



# COUNTY OF ALAMEDA



## CITY OF OAKLAND MEASURE GUIDE

# GENERAL ELECTION

**TUESDAY, NOVEMBER 6, 2018**

Polls Open from 7 A.M. to 8 P.M.

### ATTENTION:

THE LOCATION OF YOUR POLLING PLACE MAY HAVE CHANGED. SEE BACK COVER FOR YOUR POLLING PLACE.

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[ACVOTE.ORG](http://ACVOTE.ORG)



ALAMEDA COUNTY  
Registrar of Voters



# RANKED-CHOICE VOTING

Ranked-Choice Voting or "Instant Run-Off Voting," allows voters to rank up to three candidates, in order of preference, when marking their ballots. Ranked-Choice Voting eliminates the need for run-off elections. Voters in **Berkeley, Oakland, and San Leandro** will receive multiple ballot cards, including a Ranked-Choice Voting ballot card. Visit [ACVOTE.org/rcv](http://ACVOTE.org/rcv) for more information.

## How does Ranked-Choice Voting work?

To start, all first choice votes are counted. Any candidate who receives more than 50% of the first choices is declared the winner. If no candidate receives more than 50% of the first choices, a process of eliminating candidates and transferring votes begins (second choice ranking counts only when a first choice candidate is eliminated).

## How to Vote

- 1** Vote for your first choice in the first column.
- 2** Vote for your second choice in the second column.
- 3** Vote for your third choice in the third column.



If you selected the same candidate in more than one column, your vote for that candidate will count **ONLY ONCE**.

RANKED-CHOICE VOTING BALLOT																																			
<b>INSTRUCTIONS TO VOTERS: USE BLACK OR BLUE BALLPOINT PEN ONLY.</b> Complete the arrow to the right of your choice. To vote for a qualified write-in candidate, PRINT the person's name in the blank space provided and complete the arrow. You may rank up to three choices. Vote across in each race.																																			
<b>1</b> Mark your first choice in Column 1.	<b>2</b> Mark your second choice in Column 2. This choice should be different from your first choice.	<b>3</b> Mark your third choice in Column 3. This choice should be different from your first and second choices.																																	
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><th style="background-color: #ccc;">NONPARTISAN</th></tr> <tr><th style="background-color: #ccc;">CITY</th></tr> <tr><th style="background-color: #ccc;">FOR MAYOR</th></tr> <tr><th style="background-color: #ccc;">1 FIRST CHOICE Vote for One</th></tr> <tr><td>CAROLE LOMBARD</td></tr> <tr><td>GEORGE E. JESSEL</td></tr> <tr><td>BILLY ROSE</td></tr> <tr><td>KATE SMITH</td></tr> <tr><td>ISADORA DUNCAN</td></tr> <tr><td>EDWARD ELLINGTON</td></tr> <tr><td> </td></tr> </table>	NONPARTISAN	CITY	FOR MAYOR	1 FIRST CHOICE Vote for One	CAROLE LOMBARD	GEORGE E. JESSEL	BILLY ROSE	KATE SMITH	ISADORA DUNCAN	EDWARD ELLINGTON		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><th style="background-color: #ccc;">NONPARTISAN</th></tr> <tr><th style="background-color: #ccc;">CITY</th></tr> <tr><th style="background-color: #ccc;">FOR MAYOR</th></tr> <tr><th style="background-color: #ccc;">2 SECOND CHOICE Vote for One</th></tr> <tr><td>CAROLE LOMBARD</td></tr> <tr><td>GEORGE E. JESSEL</td></tr> <tr><td>BILLY ROSE</td></tr> <tr><td>KATE SMITH</td></tr> <tr><td>ISADORA DUNCAN</td></tr> <tr><td>EDWARD ELLINGTON</td></tr> <tr><td> </td></tr> </table>	NONPARTISAN	CITY	FOR MAYOR	2 SECOND CHOICE Vote for One	CAROLE LOMBARD	GEORGE E. JESSEL	BILLY ROSE	KATE SMITH	ISADORA DUNCAN	EDWARD ELLINGTON		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><th style="background-color: #ccc;">NONPARTISAN</th></tr> <tr><th style="background-color: #ccc;">CITY</th></tr> <tr><th style="background-color: #ccc;">FOR MAYOR</th></tr> <tr><th style="background-color: #ccc;">3 THIRD CHOICE Vote for One</th></tr> <tr><td>CAROLE LOMBARD</td></tr> <tr><td>GEORGE E. JESSEL</td></tr> <tr><td>BILLY ROSE</td></tr> <tr><td>KATE SMITH</td></tr> <tr><td>ISADORA DUNCAN</td></tr> <tr><td>EDWARD ELLINGTON</td></tr> <tr><td>Jane Doe</td></tr> </table>	NONPARTISAN	CITY	FOR MAYOR	3 THIRD CHOICE Vote for One	CAROLE LOMBARD	GEORGE E. JESSEL	BILLY ROSE	KATE SMITH	ISADORA DUNCAN	EDWARD ELLINGTON	Jane Doe
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**Keep in Mind:**  
Your *second choice* will be counted only if your *first choice* candidate has been eliminated. Your *third choice* will be counted only if both your *first choice* and *second choice* candidates have been eliminated.

**Write-In Candidates:**  
If you wish to vote for a qualified write-in candidate for any of your three choices, write the person's name on the blank line provided and complete the arrow pointing to your choice.

## NOTICE OF CORRECTION

Dear Voter: There was a typographical error in the ballot label for **Measure Y**.

This is the correct ballot label.

<b>Y</b> Shall the Measure amending Oakland's Just Cause for Eviction Ordinance ("Ordinance") to: (1) remove the exemption for owner occupied duplexes and triplexes; and (2) allow the City Council, without returning to the voters, to add limitations on a landlord's right to evict under the Ordinance, be adopted?	<b>YES</b>
	<b>NO</b>

If you have any questions, please contact the City of Oakland, Office of the City Clerk at (510) 238-3226.

# CITY OF OAKLAND MEASURE V

<b>V</b> Shall the Measure: (1) allowing cannabis businesses to pay business taxes quarterly; (2) allowing cannabis manufacturing and/or cultivation businesses to deduct the value of raw materials from gross receipts in calculating business taxes in the manner applicable to manufacturing businesses; and (3) authorizing the City Council, without returning to the voters, to amend medical or non-medical cannabis businesses taxes in any manner that does not increase the tax rate, be adopted?	<b>YES</b>
	<b>NO</b>

## CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE V

### TITLE

A Proposed Ordinance To: (1) Amend the Oakland Municipal Code to Allow Cannabis Manufacturing and/or Cultivation Businesses to Deduct the Value of Raw Materials From Gross Receipts in Calculating Business Taxes, (2) Amend the Oakland Municipal Code To Allow Cannabis Businesses to Pay Business Taxes on a Quarterly Basis, and (3) Authorize the City Council to Amend the Medical and/or Non-Medical Cannabis Business Taxes in any Manner that Does Not Increase the Tax Rate

### CITY ATTORNEY'S SUMMARY OF MEASURE V

The City of Oakland's business tax laws are codified in Chapter 5.04 of the Oakland Municipal Code ("Business Tax Ordinance"). The Business Tax Ordinance provides the procedure for calculating the amount of business tax owed for various business activities based on a business's "gross receipts."

The Business Tax Ordinance specifically identifies the amounts that may be excluded from gross receipts in calculating the business tax. For businesses that manufacture or process any goods, wares, merchandise, articles or commodities for sale in the City, the Ordinance expressly allows deduction of the value of raw materials from gross receipts.

The Business Tax Ordinance provides that medical cannabis businesses must pay a business tax of \$50 for each \$1,000 of gross receipts, and that non-medical cannabis businesses must pay a business tax of \$100 for each \$1,000 of gross receipts. Currently, the methodology for calculating the business tax for medical and non-medical cannabis businesses does not allow deduction for the value of raw materials from gross receipts.

This measure would amend the Business Tax Ordinance to allow medical cannabis businesses and non-medical cannabis businesses engaged in manufacturing and/or cultivation activities to deduct the value of raw materials from gross receipts in the same manner that the Ordinance provides for manufacturing businesses.

The Business Tax Ordinance requires that businesses pay taxes on an annual basis. This measure would allow medical and non-medical cannabis businesses to elect to pay business taxes on a quarterly basis according to rules and procedures adopted by the Director of Finance.

Currently, the City Council is authorized to amend the Business Tax Ordinance provisions for medical cannabis businesses in any manner that does not increase the tax rate applicable to medical cannabis businesses, but the Council is not authorized to amend the Ordinance provisions applicable to non-medical cannabis businesses.

This measure would allow the Oakland City Council, after holding a public hearing, to amend the Business Tax Ordinance in any manner that would not increase the tax rate applicable to medical and/or non-medical cannabis businesses.

Passage of this measure requires an affirmative vote of a majority of voters (i.e., more than 50% of the votes cast). A "yes" vote will approve the measure; a "no" vote will reject the measure.

s/BARBARA J. PARKER  
City Attorney

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE V**

### **The City's Business Tax**

The City of Oakland's business tax laws are in an ordinance in Chapter 5.04 of the Oakland Municipal Code ("OMC") ("Business Tax Ordinance" or "Ordinance"). The Business Tax Ordinance applies to all "persons" engaged in business activities in Oakland. The definition of "persons" includes but is not limited to any natural person, company, corporation, firm, estate, joint venture, club or association. (OMC section 5.04.030.)

The Business Tax Ordinance provides the procedure to calculate the amount of business tax owed for various business activities based on a business's "gross receipts." "Gross receipts" means the total amount actually received or receivable by a business as a result of its business activities during a fiscal year. The Ordinance specifically identifies the amounts that may be excluded from gross receipts in calculating the business tax.

### **Current Business Tax Ordinance Does Not Allow Cannabis Businesses to Deduct the Value of Raw Materials from Gross Receipts**

OMC section 5.04.390 provides the methodology to calculate the annual tax for businesses that manufacture or process any goods, wares, merchandise, articles or commodities for sale in the City, and expressly allows deduction of the value of raw materials from gross receipts.

Currently, the methodology for calculating the business tax for medical and non-medical cannabis businesses does not allow deduction of the value of raw materials from gross receipts. OMC section 5.04.480 of the Ordinance provides that each person engaged in a medical cannabis business shall pay a business tax of \$50 for each \$1,000 of gross receipts or fractional part thereof. OMC section 5.04.481 provides that each person engaged in a non-medical cannabis business shall pay a business tax of \$100 for each \$1,000 of gross receipts or fractional part thereof.

### **Proposed Amendments Would Allow Cannabis Businesses to Deduct the Value of Raw Materials from Gross Receipts, Pay Business Taxes on a Quarterly Basis, and Allow City Council to Amend the Cannabis Business Tax in Any Manner that Does Not Increase the Tax Rate**

This measure would amend the OMC to allow medical cannabis businesses and non-medical cannabis businesses engaged in manufacturing and/or cultivation activities to (1) deduct the value of raw materials from gross receipts in the same manner that OMC section 5.04.390 provides for non-cannabis manufacturing businesses; and (2) elect to pay business taxes on a quarterly basis according to rules and procedures adopted by the Director of Finance.

This measure also would allow the Oakland City Council, after holding a public hearing, to amend OMC sections 5.04.480 and/or 5.04.481 in any manner that would not increase the tax rate applicable to medical and/or non-medical cannabis businesses, or otherwise constitute a tax

increase that would require voter approval.

This measure was placed on the ballot by the Oakland City Council. Passage of this measure requires the affirmative vote of a majority of voters (i.e., more than 50% of the votes cast).

s/BARBARA J. PARKER  
City Attorney

# CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE V

## Summary

This Measure, if adopted by a majority (more than 50%) of voters, would amend the City of Oakland's Business Tax Municipal Code, related to medical cannabis (Section 5.04.480) and non-medical cannabis (Section 5.04.481) businesses. The code amendments would:

- 1) allow businesses engaged in cannabis manufacturing and/or cultivation to deduct the value of raw materials from gross receipts in the calculation of business tax (similar to manufacturing businesses, Section 5.04.390);
- 2) allow cannabis businesses to remit business taxes on a quarterly basis; and
- 3) authorize the City Council to amend the business tax on medical and non-medical cannabis in any manner that does not increase the tax rate, following a public hearing.

Oakland currently taxes all types of cannabis businesses and the rates are based on whether they operate in the medical or non-medical industries, at 5 percent and 10 percent, respectively, of gross receipts. The tax is applied to every activity in the industry's supply chain, including cultivation, manufacturing, delivery, testing, and retail sales.

The intent of this Measure is to provide the City flexibility to respond competitively to tax rates of neighboring jurisdictions. Cannabis businesses may consider tax rates a factor when deciding where to situate their businesses. City Council may adjust the tax rate for cannabis businesses, but may not increase the tax more than the current stated rates. It cannot be quantified or confirmed that adjusting tax rates would significantly impact tax revenue to the City of Oakland.

## Financial Impact

If the Measure passes, the City would incur an estimated \$30,000 capital improvement cost to update its taxpayer system.

This Measure enacts a general tax for unrestricted general revenue purposes and would go into effect ten (10) days after the vote is declared by Oakland City Council.

## Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis that supports this measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE V

Measure V makes a few, much-needed technical fixes related to the administration of Oakland's gross receipts tax on our medical and adult use cannabis businesses.

Current Oakland rules that require the payment of estimated business tax in a single annual lump payment can cause unnecessary security risks and operating problems for Oakland cannabis businesses. Because of the unusually high tax rates on gross receipts for cannabis businesses, many smaller cannabis businesses face considerable challenges in paying an entire year's tax payment before receiving the very sales revenue that is being taxed. Additionally, because of the industry's limited access to traditional banking services, the current rules create unnecessary security risk by forcing these businesses to hold a lot more actual cash on hand than would otherwise be necessary. This measure provides a simple fix to these problems by allowing Oakland cannabis businesses to make business tax payments on a quarterly basis.

The additional clean-up provisions in the measure fix unintended oversights from earlier cannabis tax measures. Measure V clarifies that cannabis production businesses may take the same tax deductions for raw materials already taken by other Oakland manufacturing businesses. This measure also gives the City Council authority to modify, but *not* increase, the Adult Use cannabis tax rate in the future—authority it already possesses with respect to the Medical cannabis tax rate.

