, your excellent city staff team is overburdened and under-resourced. They have developed first-rate plans to improve the stormwater system using green infrastructure with multiple community benefits. However, these plans largely lack commitments due to lack of funding.

At the Water Board we understand the difficult resource environment facing cities in the region, particularly Oakland. We have patiently held back from imposing costly stormwater quality requirements on Oakland to give you time to build sustainable solutions and to build the capacity to implement them. Meanwhile, we are under increasing pressure to be more rigorous with municipalities and push them to do more, faster.

All communities have funding challenges, but many have developed or are developing storm water system funding mechanisms. In 2018, Berkeley raised its existing fees by \$42.80, and the City of Alameda is at this moment requesting a fee increase. Oakland continues to lag in comparison to other communities and cannot keep delaying its investments in our waterways.

We have begun the process of reissuing Oakland's and all other Bay Area municipalities' stormwater discharge permit. We expect the permit will have requirements for municipalities to implement substantial improvements to their stormwater systems. We also expect those

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

requirements will distinguish municipalities with stormwater system improvement plans with commitments and funding from those that don't. Requirements for those with commitments and funding will reflect and honor those commitments and give those municipalities time to implement them. Those without commitments and funding should expect requirements to make up for lost time and opportunities. That hammer will likely hurt, and it will be more costly for municipalities that have been lagging than for communities with planned and funded commitments.

I hope that City Council does not wait until that pain is acute before making the necessary investments in clean water and flood prevention. Integration of stormwater system funding into the Oakland parks initiative that you are considering provides a timely opportunity to meet both park and green stormwater infrastructure needs. It will also enhance Oakland's ability to compete for future State and federal grant resources that will favor multi-benefit projects with matching funds.

Sincerely,



Thomas Mumley
Assistant Executive Officer