These common sense fixes will encourage businesses to locate their job-intensive manufacturing operations in Oakland and provide the City with flexibility to optimize tax policy as needed to remain competitive while the state's regulated cannabis market continues to develop. Please join us in voting YES on Measure V.

s/LANESE MARTIN

Oakland Cannabis Regulatory Commissioner

s/FRANK LUCIDO

Oakland Medical Doctor

s/REBECCA KAPLAN

Oakland City Councilmember

s/DAN KALB

Oakland City Councilmember

## NO ARGUMENT AGAINST MEASURE V WAS SUBMITTED

## FULL TEXT OF MEASURE V

Section 1. Chapter 5.04 of the Oakland Municipal Code containing the business tax requirements applicable to medical cannabis and non-medical cannabis businesses in Oakland are hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

### Section 2. Code Amendments.

That Chapter 5.04, Sections 5.04.480 and 5.04.481 of the Oakland Municipal Code are amended to read as follows:

#### **5.04.480 - Medical cannabis businesses.**

For the purposes of this section:

A. “Medical Cannabis Business” means any activity regulated or permitted by Chapter 5.80 and/or Chapter 5.81 of this Code that involves planting, cultivating, harvesting, transporting, dispensing, delivering, selling at retail or wholesale, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the plant Cannabis sativa L. or any of its derivatives, pursuant to Health and Safety Code Sections 11362.5 and 11362.7-11362.83.

B. Every person engaged in a “medical cannabis business” not otherwise specifically taxed by other business tax provisions of this chapter, shall pay a business tax of \$50.00 for each \$1,000.00 of gross receipts or fractional part thereof.

C. Medical cannabis businesses engaged in manufacturing and/or cultivation activities shall be allowed to make deductions from gross receipts in the manner applicable to manufacturing businesses subject to Section 5.04.390.

D. Notwithstanding Sections 5.04.080, 5.04.110, and 5.04.120 of this Chapter, medical cannabis businesses may elect to remit business taxes on a quarterly basis according to such rules and procedures adopted by the Director of Finance.

#### **5.04.481 - Non-medical cannabis businesses.**

For the purpose of this section:

A. “Non-medical cannabis business” means any of the activities described in Subsection 5.04.480 A. that are not conducted pursuant to Health and Safety Code Sections 11362.5 and 11362.7-11362.83, but are otherwise authorized by State law.

B. Every person engaged in a “non-medical cannabis business” not otherwise specifically taxed by other business tax provisions of this chapter, shall pay a business tax of \$100.00 for each \$1,000.00 of gross receipts or fractional part thereof.

C. Non-medical cannabis businesses engaged in manufacturing and/or cultivation activities shall be allowed to make deductions from gross receipts in the manner applicable to manufacturing businesses subject

to section 5.04.390.

D. Notwithstanding Sections 5.04.080, 5.04.110, and 5.04.120 of this Chapter, non-medical cannabis businesses may elect to remit business taxes on a quarterly basis according such rules and procedures adopted by the Director of Finance.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. California Environmental Quality Act Requirements. 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. General Tax; Majority Approval; Effective Date. This Ordinance enacts a general tax for unrestricted general revenue purposes. Tax revenue collected pursuant to the Ordinance may be used by the City for any municipal governmental purpose. This Ordinance shall be effective only if approved by a majority of the voters voting thereon; and, the Ordinance shall go into effect ten (10) days after the vote is declared by the City Council.

Section 6. Council Amendments. Following a public hearing, ~~the~~ the City Council of the City of Oakland is hereby authorized to amend Section 5.04.480 and/or Section 5.04.481 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rate applicable to medical and/or non-medical cannabis businesses engaged in any or all categories of cannabis business activity, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.



# CITY OF OAKLAND MEASURE W

<p><b>W</b> Shall the Measure, to fund homeless services and resources to address illegal dumping, and discourage vacant properties, by enacting a Vacant Property Tax on parcels used less than 50 days per year, at annual rates of \$6,000 per parcel, \$3,000 for condominium units, and other specified rates; raising about \$10,000,000 annually for 20 years; with community oversight and exemptions for very low income, low-income seniors and hardship, be adopted?</p>	<b>YES</b>
	<b>NO</b>

## CITY ATTORNEY’S BALLOT TITLE AND SUMMARY OF MEASURE W

**TITLE:** **A Proposed Ordinance Establishing an Annual Tax on Vacant Property for 20 Years to Provide Funding for Homelessness Programs and Services, Affordable Housing, Code Enforcement, and Clean Up of Blighted Properties and Illegal Dumping; Setting the Tax Rate at \$6,000 for Vacant Residential, Nonresidential, and Undeveloped Properties and \$3,000 for Vacant Condominium, Townhouse, and Duplex Units and Vacant Ground Floor Commercial Parcels; and Establishing a Commission on Homelessness to Provide Oversight and Recommendations Regarding Use of the Tax Revenue**

### CITY ATTORNEY’S SUMMARY OF MEASURE W:

The proposed measure would establish a new tax on real property that is vacant for 50 or more days in a calendar year. This would be a special tax, i.e., the City can use the revenue only for the purposes specified in the measure.

The tax rate would be \$6,000 annually for vacant residential, nonresidential, and undeveloped properties, \$3,000 annually for vacant condominium, townhouse, and duplex units, and \$3,000 annually for ground floor commercial space parcels in use less than 50 days in a calendar year.

There would be a number of exemptions from the tax, including an exemption for very low-income households and for low-income seniors and individuals with disabilities; owners who can demonstrate that the tax would be a financial or other hardship; owners of properties being developed; and nonprofit owners.

The City can use the tax revenue only for the following purposes:

- to support a variety of identified services and programs for homeless people;
- to preserve existing affordable housing and produce new affordable housing;
- to provide code enforcement and cleanup of blighted properties and remedy illegal dumping; and
- to pay the City’s costs of administering the tax.

The measure would require that the City use at least 25% of the tax revenue for code enforcement and to eliminate blight and remedy illegal dumping. The measure would prohibit the City from levying and collecting the tax if it reduces general purpose fund spending on illegal dumping remediation below fiscal year 2016-2017 levels, except under certain specified conditions in the event of a severe and unanticipated financial or other event that prevents the City from maintaining general purpose fund spending on illegal dumping remediation at the 2016-2017 level.

The measure would establish a Commission on Homelessness to provide oversight and to make recommendations to the City Council regarding use of the revenue from the tax. The measure would require that the City Auditor perform regular audits to document revenue from the tax and to ensure that the City expends revenue only for authorized purposes.

The measure specifically authorizes the City Council to adopt ordinances for the implementation and administration of the tax. The measure allows the City to levy the tax no sooner than the 2020-2021 fiscal year. The tax would expire 20 years after the first year that the City levies the tax. A two-thirds vote in support is required to pass the measure.

s/BARBARA J. PARKER  
City Attorney

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE W**

The City of Oakland does not currently impose a tax specifically directed at vacant property. This measure would impose a special tax on vacant property in the City, and use the tax revenue solely for services and programs specified in the measure.

The tax rate would be \$6,000 annually for vacant residential, nonresidential, and undeveloped properties, and \$3,000 annually for vacant condominium, townhouse, and duplex units. Residential, nonresidential, and undeveloped parcels and condominium, townhouse, and duplex units would be treated as vacant if they are in use less than 50 days in a calendar year. The tax rate would be \$3,000 for parcels where ground floor commercial activities are allowed if all of the ground floor commercial space is in use less than 50 days in a calendar year.

The measure provides a number of exemptions from the tax, e.g., exemptions for very low-income households; low-income seniors and individuals with disabilities; owners who can demonstrate that the tax would be a financial or other hardship; owners of properties being developed; and nonprofit owners.

The measure would authorize the City Council to adopt ordinances related to the implementation and administration of the measure, including any amendment that does not increase the tax rate. The ordinances could establish methods to identify vacant properties, restrict the tax to specific zones, expand the methods of collecting the tax and administering the exemptions, and provide a process for appeals.

Revenue from the tax would be placed in a restricted fund and could be used only for the purposes stated in the measure. Permitted uses include a variety of programs and services for homeless people, such as employment assistance, housing assistance, services and facilities for homeless encampments, relocation assistance, and navigation centers. Tax revenue also could be used to provide financial assistance for the development and maintenance of affordable housing. The measure also requires that the City use at least 25% of tax revenue each year for code enforcement and to eliminate blight and remedy illegal dumping. The measure would prohibit the City from levying the tax if the City's General Purpose Fund expenditures on illegal dumping remediation are less than the amount expended in the 2016-2017 fiscal year, except under certain specified conditions. With some limits, tax revenue could be used to pay for the City's costs of administering the measure.

The measure would create a new Commission on Homelessness. The Commission would review and make recommendations regarding the expenditures of tax revenue, and publish an annual report on implementation of the measure and the expenditure of tax revenue. The City Auditor would regularly audit the revenue from the tax and expenditure of funds.

The tax would be levied no sooner than the 2020-21 fiscal year and would expire automatically 20 years thereafter.

The Oakland City Council placed this measure on the ballot. A two-thirds vote in support is required to pass the measure.

s/BARBARA J. PARKER  
City Attorney

# CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE W

## Summary

This Measure, if adopted by two-thirds of voters, authorizes the City of Oakland to collect an annual tax on vacant properties for twenty (20) years. The purpose of the Measure is to raise revenue primarily for homelessness services, preserve existing and fund new affordable housing options, and illegal dumping remediation. The tax would go into effect ten (10) days after the vote is declared by Oakland City Council, and be imposed no sooner than fiscal year 2020-21 for parcels vacant in the previous calendar year.

The revenue generated from this tax would be designated to a restricted fund to be used primarily for homeless services and for operations costs of the Commission on Homelessness, which would provide oversight for use of Measure revenue and specified tax administration costs. At least twenty-five percent (25%) of the revenue would be used to address blight and illegal dumping.

The Measure requires the City to maintain General Purpose Fund spending on illegal dumping remediation at least at the 2016-17 fiscal year level in order to collect the tax. In that year, the City's budget did not include any appropriations in the General Purpose Fund toward illegal dumping.

Proposed Measure tax rates vary by property type as shown below:

Property Type	Proposed Measure Tax Rate
Residential, or Nonresidential, or Undeveloped	\$6,000 per vacant parcel
Condominium, duplex, or townhouse unit under separate ownership	\$3,000 per vacant residential unit
Parcel with ground floor commercial activity allowed, but vacant	\$3,000 per vacant parcel

Property owners can request an exemption from this tax under certain circumstances including, but not limited to, income, age, disability and work in progress on the property.

At any time, the City Council may lower, but not increase the rates, and it may adopt new exemption categories, which may reduce anticipated City revenue.

## Other Programs

Current spending on homelessness, affordable and transitional housing, infrastructure repairs, and illegal dumping is funded from various sources, including but not limited to, Measure KK (approximately \$35 million annually), General Fund (approximately \$4.6 million annually), state funds, and one-time expenditures the City makes.

## Financial Impact

Based on factors such as property owner exemptions estimated to range from 60% to 75%, the City of Oakland Finance Department estimates annual revenue between \$6.6

and \$10.6 million.

Tax collection expenses specifically related to tax collection are capped at 15% of revenues collected.

The City's Finance Department estimates the annual cost to administer this Measure would be approximately \$452,000, dedicated to staffing positions to support the Commission, tax administration, collection and enforcement fees. In addition, they estimate a one-time startup cost of \$100,000 for financial database infrastructure, web development and mailing services.

## Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis of this Measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE W

Oakland has been facing skyrocketing rates of homelessness, with numbers in our community increasing dramatically in recent years. This situation is causing widespread suffering, as people are living in difficult situations in underpasses and sidewalks, often without access to water, bathrooms.

At the same time, there are estimated to be at least 5,000 vacant properties in the City of Oakland, which can harm our community, attracting crime, blight and illegal dumping. Vacant properties take up space that could be used for housing and other purposes, thereby reducing jobs, homes, and revenue.

**This Measure places an annual tax of up to \$6,000 on vacant parcels in Oakland, other than those exempted.** The exemptions include, non-profits, financial hardship, and circumstances that prevent the use of the property. Properties in use at least 50 days per year are not considered vacant and will not be taxed.

The money raised by the tax will be used to reduce homelessness, provide services to homeless people, and support the protection and production of affordable housing, and 25% of the funds will go towards remediating blight and illegal dumping.

This Measure establishes a Community Commission, to make recommendations and oversee the use of the funds, and to make sure the Measure is being properly implemented.

**A wide range of organizations and community leaders endorse this Measure**, including the Homeless Advocacy Working Group, Sustainable Economies Law Center, and Alameda County Supervisor Nate Miley.

We have an opportunity to reduce human suffering and improve quality of life by helping to solve homelessness and blight and encourage productive uses of properties. Please vote Yes to fund meaningful solutions to homelessness,

s/REBECCA KAPLAN  
Oakland Councilmember At-Large

s/JAMES VANN  
Oakland Homeless Advocacy Working Group

s/ABEL GUILLÉN  
Oakland Councilmember

s/DAN KALB  
Oakland Councilmember

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE W

Of all the poorly written, poorly thought through measures on the ballot, Measure W is one of the Worst.

Cynically, the proponents use homelessness and illegal dumping to garner support for a new tax measure, an astronomical \$3,000 – \$6,000 per property. Measure W was so poorly written it was rushed on the ballot without public input or debate.

There are no guarantees the new tax will be directed to homelessness or blight. In fact, many of the vacant blighted properties in Oakland are owned by the City or on public property, but politicians exempted the city.

Measure W purports to “reduce suffering and solve homelessness” but there is no plan, other than raising money.

If a property (including a home or apartment) is vacant for any reason, the City will bill you up to \$6,000 annually.

The “Community Commission” the proponents tout as making recommendations and overseeing the money are political appointees of the council members and there are no written guidelines or rules on how the money would be spent.

Measure W is a scam to increase revenue to the city to pay for pensions and a growing bureaucracy. Today the City of Oakland’s operating budget is a whopping \$1.5 BILLION dollars a year -- an increase of almost \$500 million in less than 10 years.

Since the City has no effective program to help the homeless, most of the funds will be spent on city bureaucracy with only a pittance spent on the homeless.

Vote NO on W.

s/VITO ESPOSITO

Homeowner

s/HOMAYOUN GHADERI

Homeowner

s/KAREN FRANCISCO

Homeowner

## ARGUMENT AGAINST MEASURE W

Vote NO on this confusing, poorly written, new tax—an astonishing \$6,000 per home and \$3,000 per condo.

Homelessness is a serious issue the City must address. But using this issue merely to pass a new tax is dishonest and unethical.

It's clear from this proposal that our politicians have no plan to address homelessness. They know we want them to do something, but they have no answers.

Everywhere else, the politicians must come up with a solid proposal, run test programs, show us what they plan to do and how much it will cost.

Only in Oakland do they ask for more money first and then hope to come up with a coherent program to use it. Oaklanders are smarter than that!

By the City's own admission, this tax will cost Oakland millions of dollars before they even collect a single cent.

There is no independent oversight and no commitment to use the money as promised. Elected officials can use the money for anything they want, including paying for Oakland's growing bureaucracy.

We already have strict laws to force owners to fix blighted properties.

Why not enforce existing laws first?

Is this proposed tax about cleaning up the city, or is it simply a money grab?

The rules are complicated and poorly written. Property owners will be at the mercy of a confusing bureaucratic process just to decide what to do with their own property.

If the City wants more money to address homelessness, we want to first see a real plan based on what has worked in other cities. San Francisco has a variety of programs. Are they being tried in Oakland?

Homelessness is a serious issue the City must address. This tax won't do it!

Until serious studies are done and realistic plans proposed, vote NO!

s/GEORGIA W. RICHARDSON  
Property Owner

s/VITO ESPOSITO  
Homeowner

s/KAREN FRANCISCO  
Homeowner

s/HOMAYOUN GHADERI  
Homeowner

s/GRANT CHAPPELL  
Homeowner

## REBUTTAL TO ARGUMENT AGAINST MEASURE W

Our community faces a rising homelessness crisis, which is causing widespread human suffering, for those who are living in unsafe conditions like freeway underpasses, and for the surrounding community. We also face rising illegal dumping, which can attract and spread diseases. In order to be the healthy and compassionate community that matches our values, we must take action to solve these problems.

Part of the solution is providing dedicated funding, by passing the Vacant Property Tax, which devotes money to homeless services, affordable housing solutions, and to remedy blight and illegal dumping. The tax does NOT apply to homeowners in their home, but rather, is for properties that are not in use. Properties that are vacant tend to attract illegal dumping, crime, and other problems. People who rent out housing or who have a business on their property will not have to pay this tax.

The vacant property tax only applies to properties in use less than 50 days per year – so a property which hosts a once-per-week farmer's market or other weekly event would not have to pay the tax. Neither would non-profits, and individuals for whom the tax is a hardship, and low-income seniors, are exempt.

The Measure includes an independent community oversight committee, to make sure the money is being spent properly, and to make recommendations for how best to solve homelessness and blight.

Please join us in voting yes, to help be part of the solution to these serious problems.

s/REBECCA KAPLAN  
City Councilmember

s/JAMES E. VANN  
Homeless Advocacy Working Group

s/DAMITA DAVIS-HOWARD  
Clergy; East Oakland Resident

s/ABEL GUILLÉN  
City Councilmember

## FULL TEXT OF MEASURE W

### **Section 1. Title.**

This Ordinance may be referred to as the “Oakland Vacant Property Tax Act.”

### **Section 2. Purpose.**

The taxes imposed under this Ordinance are solely for the purpose of raising revenue necessary to support and fund services for homeless people and affordable housing, and related programs, described below. Because the proceeds of the parcel tax will be deposited into a special fund restricted for the services and programs specified in this Ordinance, the tax is a special tax.

### **Section 3. Code Amendment.**

A new Chapter is hereby added to the Oakland Municipal Code to read as follows:

#### **Chapter 4.56 Vacant Property Tax**

##### **Section 4.56.010 Definitions**

##### **Section 4.56.020 Determination of Vacancy**

##### **Section 4.56.030 Imposition of Parcel Tax on Vacant Property**

##### **Section 4.56.040 Vacant Property Tax Fund**

##### **Section 4.56.050 Use of Vacant Property Tax Act Revenue**

##### **Section 4.56.060 Commission on Homelessness**

##### **Section 4.56.070 Accountability**

##### **Section 4.56.010. Definitions**

“City” means the City of Oakland.

“Commission” means the Commission on Homelessness authorized by this Ordinance.

“County” means Alameda County.

“Heavily Impacted Neighborhoods” means the geographic area defined by the boundaries of 2010 Census Tracts 4007, 4008, 4009, 4010, 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4026, 4027, 4030, 4033, 4057, 4053.02, 4054.01, 4054.02, 4055, 4056, 4058, 4059.01, 4059.02, 4060, 4061, 4062.01, 4062.02, 4063, 4064, 4065, 4071.01, 4071.02, 4072, 4073, 4074, 4075, 4076, 4077, 4085, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4102, 4103, 4104, and 4105. See Map (Attachment A) below.

“Mixed use parcel” means a parcel that is improved with both: i) at least one residential unit, and ii) uses other than a residential unit.

“Multifamily residential parcel” means all parcels that are improved with more than one residential unit.

“Owner” means the owner or owners of the real property located within the City of Oakland.

“Net General Purpose Fund budget for non-safety departments” means the total General Purpose Fund appropriation to the operating budgets of the non-safety departments, excluding expenditures that are offset by fees or other non-tax revenues.

“Nonresidential parcel” means all parcels that are improved

with uses other than residential units.

“Non-safety departments” means all operating departments of the City, except police and fire.

“Parcel” shall mean a unit of real property in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

“Residential parcel” means all parcels that are improved with one or more residential units.

“Residential unit” means a building or structure, or portion thereof, designed for or occupied exclusively by one household, including unrelated persons who live together and maintain a common household.

“Single-family residential parcel” means all parcels which are improved with only one residential unit.

“Tax” or “Oakland Vacant Property Tax” means the special tax authorized by this Ordinance.

“Undeveloped parcel” means all parcels, regardless of zoning or other land use designation, upon which no permanent improvements have been constructed or placed.

“Use” means the performance of a function or operation.

##### **Section 4.56.020. Determination of Vacancy**

A. For the purposes of this ordinance, a parcel of real property shall be deemed “vacant” and subject to the tax imposed by Section 4.56.030 below if the parcel is any of the following:

1. A parcel of land, whether undeveloped, residential (including multifamily residential), or non-residential, that is in use less than fifty (50) days during a calendar year.

2. A condominium, duplex, or townhouse unit under separate ownership that is in use less than fifty (50) days during a calendar year.

3. A parcel of land where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use and all of the ground floor space that could be lawfully occupied by commercial activities is in use less than fifty (50) days in a calendar year.

B. The City Council shall establish, by ordinance, a method for determining and identifying the use and vacancy status of each parcel of real property in the City.

##### **Section 4.56.030. Imposition of Parcel Tax on Vacant Property**

A. A special tax in the amounts set forth below is hereby imposed on every vacant parcel of real property within the City, other than those exempted, as described below.

B. The tax constitutes a debt owed by the Owner of each parcel to the City.

C. Unless the City Council selects another method for collection of the tax, the County shall levy and collect the tax on each parcel of real property in the City for which the Owner receives a separate ad valorem property tax bill, at the same time and manner, and subject to the same penalties and procedures as ad valorem property taxes collected by

the County except as otherwise set forth in this Ordinance.

D. If the City Council selects collection of the tax by the County, the tax shall be imposed on the ad valorem property tax bill for the fiscal year that begins July 1 following the end of the calendar year in which the parcel was vacant. The special tax shall first be imposed no sooner than the ad valorem property tax bill for fiscal year 2020-2021 for parcels that were vacant in the previous calendar year.

E. Tax Rates.

1. The maximum tax rates for each property type shall be as set forth in the table below. The City Council may lower, but not increase, the rates, and may by Ordinance adopt further categories of exemption. The City shall be responsible for assigning a tax rate for each parcel.

PROPERTY TYPE	ANNUAL TAX RATE
Residential	\$6,000 per parcel
Condominium, duplex, or townhouse unit under separate ownership	\$3,000 per vacant residential unit
Nonresidential	\$6,000 per parcel
Parcel with ground floor commercial activity allowed but vacant	\$3,000 per parcel
Undeveloped	\$6,000 per parcel

2. For parcels with multiple units, whether residential or non-residential, the parcel is not vacant if any unit on it is not vacant. A condominium, duplex, or townhouse unit under separate ownership is treated as a separate parcel for the purposes of this Chapter, and if it is vacant, is subject to the tax regardless of the status of any other unit on the same lot or that is part of the same development.

3. For parcels where ground floor commercial activities are allowed by the applicable zoning (with or without a use permit) or are a legal nonconforming use, if all of the ground floor space that could be lawfully occupied by commercial activities is vacant, then the parcel shall be subject to the tax regardless of whether any other portion of the structures on the parcel are occupied.

F. Real property otherwise wholly exempt from ad valorem tax by state law shall also be exempted from the tax imposed by this Ordinance.

G. Adjustment in Tax Rate

The City Council may, by resolution, establish an annual tax rate less than the maximum amount then authorized. Following any such decrease in the annual tax rate, the City Council may, by resolution, increase the annual tax rate to the maximum rate then permitted, or to any other amount less than the maximum rate then permitted, without obtaining voter approval.

H. For parcels divided by Tax Rate Area lines, the payment for the portion of the parcel within Alameda County shall be calculated at the same rates as set forth above. For properties wholly within Alameda County and divided by Tax Rate Area lines into multiple parcels, the property shall be taxed as a single parcel at the rates set forth above.

I. Imposition of Tax by Zones

The City Council may, by ordinance, establish zones or areas within the City and may restrict the levy of the tax to properties within the zones or areas established.

J. Exemptions

1. The following shall be exempt from the tax imposed by this Ordinance:

a. An Owner who qualifies as very low-income, as the term “very low income” is defined by the United States Department of Housing and Urban Development.

b. An Owner for whom the payment of the tax imposed by this Ordinance would be a financial hardship due to specific factual circumstances.

c. An Owner whose property is vacant as a result of a demonstrable hardship that is unrelated to the Owner’s personal finances.

d. An Owner who can demonstrate that exceptional specific circumstances prevent the use or development of the property. By way of example only and without limiting the generality of the foregoing, exceptional specific circumstances that prevent the use or development of property include property damage by a recent natural disaster, an undeveloped parcel adjoining a developed residential parcel and used by the occupants as part of the yard, and property with physical conditions that prevent development. The details of this exemption shall be further defined by separate ordinance of the City Council.

e. An Owner of a property that is under active construction. To qualify for this exemption, an Owner must call for inspections of the construction with sufficient frequency to keep the building permit or permits active.

f. An Owner of property for which an active building permit application is being processed by the City.

g. An Owner (1) who is 65 years of age or older and (2) who qualifies as “low income,” as the term “low income” is defined by the United States Department of Housing and Urban Development.

h. An Owner who, regardless of age, (i) receives Supplemental Security Income for a disability or (ii) Social Security Disability Insurance benefits, regardless of age and whose yearly income does not exceed 250 percent of the 2012 federal poverty guidelines issued by the United States Department of Health and Human Services.

i. An Owner that is a non-profit organization or entity owned or controlled by a non-profit organization.

j. An Owner of a parcel included in a substantially complete application for planning approvals that has not yet received approval. An Owner of a parcel for which a project with development entitlements have been approved but needing time for completion may apply for and receive an administrative two-year exemption.

2. The City Administrator's Designee (which if not otherwise designated shall be the Finance Director) shall establish the procedures and guidelines for owners to apply for, and grant, the exemptions identified in this section. Owners who claim an exemption may be required to submit information annually to substantiate their continuing qualification for the exemption.

3. The City Council may, by ordinance, establish such other exemptions to the tax imposed by this Ordinance and the authorized methods of collection of the tax, as it determines to be appropriate.

4. The City Council may, by ordinance, provide supplemental definitions for the exemptions in this section and for the administration of the exemptions as part of the collection of the tax.

**Section 4.56.040. Vacant Property Tax Fund**

The "Vacant Property Tax Fund" ("Fund") is hereby created as a special revenue fund. Proceeds from the Oakland Vacant Property Tax Act, including penalties and interest earned on such proceeds, shall be deposited into the Fund and used only for the purposes listed in Section 4.56.050.

**Section 4.56.050. Use of Vacant Property Tax Act Revenue**

A. Monies deposited in the Vacant Property Tax Fund shall be used solely for those purposes identified in this Section.

B. Tax funds may be used to provide services and programs to homeless people, to reduce homelessness, and to support the protection of existing and production of new housing affordable to lower income households as defined in California Health and Safety Code Section 50079.5 at an affordable housing cost or affordable rent as defined in Health and Safety Code Sections 50052.5 and 50053. Examples of such uses include, but are not limited to:

1. Job training, apprenticeship, pre-apprenticeship, drug treatment, and job readiness assistance programs for homeless people or those at risk of becoming homeless;

2. Assistance connecting homeless people or those at risk of becoming homeless with available services and resources, including assistance applying for housing or public benefit programs;

3. Housing assistance, including the provision of temporary housing or move-in expenses, such as first-month's rent and a security deposit, and emergency rental assistance;

4. Sanitation, bathroom, and cleaning services related to homeless encampments, and programs to supplement remedying and deterring blight and illegal dumping throughout the City;

5. Incentive programs to encourage property owners to make space available for low-income housing, including making funds available for physical improvements to enable a unit to be used for a voucher-based housing program;

6. Relocation assistance funding for low-income households facing displacement;

7. Financial assistance for the design, development, construction or operation of affordable housing units, including housing alternatives such as, without limitation, shipping container homes, accessory dwelling units and small homes.

8. Accessibility support to provide or maintain housing, and make needed improvements for accessibility, for seniors and persons with disabilities; and

9. Displacement prevention, tenant education and assistance, emergency rent assistance; and

10. Navigation centers to provide space for people to stay, along with on-site support services for the homeless. Funding may be used for both capital and operating costs related to navigation centers; and

11. Code enforcement and cleanup of blighted vacant properties, other blight elimination, and remedying illegal dumping, including legal action to address any of the foregoing as necessary, no less than twenty-five percent (25%) of the revenue deposited into the Vacant Parcel Tax Fund in any single year shall be used to pay for the uses listed in this paragraph.

C. Monies in the Vacant Property Tax Fund may be used to pay the costs of audits of the use of monies in the Fund.

D. Monies in the Vacant Property Tax Fund may be used to pay for the City's costs of the election required to obtain voter approval of the tax authorized by this Ordinance, including City Attorney costs to prepare this Ordinance and related documents. City Attorney costs shall be deposited in a Revenue account for sole use by the Office of the City Attorney.

E. Monies in the Vacant Property Tax Fund may be used to pay for the costs of administering the special tax, regardless of how or by what entity those administrative services are provided. No more than fifteen percent (15%) of the revenue deposited into the Vacant Parcel Tax Fund in any single year may be used to pay for such administrative costs, except that revenue used to pay for the costs of the Commission on Homelessness established by Section 4.56.060 shall not count toward the fifteen percent (15%). Notwithstanding the foregoing, the City shall be reimbursed for its actual costs of establishing the program for collecting the tax, which costs shall be confirmed by the City Auditor. Administrative costs include, but are not limited to:

1. The costs to the City of determining and identifying the use and vacancy status of every parcel in the City;

2. The costs to the City associated with monitoring and enforcing compliance with this Ordinance. Authorized costs include, but are not limited to, any expenses, including attorneys' fees, associated with any proceedings needed to enforce the requirements of this Ordinance;

3. The costs to the City associated with developing ordinances and regulations to implement this Ordinance;

4. The costs to the City associated with the operations of the Commission on Homelessness established by Section 4.56.060 of this Ordinance; and



5. Reimbursement to the County for the costs it incurs in collecting the tax.

F. If this Ordinance or the use of tax funds is legally challenged, tax funds may be used to reimburse the City for its costs of legal defense, including attorneys' fees and other expenses.

**Section 4.56.060. Commission on Homelessness**

A. The Commission on Homelessness is hereby established for citizen oversight of the Oakland Vacant Property Tax.

B. The Commission shall meet at least four (4) times per fiscal year.

C. The Commission shall review relevant financial and operational reports related to the expenditure of the Homeless Services Fund. The Commission shall publish an annual report regarding how and to what extent the City Council and Mayor have implemented this Ordinance. Additionally, the Commission shall be requested to publish reports regarding the following: 1) recommendations from the Commission on how to prioritize the allocation of funds in accordance with the requirements of this Ordinance, including for: services and programs for homeless people, reduction of homelessness, and supporting the provision of Affordable Housing to households qualifying as at least low-income households; and 2) information, if available, concerning the impacts of this Ordinance on homelessness and illegal dumping outcomes in the City. The City Council may assign other duties to the Commission as provided for by Ordinance. Within 15 days of receipt of a Commission report, the City Administrator or designee shall cause the report to be published on the City's Internet website and to be transmitted to the City Council. Any recommendations from the Commission on prioritization of funds in accordance with the requirements of this Ordinance shall be approved no later than February 1st for incorporation into the City budget for the following fiscal year, and such report shall be transmitted to the Council and public for informational purposes in the budget or as an informational report at the meeting at which the City Council appropriates funds generated by the Special Supplemental Business Tax.

D. The Commission shall consist of nine (9) members who are all residents of the City. No less than half of the members must be residents of Heavily Impacted Neighborhoods. No less than two members must be currently homeless, formerly homeless or low-income, as the term "low income" is defined by the United States Department of Housing and Urban Development. No less than three members must have professional expertise in, or be providers of, homeless services or housing. No less than one representative must have financial expertise. Members may fulfill more than one of these criteria for the purposes of meeting these requirements. City Councilmembers shall make recommendations for members to the Mayor. Members of the Commission shall be appointed by the Mayor and confirmed by the City Council in accordance with City Charter section 601. Members of the Commission shall receive no salary for serving.

E. Members shall serve three (3) year terms, as provided

for in this subsection. No member shall serve more than two (2) consecutive three (3) year terms. Of the initial members of the Commission, three (3) appointments shall be for one-year terms, three (3) appointments shall serve for two-year terms, and three (3) appointments shall be for three-year terms. Thereafter, all terms shall be for three (3) years. All terms of members shall begin as of the date that six (6) members have been appointed, which is when the Commission may begin its work. All future terms shall begin and end on that date. A quorum of the Commission shall be a majority of appointed members, but shall never be fewer than three (3) members. A member may be removed for cause pursuant to City Charter section 601. Absence from three (3) consecutive regular meetings, or four (4) non-consecutive regular meetings during a single fiscal year, may constitute cause for removal from the Commission, in accordance with City Charter section 601.

F. The City Administrator or designee shall provide clerical assistance and administrative support and technical assistance to the Commission.

**Section 4.56.070. Accountability**

A. In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the tax:

1. A separate, special account, referred to as the Vacant Property Tax Fund, shall be created, into which the proceeds of the tax must be deposited.

2. The specific purposes of the tax are for the funding of programs and services for homeless people, to reduce homelessness, and to support the provision of affordable housing and for as the other purposes set forth in Section 4.56.050 of this Ordinance. The proceeds of the tax shall be applied only to these specific purposes.

3. The Commission established by Section 4.56.060 shall perform the oversight functions listed in that Section to ensure that the revenue from the tax is spent solely for the purposes listed in Section 4.56.050.

4. The City Auditor shall perform regular audits to ensure accountability and proper disbursement of all revenue collected by the City from the tax imposed by this Ordinance, in accordance with the objectives stated herein and in compliance with provisions of California law.

B. The City's current General Purpose Fund expenditures for illegal dumping remediation may not be replaced by this tax. For any year during which this tax is in effect, if the City's General Purpose Fund expenditures on illegal dumping remediation are less than the amount expended in the 2016-2017 fiscal year, this tax shall not be levied and collected. In the event that a severe and unanticipated financial or other event occurs that so adversely impacts the General Purpose Fund as to prevent the City from budgeting for and maintaining the level of General Purpose Fund expenditures on illegal dumping remediation at the fiscal year 2016-2017 level, then the tax may nevertheless be levied and collected, if both of the following two conditions are

met: (1) The City's reduction to General Purpose fund illegal dumping remediation expenditures is no more than the same proportion of reduction that is imposed on the City's net General Purpose Fund budget for non-safety departments; and (2) The City Administrator submits a report to the City Council explaining the severe and unanticipated event, the steps that were taken by the City to avoid the need to reduce General Purpose Fund expenditures on illegal dumping remediation, and the steps that will be taken by the City in the future to restore the fiscal year 2016-2017 level of General Purpose Fund expenditures on illegal dumping remediation. Such actions must be taken for each fiscal year in which the City fails to meet the level of General Purpose fund illegal dumping remediation spending required by this paragraph. Following any General Purpose Fund reduction in illegal dumping remediation from the 2016-2017 fiscal year level and for the tax to be levied in any subsequent year, the level of General Purpose Fund expenditures on illegal dumping remediation must be increased proportional to the increases in the non-safety departments' net General Purpose Fund budgets up to at least the fiscal year 2016-2017 level of General Purpose Fund expenditures on illegal dumping.

**Section 4. Severability.**

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

**Section 5. California Environmental Quality Act Requirements.**

The City Council hereby determines that this Ordinance is not in-and-of-itself a "project" pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation CEQA Guidelines 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of the ordinance itself may have a significant effect on the environment. To the extent that vacant property tax revenues generated by the Ordinance may in the future be used to fund the construction of capital improvements, the Ordinance may assist in the financing of future "projects" that will be subject to environmental review pursuant to CEQA at the "earliest feasible time" prior to "approval" consistent with CEQA Guidelines Sections 15004 and 15352.

**Section 6. Approval; Effective Date.**

This Ordinance, and all the provisions thereof, shall become effective only upon affirmative passage by a two-thirds majority vote of the voters voting on the Ordinance. This Ordinance shall be considered adopted on the date that the City Council declares the results of the election at which it was voted upon and shall be effective ten days thereafter.

**Section 7. Council Amendments.**

This Ordinance may only be amended by a vote of the

people if the amendment would result in the special tax being imposed, extended, or increased in a manner not authorized by this Ordinance as originally approved by the voters. The City Council of the City of Oakland is hereby authorized to amend Chapter 4.56 of the Oakland Municipal Code as adopted by this Ordinance in any manner that does not increase the tax rates, or otherwise constitute a tax increase for which voter approval is required by Article XIII C of the California Constitution.

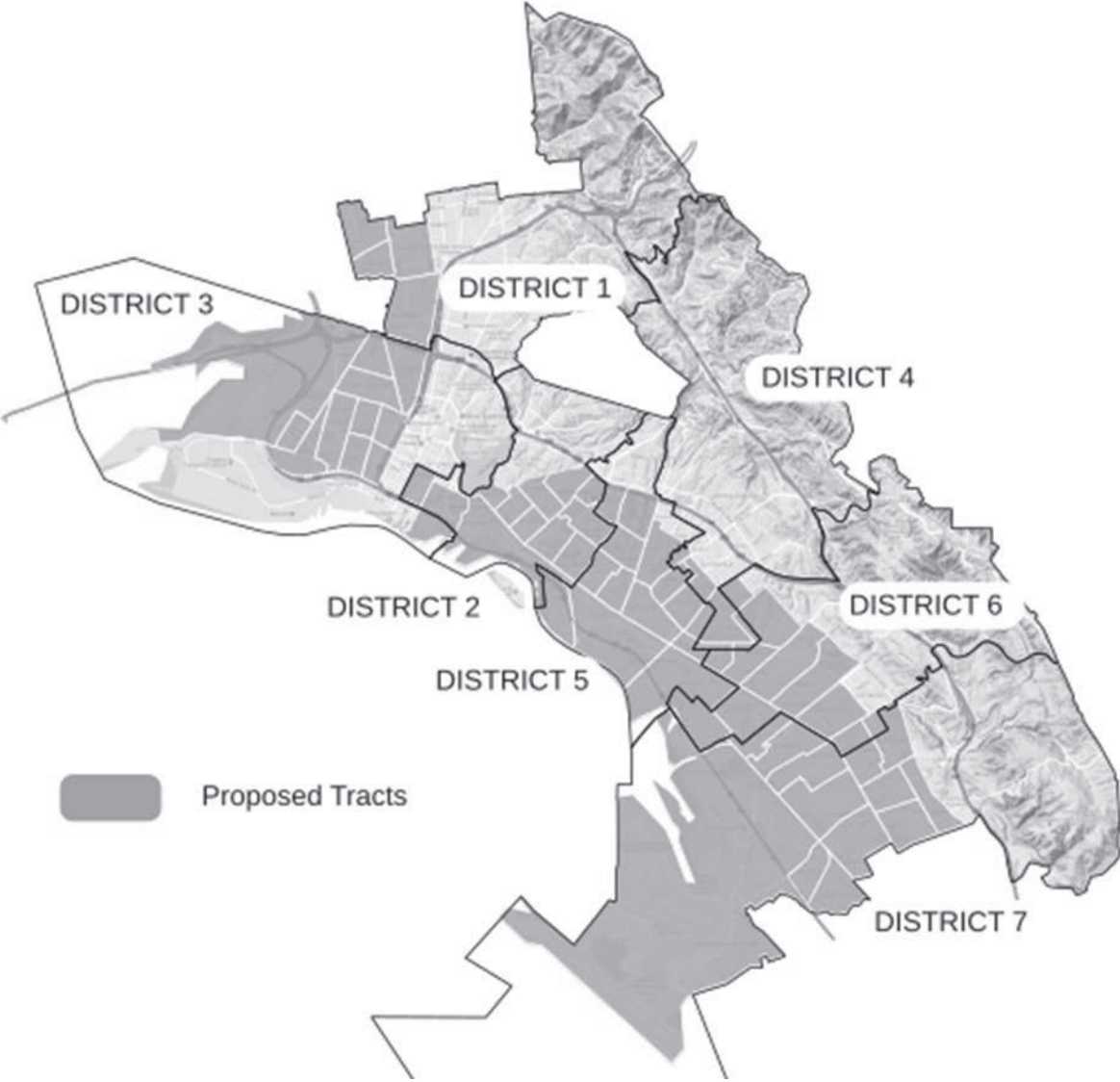
**Section 8. City of Oakland Vacant Property Tax Collection Law.**

The City shall collect the tax pursuant to rules and procedures established by the Vacant Property Parcel Tax Collection Law.

**Section 9. Expiration of Tax.**

This Ordinance shall expire 20 years after it is first levied. By way of example only and without limiting the generality of the foregoing, if the tax were first levied in the 2020-21 tax year, the 2040-41 tax year would be the last year in which it may be levied. The voters of the City of Oakland may amend the term of the tax at any time prior to its expiration.

ATTACHMENT A



# CITY OF OAKLAND MEASURE X

<b>X</b> Shall the Measure graduating the real estate transfer tax as follows: 1% up to \$300,000; 1.5% over \$300,000 - 2,000,000; 1.75% over \$2,000,000 - 5,000,000; and 2.5% over \$5,000,000; a lower rate for low-moderate income first-time homebuyers; and reducing the tax up to 1/3 for seismic retrofit or solar energy work costs incurred by low-moderate income homebuyers; raising approximately \$9,000,000 annually until repealed, be adopted?	YES
	NO

## CITY ATTORNEY'S BALLOT TITLE AND SUMMARY OF MEASURE X

**TITLE: A Proposed Ordinance Graduating the City's 1.5% Real Estate Transfer Tax Rate Based on Amount Paid, Setting the Tax Rate for Low and Moderate Income First-Time Homebuyers at .5% Below the Applicable Rate, and Reducing the Tax by up to One-Third for Seismic Retrofit and Solar Energy Work Costs Incurred by Low and Moderate Income Homebuyers**

### CITY ATTORNEY'S SUMMARY OF MEASURE X:

The City currently imposes a tax on the transfer of real property in Oakland at a flat rate of 1.5% of the amount paid for the property. This measure would establish four rates ranging from 1% to 2.5%; the higher rates would apply to transfers at higher amounts. The rates would be as follows:

- 1% up to \$300,000;
- 1.5% over \$300,000 to \$2 million;
- 1.75% over \$2 million to \$5 million; and
- 2.5% over \$5 million.

The City currently reduces the rate of the real estate transfer tax for low and moderate income first-time homebuyers from 1.5% to 1.25%. This measure would reduce the applicable tax rate for low and moderate income first-time homebuyers by one-half of a percentage point (.5%). The measure also would reduce the tax rate for low and moderate income first-time homebuyers for property transfers of \$2 million or less. And this measure would refund up to one-third (1/3) of the tax to low and moderate income homebuyers based on the actual cost the homebuyer incurred to complete specified seismic retrofit work or install a solar energy system within one year of the transfer.

The City would be permitted to use the tax revenue for any governmental purpose.

s/BARBARA J. PARKER  
City Attorney

## CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE X

The Oakland Municipal Code currently imposes a tax on the transfer of real property in Oakland. Currently, the tax rate is a flat 1.5% of the value of the amount of consideration (generally the sales price) paid for the property. This rate is the same regardless of the amount of the consideration.

This measure would establish four tax rates ranging from 1% to 2.5%. For transfers with consideration of \$300,000 or less, the tax rate would be 1%; for transfers with consideration above \$300,000 and up to \$2 million, the tax rate would be 1.5%; for transfers with consideration above \$2 million and up to \$5 million, the tax rate would be 1.75%; and for transfers with consideration more than \$5 million, the tax rate would be 2.5%.

The City currently reduces the 1.5% real estate transfer tax to 1.25% for qualified low and moderate income first-time homebuyers. As part of the new graduated rate system, this measure would reduce the tax rate for low and moderate income first-time homebuyers by one-half of a percentage point below the applicable rate. For example, a sale of a home to a low and moderate income first-time homebuyer for \$500,000 would generate a transfer tax of \$5,000, at a tax rate of 1.0% (.5% below the 1.5% rate for a transfer at this price.) The tax rate reduction for low and moderate income first-time homebuyers would apply only to property transfers for \$2 million or less.

The City currently imposes the real estate transfer tax on the full value of the amount paid for the property without any reduction for seismic retrofit or solar energy work. This measure would reduce the tax by up to one-third (1/3) for seismic retrofit work or the installation of a solar energy system costs if the work is completed within one year of the transfer. Only transfers for \$2 million or less to low and moderate income homebuyers would be eligible for the reduction. The tax reduction would be refunded to homebuyers for the costs they incur for qualified seismic retrofit or solar energy installation work. The measure defines the type of work that qualifies as "seismic retrofit" and work to "install a solar energy system." The measure would allow the City Council to adopt rules to implement the seismic retrofit and solar energy refund.

The Oakland City Council placed this measure on the ballot. A "yes" vote supports the passage of the amendment to the Oakland Municipal Code; and a "no" vote opposes passage of the amendment. A majority vote (i.e., more than 50% of the votes cast) is required to pass the measure.

s/BARBARA J. PARKER  
City Attorney

# CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE X

## Summary

This Measure, if adopted by majority vote (more than 50%), authorizes the City of Oakland to create a tiered Real Estate Transfer Tax rate by decreasing the tax rate for lower priced real estate transfers and increasing the rate for higher priced ones. The tax would continue to be collected annually to raise unrestricted general purpose fund revenue. It would become effective on January 1, 2019.

The City of Oakland assesses a Real Estate Transfer Tax on all Oakland real estate sold or transferred.

Oakland's current Real Estate Transfer Tax is 1.5%, regardless of the value of the property being sold or transferred. The proposed graduated tax rates, presented in real estate transfer tiers, are compared to the current rate below.

Real Estate Transfer Tiers	Current Tax Rate	Proposed Measure Tax Rate
\$300,000 or less	1.5%	1%
More than \$300,000 up to \$2,000,000	1.5%	1.5%
More than \$2,000,000 up to \$5,000,000	1.5%	1.75%
More than \$5,000,000	1.5%	2.5%

## Exemptions / Exceptions

- Low and moderate income first-time homebuyers would receive a tax rate reduction of 0.5% for real estate transfers valued at \$2 million or less.
- No tax rate increase for non-profit, affordable-housing providers. The maximum rate would be 1.5%, regardless of the value of the property at the time of sale or transfer.
- Seismic and solar upgrades by low and moderate income homebuyers may be eligible for reimbursements up to one third of the transfer tax paid.

It is unlikely these exemptions would have a significant impact on future tax revenue.

## Financial Impact

Real estate taxes are a volatile revenue source and estimates based on prior years' activity may not be predictive of future revenues.

When applying the proposed transfer tax rates to the past six years' real estate transactions, the City estimates revenue potentially increasing between \$1.7 million and \$17 million per year.

The City anticipates approximately \$181,000 in annual staffing costs for tax administration and collection.

Beginning in January 2024, and no more than once every five years thereafter, City Council may increase the \$300,000 threshold between the first and second tax rate tiers, and the \$2,000,000 threshold between the second

and third tax rate tiers by an amount equal to or less than the increase to the Consumer Price Index, with thresholds capped at \$500,000 and \$3,500,000.

## Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis that supports this measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE X

Progressive taxation, a hallmark of a just and fair society, addresses wealth disparity by more equitably funding government services. Measure X will make Oakland's tax on real estate sales more progressive!

Oakland's current Real Estate Transfer Tax (RETT) rate is a flat 1.5% of the value of the transferred property, whether it is worth \$200,000 or \$20,000,000. Cities in California have lower RETTs than many cities nationally. Currently, San Francisco is the only city in California with a progressive, tiered RETT. It's time for Oakland to have one as well.

Measure X replaces Oakland's flat RETT with rates varying based on the value of the sale. It also doubles (.5%) the existing rate *reduction* for first-time low & moderate income homebuyers. It lowers taxes (down to 1%) on sales of \$300,000 or less, makes no change to the 1.5% rate for most sales, and raises taxes on expensive property sales (1.75% for over \$2 million and 2.5% for over \$5 million). And low and moderate income buyers also would be eligible for a partial refund for seismic retrofit and/or solar energy installation expenses.

Had this progressive tax structure been in effect since 2012, Oakland would have brought in an additional \$9,000,000 per year on average for vital City services. The new revenue generated by this measure would come from people buying and selling the most expensive properties – people in the upper income levels, larger businesses, and big time investors, who can afford to share more of the weight of funding our city services.

This is a great opportunity to better fund the important city services we all want and need. **Please join us in voting YES on Measure X.**

s/ED GERBER

Oakland Budget Advisory Commissioner

s/DAN KALB

Oakland City Councilmember

s/ZAC UNGER

Oakland Firefighter/Paramedic, IAFF Local 55

s/GEORGE CUMMINGS

Senior Minister, Imani Community Church

s/LIBBY SCHAAF

Mayor of Oakland

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE X

The advocates make this tax SOUND GOOD. Some taxes are necessary, but this tax will make Oakland WORSE.

This tax is a General Tax that will be placed in the General Purpose Fund to be spent on ANYTHING. Oakland's ongoing scheme is to raise taxes for an admirable purpose and spend most of the funds on bureaucracy expansion.

- In 2016 Oakland voters approved Measure KK principally to repave streets. Instead, the City delivered a 'pothole blitz', promises of a modest repaving program next year and pretty website pictures of a resurfaced street.
- For years the City has diverted Measure KK funds & Measure DD funds to a Public Arts projects. However, most of the Arts funds are spent on bureaucracy and only a pittance on artists.
- The voters have approved Alameda County sales taxes to repave streets. Oakland spends most of its share of this sales tax on bureaucracy and street maintenance, not repaving.
- In recent years Oakland has received more tax income than ever. Meanwhile, the unfunded pension liabilities for City staff has continued to soar from \$1.6 billion 4 years ago to over \$1.9 billion now.

The more discretionary taxes the voters approve for Oakland, the more the City bureaucracy grows and the larger the City debt grows. Already every Oakland's citizen's share is over \$4,000 and Oakland's street condition index is tied for the worst in the Bay Area.

This tax is good for the bureaucrats and bad for the rest of us. Vote NO!

s/MARCUS CRAWLEY

## ARGUMENT AGAINST MEASURE X

NO! NO! NO! We don't want a new tax every election. We don't want to make Oakland's cost of housing and rents EVEN MORE UNAFFORDABLE. We don't want the City to pit one set of taxpayers against another. We DO want austerity for our government bureaucracy.

Council members will have you believe that the austerity mandated by voter-approved Proposition 13 has 'starved' our City government. And that this tax increase is necessary to offset what Prop 13 robs us in city services. But this is NOT TRUE. Oakland's bureaucrats have been diverting our taxes into bureaucratic expansion resulting in soaring unfunded pension liabilities. The previous City Auditor admonished Oakland to reduce the City Employees' unfunded pension liabilities. Instead, unfunded pension liabilities ballooned to \$1.9 billion and growing. And the City continues to expand its bureaucracy -- The new OakDOT bureaucracy nightmare diverts taxes from Capital Improvement Projects to staff with breathtakingly generous compensation. This is why we get 'pothole blitzes' rather than well-paved streets that the City Charter requires.

Some voters may be tempted to support this as A TAX ON SOMEONE ELSE. But MAKE NO MISTAKE, this tax increases the cost of buildings, which will be passed along to residents and small businesses through HIGHER RENTAL RATES.

City Council members will make you believe we do not pay our fair share compared to other states or Bay Area cities. Oakland's transfer fee is already ONE OF THE MOST expensive fees compared to other cities in the Bay Area. A city with serious affordability issue SHOULD NOT BE ADDING TO THE COST OF HOUSING AND BUSINESS.

No amount of new taxes will solve the City bureaucracy's lust to reward itself. Don't allow the City to continue increasing the cost of housing and doing business. Demand austerity and Vote NO!

s/MARCUS CRAWLEY

Concerned Taxpayer

s/SUZANNE CARO

Concerned Taxpayer

s/TOM RUBIN

Concerned Taxpayer

s/RANDALL C. WHITNEY

Concerned Taxpayer

## REBUTTAL TO ARGUMENT AGAINST MEASURE X

FACT: Measure X is sensible, progressive tax policy that helps our community!

FACT: Voting YES on Measure X means you support *lower* taxes for first-time low / moderate income homebuyers, and any low / moderate income homebuyer who pays for seismic retrofit or solar installation on their new home.

FACT: Measure X raises taxes *only* on the most expensive property sales, starting at *over* \$2 million, to help pay for vital government services for our city.

FACT: Measure X does *NOT* raise the tax on homes sold for less than \$2 million. Average homebuyers will not see any change in their transfer tax, and some will see a reduction.

FACT: Measure X does *NOT* raise taxes on property sales for nonprofit affordable housing.

**FACT: This measure increases the one-time tax on fewer than 5% of property buyers while bringing in much-needed revenue to help address our city's many needs.**

FACT: Opponents of this progressive tax measure would like to see City services slashed in furtherance of their conservative, anti-tax, government-austerity ideology. They consistently oppose any new taxes, regardless of need and despite the crippling impact of flawed policies like Prop. 13 on the ability of cities to deliver services such as libraries, parks, public safety and more.

We ask that you reject rhetoric that suggests that Oakland cannot afford to tax property sales on those who can afford it most in one of the hottest real estate markets in the country. **Please join with us in voting YES on X.**

s/JOSHUA SIMON

Oakland Homeowner; Nonprofit Affordable Housing Professional

s/KATHRYN STERBENC

Past Chair, Oakland Library Commission

s/JESSAMYN SABBAG

Executive Director, Oakland Rising Past Budget Advisory Commissioner

s/JACQUELINE DUHART

Oakland-Based Unitarian Universalist Ordained Clergy

s/LANIECE JONES

MGO Democratic Club Past President

## FULL TEXT OF MEASURE X

Section 1. The Oakland Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed).

Section 2. Code Amendments.

That Chapter 4.20, Sections 4.20.020 and 4.20.080 of the Oakland Municipal Code are amended and Section 4.20.220 is added to read as follows:

### **4.20.020 - Imposition of tax.**

A. There is imposed a tax on all transfers by deeds, instruments, writings, or any other document, or changes in control and ownership of legal entities, by which any lands, tenements or other interests in real property located in the City, are or is granted, assigned, transferred, or otherwise conveyed to or invested in a transferee, or transferees thereof, which shall be levied as a percentage of the value of consideration at the rates set forth below: ~~of one and one-half percent of the value of consideration.~~

<u>Amount of transfer</u>	<u>Tax</u>
<u>\$300,000 or less</u>	<u>1%</u>
<u>More than \$300,000 up to \$2,000,000</u>	<u>1.5%</u>
<u>More than \$2,000,000 up to \$5,000,000</u>	<u>1.75%</u>
<u>More than \$5,000,000</u>	<u>2.5%</u>

B. The People of Oakland authorize that the City Council may increase the \$300,000 threshold between the first and second tax rate tiers and the \$2,000,000 threshold between the second and third tax rate tiers by an amount no more than the increase to the Consumer Price Index as published by the U.S. Department of Labor, provided that such a threshold increase may not be done more than once per five years since the effective date of this Ordinance and that the thresholds may not be increased beyond \$500,000 for the threshold between the first and second tiers and \$3,500,000 for the threshold between the second and third tiers.

C. Notwithstanding subsection A., a transfer to a nonprofit corporation, or a limited partnership or limited liability company in which a nonprofit corporation is the managing general partner or managing member, accompanied by a binding agreement or covenant recorded on the property and enforceable by the city to provide all residential units on the property (other than units reserved for on-site property managers) at an affordable rent or affordable housing cost to lower income households as defined in California Health and Safety Code Section 50079.5, shall be taxed at a maximum rate of 1.5% regardless of the value of consideration.

### **4.20.080 - Exemption for low and moderate income first-time homebuyers.**

~~Section 4.20.020 notwithstanding,~~ †The tax on all transfers of real property located in the city made on or after ~~August 10, 1993~~ January 1, 2019 in which the buyers are low and moderate income first-time homebuyers shall be levied at the rates of ~~one and one-quarter (1.25) percent of the value of consideration set forth in Section 4.20.020 reduced by one-half percentage point (.5%).~~ For the purpose of this section, “low and moderate income first-time homebuyers” are defined as buyers who:

A. Earn a maximum of one hundred (100) percent of the median family income for the Oakland Primary Metropolitan Statistical Area, as defined by the U.S. Department of Housing and Urban Development; and

B. Will occupy the property as their principal residence; and

C. Are not purchasing the property to be held as tenants in common; and

D. The value of consideration for the transferred property is \$2 million or less; and

E. 1. ~~D.~~ Have not owned a home in three years prior to the date of purchasing the property; or

2. E. Are displaced homemakers. “Displaced homemaker” is defined as an adult individual who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without pay to care for the home and family, is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

### **4.20.220 - Exemption for low and moderate income homebuyers incurring seismic retrofit or solar energy system expenses.**

Up to one-third of the tax imposed by this chapter shall be reduced, on a dollar for dollar basis, for all expenses incurred by low and moderate income homebuyers on or after July 1, 2018 to “seismically retrofit” or “install a solar energy system,” or any combination of the two, for any structure which is used exclusively for residential purposes and the transfer of which is triggering the tax, subject to the following:

A. For purposes of this section, “low and moderate income homebuyers” are defined as buyers who meet the requirements of Section 4.20.080.A., B., and D.

B. The term “seismically retrofit” in this chapter means any of the following:

1. Strengthening in compliance with Appendix Chapter A3 of the latest edition of the California Existing Building Code;

2. Bracing, anchoring, and/or strapping of water heater tanks in compliance with the California Plumbing Code or with standards adopted or approved by the building official;

3. Removal and/or replacement of masonry chimneys in accordance with FEMA P-1024-RA1 or substantially similar standards adopted or approved



by the building official;

4. Strengthening or risk reduction in unreinforced masonry bearing wall buildings in substantial compliance with Oakland Municipal Code Chapter 15.28, for buildings not already required to comply with that chapter;

5. Strengthening, stiffening, or other damage reduction measures deemed by the building official to comply with the intent of reduced seismic forces as defined by the California Existing Building Code.

C. The term “install a solar energy system” in this chapter means the installation of an “active solar energy system,” as defined by California Revenue & Taxation Code Section 73(b).

D. From the date of the recordation of the transfer document, the applicant shall have one year to complete all seismic retrofit and solar energy system work, if not already completed prior to the transfer of the property, and submit a seismic retrofit verification application, solar energy system verification application, or both to the Building Inspections Division of the City of Oakland. Upon completion of such work and certification by the Building Bureau as to the amount of the expenses of such work, the City Administrator or his/her designee shall refund such expenses not to exceed one-third of the tax imposed on and paid by the buyer.

E. The People of Oakland authorize that the City Council may establish rules that are necessary and desirable for implementation of Section 4.20.220 and may amend any aspect of this section as long as such amendment does not result in an increase in the authorized tax rate.

Section 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

Section 4. General Tax; Majority Approval; Effective Date. This Ordinance enacts a general tax for unrestricted general revenue purposes. Tax revenue collected pursuant to the Ordinance may be used by the City for any municipal governmental purpose. This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect on January 1, 2019.

# CITY OF OAKLAND MEASURE Y

Y	Shall the Measure amending Oakland’s Just Cause for Eviction Ordinance (“Ordinance”) to: (1) remove the exemption for owner occupied duplexes and triplexes; and (2) allow the City Council, without returning to the voters, to add limitations on a landlord’s right to evict under the Ordinance, be adopted?	YES
		NO

## CITY ATTORNEY’S BALLOT TITLE AND SUMMARY OF MEASURE Y

**TITLE: Proposed Amendments to Oakland’s Just Cause for Eviction Ordinance Eliminating Exemptions for Owner-Occupied Duplexes and Triplexes and Authorizing the City Council to Add Limitations on a Landlord’s Right to Evict under the Ordinance Without Voter Approval**

### CITY ATTORNEY’S SUMMARY OF MEASURE Y:

In 2002 Oakland voters approved Oakland’s Just Cause for Eviction Ordinance (“Ordinance”) (Oakland Municipal Code (“OMC”) section 8.22.300, *et seq.*; also referred to as Measure EE). The Ordinance generally allows landlords to evict tenants from residential rental units covered by the Ordinance only if there is “just cause” for the eviction. The ordinance specifies just cause grounds for eviction, for example, failure to pay rent, lease violation, owner move-in.

This measure would amend the Ordinance to:

- make owner-occupied duplexes and triplexes subject to just-cause for eviction requirements
- authorize the City Council, without voter approval, to add limitations on a landlord’s right to evict under the ordinance;
- delete ordinance provisions that a court invalidated; and
- give the City Council authority to amend the ordinance to comply with changes in state or federal law and delete provisions that courts invalidate in the future.

#### Exemption for Owner-Occupied Duplexes and Triplexes

The ordinance does not apply to rental units in two- or three-unit properties if an owner occupies one of the units, i.e., such owners are not required to establish a just cause ground to evict tenants. This measure would remove this exemption so that the ordinance would cover tenants who rent units in owner-occupied duplexes and triplexes; owners of these units would be entitled to evict tenants only if they establish the existence of a just cause ground specified in the ordinance and also must comply with relocation requirements when they evict tenants for owner move-in or repairs.

This amendment would remove the exemption from current and future owner-occupied duplexes and triplexes. Only the voters could restore the exemption.

#### City Council’s Authority to Add Limitations on a Landlord’s Right to Evict under the Ordinance

Because the voters adopted the ordinance, they must approve any change to the ordinance. The ordinance specifies just cause grounds for eviction and lists additional prerequisites to eviction, such as providing proper notice. This measure would allow the City Council, without voter approval, to amend the ordinance to add additional limitations on a landlord’s right to evict tenants under the ordinance, e.g., mandating compliance with certain rules and standards, such as, providing a proper notice.

This provision would not allow the City Council to create new exemptions from the ordinance, modify existing exemptions, or create new just cause grounds for eviction.

#### Amendments Would Delete Invalidated Provisions and Authorize City Council to Amend the Ordinance to Comply with Changes in Law or Court Invalidation of Provisions

This measure would delete provisions from the ordinance that the Alameda County Superior Court invalidated in 2006 (*Kim v. City of Oakland*, No. RG03081362). The measure also would give the City Council authority, without voter approval, to amend the ordinance to comply with changes in state or federal law, or delete provisions invalidated by court decisions.

s/BARBARA J. PARKER  
City Attorney

## **CITY ATTORNEY’S IMPARTIAL ANALYSIS OF MEASURE Y**

The Just Cause for Eviction Ordinance (“Ordinance”) (Oakland Municipal Code § 8.22.300, *et seq.*; also referred to as Measure EE) generally prohibits landlords from evicting tenants from residential rental units covered by the Ordinance without specified just cause grounds. This measure would remove the exemption for owner-occupied duplexes and triplexes, and make the Ordinance applicable to units in those properties. This measure would authorize the City Council to amend the Ordinance to add additional limitations on a landlord’s right to evict without voter approval. This measure also would remove provisions of the ordinance that a court decision invalidated.

### Exemption for Owner-Occupied Duplexes and Triplexes

Currently, the Ordinance does not apply to owner-occupied duplexes or triplexes if the occupying owner has at least a one-third interest in the property because such units are exempt from the Ordinance. This measure would add owner-occupied duplexes and triplexes to the units that are covered by the just cause for eviction Ordinance. This change in the law would apply to units that are currently exempt and to any future duplexes and triplexes when one of the units becomes owner-occupied. As a result, this measure would require that landlords in owner-occupied duplexes and triplexes have just cause to evict tenants and comply with relocation requirements when they evict for owner move-in or repairs, unless some other exemption applies.

### City Council’s Authority to Add Eviction Requirements

Because the Oakland voters adopted the Just Cause for Eviction Ordinance, they must approve any change to the Ordinance. The Ordinance specifies just cause grounds for eviction and provides additional prerequisites to evictions, such as providing proper notice. This measure would allow the City Council, without returning to the voters, to amend the ordinance to add additional limitations on a landlord’s right to evict, e.g., mandating compliance with certain rules and standards, such as, but not limited to, providing a proper notice.

This amendment would not allow the City Council to create new exemptions from the ordinance or modify existing exemptions, or create new just cause grounds for eviction.

### Amendments Delete Invalidated Provisions and Authorize City Council to Amend the Ordinance to Comply with Changes in Law or Court Invalidation of Provisions

This measure would delete the Ordinance provisions that the Alameda County Superior Court invalidated in 2006 (*Kim v. City of Oakland*, No. RG03081362). This measure also would authorize the City Council to amend the ordinance to delete provisions that the courts invalidate and to comply with future changes in state or federal law.

The Oakland City Council placed this measure on the ballot. A “yes” vote for the measure will approve the Ordinance amendments described above; a “no” vote will

reject the amendments. A majority vote (i.e. more than 50% of the votes cast) is required for passage.

s/BARBARA J. PARKER  
City Attorney

# CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE Y

## Summary

The Just Cause for Eviction Ordinance (Just Cause) was adopted by voters on November 5, 2002 (Oakland Municipal Code "O.M.C." 8.22.300) and places restrictions on tenant evictions. Presently, Just Cause covers all units on which construction was completed on or before December 31, 1995, with several exemptions, listed under O.M.C Section 8.22.350.

If the Measure is adopted by a majority (more than 50%) of voters, it would amend O.M.C. 8.22.300 by

- 1) eliminating the exemption for owner-occupied duplexes and triplexes from the Just Cause for Eviction Ordinance,
- 2) allowing City Council, without returning to the voters, to modify the Just Cause for Eviction Ordinance by adding limitations on a landlord's right to evict, without modifying any exemption from the Ordinance contained in O.M.C. Section 8.22.350, and
- 3) adding a subsection under O.M.C. Section 8.22.390, giving City Council the ability to amend the Just Cause Eviction Ordinance to conform to court decisions or state laws.

While the Measure would extend Just Cause eviction requirements to owner-occupied duplexes and triplexes, tenants in these units would not be provided the protections under the City's Rent Adjustment Program Ordinance (O.M.C. 8.22.020). For instance, landlords would not be required to obtain advance approval before raising rents more than the cost-of-living adjustment.

## Financial Impact

Currently, there are approximately 8,000 duplex and triplexes in the City of Oakland. It is estimated approximately half of those are owner-occupied and would fall under the Just Cause ordinance.

Per O.M.C. Section 8.22.500 (Rent Program Service Fee), fees are charged against residential rental units that are subject to either the Rent Adjustment Ordinance, the Just Cause for Eviction Ordinance, or both. Currently, the annual service fee is \$68 per rental unit (of which owners may pass through one-half of the annual fee to the tenant).

Under this Measure, we estimate the City would collect additional revenues between \$612,000 and \$748,000 annually. All funds collected would be designated to support the City's Rent Adjustment Program and Just Cause operations and administration.

The implementation of these regulations based upon current staff allocations would have an estimated start-up and annual cost consisting of salaries and benefits of:

- Year one (includes start-up costs): \$92,000
- Subsequent annual costs: \$78,000

This Measure would go into effect ten (10) days after the vote is declared by Oakland City Council.

## Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Housing and Community Development Department's housing data and salary analysis that supports this Measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE Y

“Protect All Oakland Renters. Close the Loophole.” Vote “YES” on Measure Y.

This May, Ms. Josephine Hardy, a 69-year old widow and grandmother living on a fixed income, was told that she had 60 days to vacate her Oakland home of 47 years. A new owner had bought Ms. Hardy’s building and was using the duplex-triplex loophole to remove all the tenants from her building. Before the landlord moved into one unit of her triplex, Ms. Hardy and all her neighbors were protected against arbitrary evictions under Oakland’s existing Just Cause for Eviction Ordinance. After the owner moved in, she immediately lost these protections and her landlord filed an eviction lawsuit for no cause.

If Measure Y passes, a new landlord could still select one unit of a building to live in, but the remaining tenants would retain their just cause for eviction protections, which protect them against eviction for no cause.

Ms. Hardy’s story is not unique. Every prospective landlord buying in Oakland can take advantage of the duplex-triplex loophole to push longtime tenants out and then re-rent their old units to newer, wealthier renters, who often pay two or three times more.

Measure Y is an important tool to address the housing crisis in Oakland. Placed on the ballot by unanimous vote of the City Council, Measure Y is a straightforward revision of the Just Cause for Eviction Ordinance based on what works to protect renters. Measure Y will:

- Protect all renters from displacement regardless of building size
- Close a loophole presently abused by speculators and leading to displacement of long-term tenants

For more information: [www.protectooaklandrenters.org](http://www.protectooaklandrenters.org)

s/LIBBY SCHAAF  
Oakland Mayor

s/DAN KALB  
Oakland City Councilmember

s/JAMES VANN  
Oakland Tenants Union, Founder

s/GARY JIMENEZ  
Service Employees Int’l Union (SEIU) local 1021,  
Political Vice-President

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Y

Oakland voters passed a strong eviction ordinance 15 years ago. It covers 95% of all rental properties in Oakland and has helped stabilize rents and helped to keep many Oakland renters in their homes or apartments.

The measure passed because it exempted small owners who live in their duplex or triplex and rent out the other unit(s). In fact, Oakland now encourages the building of granny units to increase affordable housing.

Adding new restrictions on small owners would virtually eliminate the building of granny units and many small owners will not rent a spare bedroom or apartment.

Fewer available apartments will push rents higher, harming even more renters. Existing homeowners will not be willing to endure the expense to build a granny unit.

The majority of small owners of duplexes and triplexes in Oakland are minorities, retirees, and people without other sources of income. Passage of Measure Y will discourage them from renting an extra apartment. Often this is the only way they are able to pay the mortgage and taxes.

The original exemption of small property owners was recognized as a way to keep small property owners in their own homes. This measure will force many small owners to take units off the market.

This proposal will make the housing crisis worse, not better. It is bad public policy and even Berkeley is moving to allow small owners an exemption.

This measure is bad for homeowners, bad for tenants and bad for housing.

Vote NO on Measure Y.

s/VITO ESPOSITO  
Homeowner

s/HOMAYOUN GHADERI  
Homeowner

s/KAREN FRANCISCO

## ARGUMENT AGAINST MEASURE Y

The more you KNOW, the more you want to vote NO!

The housing shortage is a real problem but this proposed measure is TOO EXTREME and does NOTHING to solve it.

This initiative would take control of your home away from you!

Currently, YOU decided who lives upstairs in your duplex or in the in-law unit downstairs. If your elderly mother or another family needs the second unit, you work it out with your neighbor who is also your renter. Instead, this measure would give your renter-neighbor every reason to hire attorneys, sue you, and run up thousands of dollars in legal bills and many months of delay. Just to recover your own home!

The existing Eviction Ordinance passed because it exempts owners that live in their duplex and triplex as having “a special relationship” with their renters. They live on the same property, often in the same house. It was true then. It still is.

Faced with even this threat, many small owners will just leave the market, making the housing shortage even worse.

If you could no longer control who lives in your home, would you continue to rent it out?

Would you endure the expense to build a granny unit, only to find out your backyard tenant will be granted a lifetime lease? Even Berkeley is voting now on restoring this exemption in order to create more housing.

Fewer available apartments will push rents even higher, harming even more renters.

Please tell the tenant attorneys that this extreme proposal might be good for their business. But it would be bad for Oakland.

Thirty years of tightening restrictions have dug a deep hole in the rental market. IT'S TIME TO STOP DIGGING!

Vote NO on Measure Y. It's too extreme!

s/GEORGIA W. RICHARDSON

Homeowner

s/VITO ESPOSITO

Homeowner

s/KAREN FRANCISCO

Homeowner

s/HOMAYOUN GHADERI

Homeowner

s/GRANT CHAPPELL

Homeowner

## REBUTTAL TO ARGUMENT AGAINST MEASURE Y

Keep Oakland housed. Please join us and “Vote Yes” on “Measure Y.”

Measure Y is a fair and reasonable approach to Oakland's housing crisis that will extend just cause eviction protections to thousands of renters who are currently at risk of displacement and homelessness.

As illustrated in several news stories, speculative investors use eviction as a way of “capturing profit.” See the June 25, 2018 local CBS story “Caught On Video: Oakland Realtors Coach Buyers On How To Profit From Tenant Eviction” about realtors coaching potential buyers on how to evict tenants from duplexes and triplexes in Oakland. Measure Y will close a loophole that is leading to a wave of evictions of long-term renters.

If Measure Y passes, all landlords will continue:

- 1) To control to whom they rent;
- 2) To evict tenants for just causes such as failure to pay rent, owner move-in, family member move-in, failure to comply with the rental contract, nuisance or criminal activity.
- 3) Landlords who live in the same single family home or apartment unit as their tenants will continue to remain completely exempt from just cause for eviction restrictions under Measure Y.

A broad community coalition--including Oakland Councilmembers, Oakland tenants' rights groups, faith leaders, homeowners, tenants, small landlords and labor-committed to ending Oakland's housing crisis support Measure Y because we know that Oakland can do a better job of protecting long-term residents and addressing the increasing rate of homelessness.

Keep Oakland housed. Please join us and “Vote Yes” on “Measure Y.”

For more information: [www.protectoaklandrenters.org](http://www.protectoaklandrenters.org)

s/NOEL GALLO

Oakland City Councilmember

s/JAHMESE MYRES

Oakland Planning Commission, Chairperson

s/CHRISTINA DURAZO

Causa Justa : Just Cause, Housing Director

s/CARROLL FIFE

Oakland Alliance of Californians for Community Empowerment (ACCE), Director

s/KATHERINE PETERS

Property Owners for Fair and Affordable Housing, Homeowner and Member

## FULL TEXT OF MEASURE Y

**Section 1. Amendments to Section 5 of Measure EE [O.M.C. Section 8.22.350]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type; language for those portions invalidated in Alameda Superior Court No. RG03081362 (*Kim v. City of Oakland*) and deleted herein are shown as *italicized and strikethrough* type.**

Section 5 [8.22.350] - Applicability and Exemptions.

The provisions of this chapter shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this chapter but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this chapter. However, Section 6 [8.22.360] and Section 7(A)-(E) [8.22.370(A) through 8.22.370(E)] of the chapter [O.M.C. Chapter 8.22, Article II] shall not apply to the following types of rental units:

- A. Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b).
- B. Rental units in any hospital, skilled nursing facility, or health facility.
- C. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- D. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.
- E. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.
- F. ~~A rental unit in a residential property that is divided into a maximum of three units, one of which is occupied by the owner of record as his or her principal residence. For purposes of this section, the term owner of record shall not include any person~~

~~who claims a homeowner's property tax exemption on any other real property in the State of California.~~  
Reserved.

G. A unit that is held in trust on behalf of a developmentally disabled individual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.

H. Reserved.

- I. A rental unit or rental units contained in a building that has a certificate of occupancy for the new construction of the unit or building in which the rental unit(s) is contained is issued on or after December 31, 1995.
  1. This exemption applies only to rental units that were newly constructed from the ground up and does not apply to units that were created as a result of rehabilitation, improvement or conversion of commercial space, or other residential rental space.
  2. If no certificate of occupancy was issued for the rental unit or building, in lieu of the date a certificate of occupancy, the date the last permit for the new construction was finalized prior to occupancy shall be used.

**Section 2. Amendments to Section 6 of Measure EE [O.M.C. Section 8.22.360]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type; language for those portions invalidated in Alameda Superior Court No. RG03081362 (*Kim v. City of Oakland*) and deleted herein are shown as *italicized and strikethrough* type.**

Section 6 [8.22.360] - Good Cause Required for Eviction.

- A. No landlord shall endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the city of Oakland unless the landlord is able to prove the existence of one of the following grounds:
  1. The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under provisions of state or local law, and said failure has continued after service on the tenant of a written notice correctly stating the amount of rent then due and requiring its payment within a period, stated in the notice, of not less than three days. However, this subsection shall not constitute grounds for eviction where tenant has withheld rent pursuant to applicable law.
  2. The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld

- the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.
3. The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this chapter. [O.M.C. Chapter 8.22, Article II].
  4. The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.
  5. The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the property.
  6. The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs.
  7. The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.
  8. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession of the rental unit for his or her occupancy as a principal residence where he or she has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her occupancy as a principal residence under a written rental agreement with the current tenants.
  9. The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as a principal residence by the owner of record's spouse, domestic partner, child, parent, or grandparent.
    - a. Here the owner of record recovers possession under this Subsection (9) [Paragraph 8.22.360 A.9], and where continuous occupancy for the purpose of recovery is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this chapter.
- b. The owner of record may not recover possession pursuant to this subsection more than once in any thirty-six (36) month period,
  - c. The owner must move in to unit within three (3) months of the tenant's vacation of the premises.
  - d. ~~When the owner seeking possession of a unit under Section 6(A)(9) [8.22.360 A.9] owns a similar vacant unit, the owner's decision not to occupy said similar unit shall create a rebuttable presumption that they are seeking to recover possession in bad faith. Reserved.~~
  - e. A landlord may not recover possession of a unit from a tenant under Subsection 6(A)(9) [8.22.360 A.9], if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:
    - i. Has been residing in the unit for five (5) years or more; and
      - (a) Is sixty (60) years of age or older; or
      - (b) Is a disabled tenant as defined in the California Fair Employment and Housing Act (California Government Code § 12926); or
    - ii. Has been residing in the unit for five (5) years or more, and is a catastrophically ill tenant, defined as a person who is disabled as defined by Subsection (e)(i)(b) [8.22.360 A.9.e.i.b]]and who suffers from a life threatening illness as certified by his or her primary care physician.
  - f. The provisions of Subsection (e) [8.22.360 A.9.e] above shall not apply where the landlord's qualified relative who will move into the unit is 60 years of age or older, disabled or catastrophically ill as defined by Subsection (e) [8.22.360 A.9.e], and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection (e) [8.22.360 A.9.e].
  - g. A tenant who claims to be a member of one of the classes protected by Subsection 6(A)(9)(e) [8.22.360 A.9.e] must submit a statement, with supporting evidence, to the landlord. A landlord may challenge a tenant's claim of protected status by requesting a hearing with the Rent Board. In the Rent Board hearing, the tenant shall have the burden of proof to show protected status. No civil or criminal liability shall be imposed upon a landlord for challenging a tenant's claim of protected status. The Rent Board shall adopt rules and regulations to implement the hearing procedure.
  - h. Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 6(A)(9) [8.22.360 A.9], no other current landlords may recover possession of



any other rental unit in the building under Subsection 6(A)(9) [8.22.360 A.9]. Only one specific unit per building may undergo a Subsection 6(A)(9) [8.22.360 A.9] eviction. Any future evictions taking place in the same building under Subsection 6(A)(9) [8.22.360 A.9] must be of that same unit, provided that a landlord may file a petition with the Rent Board or, at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously the subject of a Subsection 6(A)(9) [8.22.360 A.9] eviction. The Rent Board shall adopt rules and regulations to implement the application procedure.

i. A notice terminating tenancy under this Subsection must contain, in addition to the provisions required under Subsection 6(B)(5) [8.22.360 B.5]:

ii—[ sic ] i. A listing of all property owned by the intended future occupant(s).

iii—[ sic ] ii. The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.

iv—[ sic ] *A statement informing tenant of his or her rights under Subsection 6(C) [8.22.360 C].\**

10. The owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building.

a. Upon recovery of possession of the rental unit, owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate pursuant to this section, for a period in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. The Rent Board shall adopt rules and regulations to implement the application procedure.

b. Upon completion of the needed repairs, owner of record shall offer tenant the first right to return to the premises at the same rent and pursuant to a rental agreement of substantially the same terms, subject to the owner of record's right to obtain rent increase for capital improvements consistent with the terms of

the Oakland Residential Rent Arbitration Ordinance or any successor ordinance.

c. A notice terminating tenancy under this Subsection 6(A)(10) [8.22.360 A.10] must include the following information:

i. A statement informing tenants as to their right to payment under the Oakland Relocation Ordinance.

ii. A statement that "When the needed repairs are completed on your unit, the landlord must offer you the opportunity to return to your unit with a rental agreement containing the same terms as your original one and with the same rent (although landlord may be able to obtain a rent increase under the Oakland Residential Rent Arbitration Ordinance [O.M.C. Chapter 8.22, Article I]."

iii. *A statement informing tenant of his or her rights under Subsection 6(C) [8.22.360 C].\**  
\*Reserved.

iv. An estimate of the time required to complete the repairs and the date upon which it is expected that the unit will be ready for habitation.

11. The owner of record seeks *in good faith, without ulterior reasons and with honest intent*, remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 et seq.).

B. The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsection 6(A) [8.22.360 A]:

1. The burden of proof shall be on the landlord in any eviction action to which this order is applicable to prove compliance with Section 6 [8.22.360].

2. A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Subsection 6(A) [8.22.360 A] above is stated in the notice and that ground is the landlord's dominant motive for recovering possession and the landlord acts in good faith in seeking to recover possession.

3. Where a landlord seeks to evict a tenant under a just cause ground specified in Subsections 6(A)(7, 8, 9, 10, 11) [8.22.360 A.7, 8, 9, 10, 11], she or he must do so according to the process established in CCC § 1946 (or successor provisions providing for 30 day notice period); where a landlord seeks to evict a tenant for the grounds specified in Subsections 6(A)(1, 2, 3, 4, 5, 6) [8.22.360 A.1, 2, 3, 4, 5, 6], she or he must do so according to the process established in CCP § 1161 (or successor provisions providing for 3 day notice period).

4. Any written notice as described in Subsection 6(A)(2, 3, 4, 5, 7) [8.22.360 A.2, 3, 4, 7] shall be served by the landlord prior to a notice to terminate tenancy and shall include a provision informing tenant that a failure to cure may result in the initiation of eviction proceedings.
5. Subsection 6(B)(3) [8.22.360 B.3] shall not be construed to obviate the need for a notice terminating tenancy to be stated in the alternative where so required under CCP § 1161.
6. A notice terminating tenancy must additionally include the following:
  - a. A statement setting forth the basis for eviction, as described in Subsections 6(A)(1) [8.22.360 A.1] through 6(A)(11) [8.22.360 A.11];
  - b. A statement that advice regarding the notice terminating tenancy is available from the Rent Board.
  - c. Where an eviction is based on the ground specified in Subsection 6(A)(9) [8.22.360 A.9], the notice must additionally contain the provisions specified in Subsection 6(A)(9)(i) [8.22.360 A.9.i].
  - d. Where an eviction is based on the ground specified in Subsection 6(A)(10) [8.22.360 A.10], the notice must additionally contain the provisions specified in Subsection 6(A)(10)(c) [8.22.360 A.10].
  - e. Failure to include any of the required statements in the notice shall be a defense to any unlawful detainer action.
7. Within ten (10) days of service of a notice terminating tenancy upon a tenant, a copy of the same notice and any accompanying materials must be filed with the Rent Board. Each notice shall be indexed by property address and by the name of the landlord. Such notices shall constitute public records of the City of Oakland, and shall be maintained by the Rent Board and made available for inspection during normal business hours. Failure to file the notice within ten (10) days of service shall be a defense to any unlawful detainer action.

C. Reserved. ~~The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsections 6(A)(9) [8.22.360 A.9] or (10) [8.22.360 A.10]:~~

1. ~~Where the landlord owns any other residential rental units, and any such unit is available or will become available between the time of service of written notice terminating tenancy and the earlier of the surrender of possession of the premises or the execution of a writ of possession pursuant to the judgment of a court~~

~~of competent jurisdiction, the landlord shall, as a condition of obtaining possession pursuant to Section 6 [8.22.360], notify tenant in writing of the existence and address of each such vacant unit and offer tenant the right to choose any available rental unit and at the tenant's option: i) to enter into a temporary rental agreement; or ii) to enter into a new rental agreement. The landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is currently paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board.\*~~

2. ~~The following shall be considered rebuttably presumptive violations of this chapter by the landlord:\*~~
  - a. ~~Where the event which the landlord claims as grounds to recover possession under Subsection 6(A)(9) [8.22.360 A.9] or (10) [8.22.360 A.10] is not initiated within three (3) months after the tenant vacates the unit.\*~~
  - b. ~~Where a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid offering a tenant a replacement unit.\*~~
  - c. ~~Where the individual (a landlord or qualified relative) for whom the Subsection 6(A)(9) [8.22.360 A.9] eviction occurred does not occupy a unit for a minimum of thirty-six (36) consecutive months.~~

D. Substantive limitations on landlord's right to evict.

1. In any action to recover possession of a rental unit pursuant to Section 6 [8.22.360], a landlord must allege and prove the following:
  - a. the basis for eviction, as set forth in Subsection 6(A)(1) through 6(A)(11) [8.22.360 A.1 through 8.22.360 A.11] above, was set forth in the notice of termination of tenancy or notice to quit;
  - b. that the landlord seeks to recover possession of the unit with good faith, honest intent and with no ulterior motive;
2. If landlord claims the unit is exempt from this ordinance, landlord must allege and prove that the unit is covered by one of the exceptions enumerated in Section 5 [8.22.350] of this chapter. Such allegations must appear both in the notice of termination of tenancy or notice to quit, and in the complaint to recover possession. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.

3. This subsection (D) [8.22.360 D] is intended as both a substantive and procedural limitation on a landlord's right to evict. A landlord's failure to comply with the obligations described in Subsections 7(D)(1) or (2) [ sic ] [8.22.360 D.1 or 8.22.360 D.2] shall be a defense to any action for possession of a rental unit.
- E. In the event that new state or federal legislation confers a right upon landlords to evict tenants for a reason not stated herein, evictions proceeding under such legislation shall conform to the specifications set out in this chapter [O.M.C. Chapter 8.22, Article II].
- F. The City Council is authorized to modify the Just Cause for Eviction Ordinance (Measure EE [O.M.C., Chapter 8, Article II (8.22.300, et seq.)]) for the purpose of adding limitations on a landlord's right to evict, but the City Council may not modify any exemption from this Ordinance contained in Section 5 [O.M.C. Section 8.22.350].

**Section 3. Amendments to Section 9 of Measure EE [O.M.C. Section 8.22.390]. Added text is shown as double underlined type; deleted text is shown as ~~strikethrough~~ type.**

Section 9 [8.22.390] - Partial invalidity.

- A. If any provision of this chapter or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or applications, and to this end the provisions and applications of this chapter are severable.
- B. If any provision of this Just Cause for Eviction Ordinance (Measure EE [O.M.C., Chapter 8, Article II (8.22.300, et seq.)]) is invalidated or required to be modified by a court decision or change in State or Federal law, the City Council is authorized to make such modifications to conform to the court decision or change in state law provided such modifications effectuate the purpose of the Just Cause for Eviction Ordinance and the original text.

**Section 4. Applicability and Grandparenting.**

- A. Applicability to rental units. The amendments set out in Section 1 of this measure apply to all rental units that qualify for exemption prior to the effective date of this measure and to all rental units subsequent to the effective date.
- B. Applicability to notices served prior to effective date of the measure. The amendments set out in Section 1 of this measure (1) do not apply to any valid notice terminating tenancy pursuant to Code of Civil Procedure 1161(2)-(4) served prior to the effective date of this measure; (2) apply to notices terminating tenancy pursuant to Civil Code 1946 or 1946.1 that have been served as of the effective

date of this measure, but where such rental unit has not been vacated or an unlawful detainer judgment has not been issued as of the effective date of this measure.

**Section 5.** This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15378 (regulatory actions), § 15061(b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning).

**Section 6. Severability.** If any section, subsection, sentence, clause or phrase of this Measure is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Measure. The voters hereby declare that it would have passed this Measure and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. In lieu of severance, any section declared invalid or unconstitutional may be modified pursuant to Section 3 above, as appropriate.

**Section 7. Effective Date.** This Ordinance shall be effective only if approved by a majority of the voters voting thereon and shall go into effect ten (10) days after the vote is declared by the City Council.

# CITY OF OAKLAND MEASURE Z

<p style="font-size: 2em; margin: 0;"><b>Z</b> Shall the measure amending Oakland’s Municipal Code to: (1) establish workplace protections and minimum hourly wage of \$15 with benefits or \$20 without benefits, increasing annually with inflation, for employees of Oakland hotels with 50 or more guest rooms; (2) authorize administrative enforcement of Oakland’s employment standards for hotel and non-hotel workers; and (3) create City department to administratively enforce Oakland’s employment standards for hotel and non-hotel workers, be adopted?</p>	<b>YES</b>
	<b>NO</b>

## CITY ATTORNEY’S BALLOT TITLE AND SUMMARY OF MEASURE Z

### Ballot Title

**A Proposed Ordinance and Amendments to the Oakland Municipal Code Creating Workplace Protections and a Minimum Wage for Hotel Employees, Modifying How Oakland’s Local Employment Standards Are Enforced, and Creating a Department of Workplace and Employment Standards.**

### Ballot Summary

#### Minimum Wage for Hotel Employees

This measure would require that Oakland hotels with 50 or more guest rooms or suites of rooms provide hotel employees the following:

- minimum wage of \$15.00 per hour with healthcare benefits or \$20.00 per hour without healthcare benefits, which would increase annually with inflation (effective July 1, 2019);
- emergency contact device (“panic button”) to report an ongoing crime, threats or other emergency;
- support in reporting violence or threatening behavior, including reassignment and paid time to contact the police and consult with a counselor or advisor;
- workload restrictions, including maximum floor space to be cleaned and limitations on mandatory overtime; and
- employee access to records regarding the employee’s pay rate, daily workload, and overtime.

This measure would modify local minimum wage and sick leave enforcement provisions for hotel workers.

#### Discrimination and Retaliation Prohibited

This measure would make it unlawful for employers to discriminate or retaliate against employees for exercising their rights. It would be unlawful for an employer to discharge an employee within 120 days after the employee exercises his/her rights under the measure, unless the employer has clear and convincing evidence of just cause for the discharge. Employers could not reduce employees’

compensation or benefits to offset the cost of implementing the measure.

#### Enforcement

The City would have the authority to administratively enforce City employment standards by investigating possible violations, conducting due process hearings and ordering relief, including reinstatement, back pay and penalties. The City could order an employer to pay an administrative penalty to each employee/person whose rights have been violated of \$50.00 for each violation per day of violation; and to pay up to \$50.00 for each day and for each employee to compensate the City for the costs of enforcing the measure.

The City, City Attorney, employee, or other aggrieved person could sue the employer to address violations. The prevailing party would be entitled to attorney’s fees and costs and remedies including back pay, reinstatement, injunctive relief and payment to each employee as a penalty of \$50 per day per violation, up to a maximum of \$1,000 per employee or aggrieved person. In any administrative or civil proceeding, the City or court would award interest on any due and unpaid wages or service charges.

#### Department of Workplace and Employment Standards

Effective July 1, 2020, this measure would create a Department of Workplace and Employment Standards (“Department”) to enforce this measure and perform any other functions authorized by the City. The Department would enforce City minimum wage, sick leave, and other employment standards to the extent permitted by state law; and could promulgate rules and regulations to implement the measure.

s/BARBARA J. PARKER  
City Attorney

## CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE Z

This measure would establish a minimum hourly wage for Hotel Employees of \$15.00 with healthcare benefits or \$20.00 without healthcare benefits, effective July 1, 2019. Existing law requires a minimum hourly wage of \$13.23, which increases yearly on January 1 with inflation, for employees who work at least two hours in a workweek in Oakland. The Hotel Employees minimum wage would adjust annually in the same manner.

This measure would establish workplace protections for Hotel Employees, including employer-provided emergency contact devices, rights for employees who report violence or threatening behavior, restrictions on maximum floor space to be cleaned, limitations on mandatory overtime, and employee access to pay, workload, and overtime records.

A "Hotel Employee" is any individual: (1) employed to provide services in an Oakland hotel with 50 or more guest rooms or suites of rooms, whether employed directly by the hotel or by the hotel's contractor; and (2) who was hired to or did work an average 5 hours per week for 4 weeks.

This measure would require clear and convincing evidence of just cause for an employer to discharge an employee within 120 days after the employee exercises a right under this measure. Employers could not reduce employees' compensation or benefits to offset the cost of implementing the measure.

This measure would modify employment standards enforcement provisions for hotel and non-hotel employees. Existing law allows the City to monitor compliance with local employment standards and investigate complaints. This measure would establish additional enforcement procedures, including authorizing the City to conduct due process hearings and order relief. The City could impose an administrative penalty of \$50.00 per day per violation to be paid to each employee and compensation to the City for enforcement costs of up to \$50.00 per day per employee.

Existing law provides a private right of action for aggrieved persons, entitling them to all available remedies; it allows maximum civil penalties of \$1,000 per violation. This measure would authorize the City Attorney to bring a civil action to address violations and allow a penalty payment to each employee of \$50 per day per violation, up to a maximum of \$1,000 per employee. The City or court would award interest on amounts due and unpaid.

Effective July 1, 2020, this measure would create a Department of Workplace and Employment Standards ("Department") to enforce employment standards for hotel and non-hotel employees. The Department would perform any other functions authorized by the City and could promulgate rules and regulations to implement the measure.

This measure was placed on the ballot by a petition signed by the requisite number of voters. A majority vote (50% plus one) in favor of the measure is required for passage.

s/BARBARA J. PARKER  
City Attorney

## CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE Z

### Summary

This Measure, if adopted by a majority (more than 50%) of voters, would amend and add sections to the City of Oakland's Municipal Code requiring Oakland hotels, with 50 or more guest rooms or suites to provide hotel employees the following:

1. **Measures to protect hotel employees from threatening behavior** including, but not limited to, a "panic button", re-assignment/removal from threatening situations, management support in reporting and investigation, protections from disciplinary actions and posting notice of hotel worker protections in guestrooms;
2. **Measures to provide a humane workload** including fair compensation for workload assignment and employee consent to overtime and work assignment capacity beyond stated limits;
3. **Minimum wages** initially of \$15.00 per hour with health benefits or \$20.00 per hour without health benefits, which would increase annually with inflation (effective July 1, 2019). Comparable City of Oakland and State of California minimum hourly wages are currently \$13.23 and \$11.00 respectively;
4. **Employee access to records** regarding the employee's pay rate, daily workload, and overtime for a minimum of 3 years; and
5. **No retaliation** for exercising their rights under this Measure.

### Financial Impact

The City of Oakland's Finance Department estimates the creation of a new department, as proposed by the Measure, would cost the city \$2.8 million annually for staffing and operations.

Other potential, but currently unquantifiable, impacts may include:

- Future staff salary and benefit cost of living increases;
- Initial and on-going community outreach and education costs around rights and responsibilities.

### Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis that supports this measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE Z

“I’m just one of the many women who work in Oakland’s hotels. We live in fear and shame of hotel guests exposing themselves to us—or worse—when we enter to clean their room or bring their food. It’s embarrassing and humiliating. These hotel guests take away our dignity and threaten our safety, but our managers just tell us to keep quiet; that the guest comes first. This should stop. Hotels should protect the women who work so hard to support our families. And the City of Oakland should protect all workers, and make sure our rights are enforced.”

Blanca Smith, Oakland hotel worker

Should hotel housekeepers be provided security panic buttons we can use to call for help if we are sexually assaulted or threatened by a hotel guest?

If your answer is “Yes”, please vote “Yes” on Measure Z.

Should hotel housekeepers be protected from the terrible impacts of inhumane workloads?

If your answer is “Yes”, please vote “Yes” on Measure Z.

Should hotel workers receive a living wage so we can keep our homes and take care of our families?

If your answer is “Yes”, please vote “Yes” on Measure Z.

Should there be a Department of Workplace and Employment Standards to enforce these policies, as well as Oakland’s minimum wage, sick leave policy, and other local standards for all workers in our City?

If your answer is “Yes”, please vote “Yes” on Measure Z.

We wish to thank the more than 26,000 Oakland voters who signed our petitions to put Measure Z on the ballot.

As hotel housekeepers and immigrants and women of color, we are blessed to live in a community where people care about us. Please vote Yes on Measure Z.

s/IRMA PEREZ

Oakland Hotel Housekeeper

s/BLANCA SMITH

Oakland Hotel Server

s/MELODY MIO YUN LI-HUEY

Oakland Hotel Housekeeper

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE Z

Questions pulling our hearts often sound simple and appealing; unfortunately they do not always work or create good policy. That is the case with Measure Z and the arguments made by its proponents. Although they sound good initially, upon examination, they won’t work, and create bad public policy at great expense to the City of Oakland.

Look at the details and impact, and you will see the serious problems it creates for our City.

Why should hotel workers be paid a higher minimum wage than any other worker in Oakland?

Why should we spend more than One Million Dollars for a new wage enforcement department when we already have a Compliance Department and State Agency enforcing wage and labor laws?

Why aren’t the most vulnerable housekeepers at smaller hotels in Oakland part of the new wage minimum or panic buttons?

Why should the voters set detailed worker rules for housekeepers instead of the employers and state laws?

We all agree that hotel workers – in fact, all workers – should be treated fairly. Measure Z fails to do that. Rather, it provides specific, preferential rules that do not apply to workers in other employment, or even to many hotel workers, at great cost to the City of Oakland.

Vote NO on Measure Z – it costs too much and is not fair.

s/R. ZACHARY WASSERMAN

Oakland Citizen

s/LARRY REID

Oakland City Councilmember

## ARGUMENT AGAINST MEASURE Z

This Measure is misleading and fails to protect the most vulnerable hotel workers and provides a loop hole for the biggest unionized hotels. The Measure will not apply to hotels with less than 50 rooms. Many hotels that are in more dangerous neighborhoods have less than 50 rooms. So workers at some hotels along MacArthur Blvd will not have the protections of panic buttons, work rules or better wages. The Measure also exempts hotels that have bargaining agreements with a union if the hotel and the union agree. Workers at union hotels may be paid less than the minimum wage set forth by this measure and workers may not get the protection of the work rule limitations – which is the case with some workers today at Union hotels under the existing City wide minimum wage ordinance.

The work rules that would apply are unreasonable and almost impossible to administer.

The Measure also creates a new City Agency – the Department of Workplace and Employment Standards – that could cost an additional million dollars or more and duplicates federal, state and City agencies that already provide protections for workers. This unnecessary department would regulate ALL businesses in Oakland at the expense of tax payers.

Worker protections and fair wages are important. This measure achieves neither and at a great cost. We all want to protect workers but this overblown Measure filled with loopholes is the wrong way to do it. Vote No.

s/LARRY REID

Oakland Council Member

s/ZACK WASSERMAN

Oakland Citizen

## REBUTTAL TO ARGUMENT AGAINST MEASURE Z

Measure Z is critical for ensuring housekeepers in the growing hospitality industry are protected from sexual assault, have humane workloads, and earn fair wages.

Hotel housekeepers, predominantly women of color, work by themselves in intimate spaces and face sexual assault at alarming rates. Measure Z creates commonsense protections to keep these women secure in their workplaces.

Measure Z will provide panic buttons to hotel housekeepers, set humane workload limits and a living wage for hotel workers, and strengthen enforcement of protections for all Oakland workers.

To oppose Measure Z is to put hotel owners' profits over the people of Oakland and the security and dignity of women.

The two men who argue against Measure Z don't seem to understand the hardships and dangers that many women experience in the workplace, and they certainly haven't proposed anything to address what they claim are their concerns.

More than half of hotel housekeepers surveyed have reported inappropriate sexual behavior perpetrated by a male guest. 1 in 4 housekeepers have been made to feel unsafe by a male guest's behavior.

Measure Z includes practical solutions that have already proven effective in cities in California and beyond, including Chicago, Seattle, and right next door in Emeryville.

As women who have lived in Oakland for decades, we know our community stands with women and believes in protecting workers. Measure Z embodies these Oakland values.

**Please join with us in voting YES on Z.**

s/DAMITA DAVIS-HOWARD

Asst. Pastor; East Oakland Resident

s/DANIELLE MAHONES

Non-Profit Leader and Oakland Resident

s/BEATRIZ FRANCO MENDOZA

Hotel Housekeeper and Oakland Resident

s/MIYA SAIKA CHEN

Attorney and Oakland Resident

s/REBECCA KAPLAN

Oakland City Councilmember At-large

## FULL TEXT OF MEASURE Z

### “SECTION 1. HOTEL MINIMUM WAGE AND WORKING CONDITIONS.

A new Chapter 5.93 is added to the City of Oakland Municipal Code, entitled “Hotel Minimum Wage and Working Conditions,” as follows:

#### 5.93.010 - Definitions.

“*Additional-bed rooms*” means a room with additional beds such as cots or rollaways.

“*Checkout*” means a room occupied by guests who are ending their stay at the hotel.

“*Guest*” means registered guests, others occupying guest rooms with registered guests, and visitors invited to guest rooms by a registered guest or other occupant of a guest room.

“*Guest room*” means a room made available by a hotel for transient occupancy, within the meaning of Oakland Municipal Code section 4.24.020.

“*Hotel*” means structures as defined by Oakland Municipal Code section 4.24.020, and containing 50 or more guest rooms, or suites of rooms. “Hotel” also includes any contracted, leased, or sublet premises connected to or operated in conjunction with the building’s purpose, or providing services at the building.

“*Hotel Employer*” means a person who owns, controls, and/or operates a hotel in the City of Oakland, or a person who owns, controls, and/or operates any contracted, leased, or sublet premises connected to or operated in conjunction with the hotel’s purpose, or a person, other than a hotel employee, who provides services at the hotel.

“*Hotel Employee*” means any individual (1) who is employed directly by the hotel employer or by a person who has contracted with the hotel employer to provide services at a hotel in the City of Oakland; and (2) who was hired to or did work an average 5 hours/week for 4 weeks at one or more hotels.

“*Panic button*” means an emergency contact device carried by the hotel employee which allows him or her in the event of an ongoing crime, threat, or other emergency to alert another employee or security guard responsible for providing immediate on-scene assistance.

“*Person*” means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

“*Room cleaner*” means a hotel employee whose principal duties are to clean and put in order residential guest rooms in a hotel, regardless of who employs the person.

“*Workday*” means a 24-hour period beginning at 12:00 a.m. and ending at 11:59 p.m.

#### Sec. 5.93.020 - Measures to protect hotel employees from threatening behavior.

**A. Purpose.** Hotel employees who work by themselves are vulnerable to crimes and other threatening behavior, including sexual assault. This Chapter enables hotel workers to protect their safety by, among other measures, requiring that hotel employers provide workers who clean guest rooms with panic buttons which they may use to report threatening conduct by a hotel guest and other emergencies. Many instances of sexual assault go unreported to the police. This Chapter also includes provisions that support hotel employees’ ability to report criminal and threatening guest behavior to the proper authorities.

B. Each hotel employee assigned to work in a guest room or bathroom without other employees present shall be provided by the hotel employer, at no cost to the hotel employee, a panic button.

1. If a hotel employee encounters a situation necessitating his or her use of the panic button as described above, the hotel employee may cease working and remove him/herself from the situation to await the arrival of the employee or security guard responsible for providing immediate assistance. No hotel employee may be disciplined for ceasing work under these circumstances.

2. No hotel employee may be disciplined for use of a panic button absent clear and convincing evidence the hotel employee knowingly and intentionally made a false claim of emergency.

C. A hotel employee who brings to the attention of a hotel employer the occurrence of violence or threatening behavior, including but not limited to indecent exposure, solicitation, assault, or coercive sexual conduct by a guest, shall be afforded the following rights.

1. If the hotel employee reasonably believes that his or her safety is at risk and so requests, the hotel employee shall be reassigned to a different floor, or, if none is available for his or her job classification, a different work area, away from the person who is alleged to have engaged in the violence or threatening behavior, for the entire duration of the person’s stay at the hotel;

2. The hotel employer shall immediately allow the affected hotel employee sufficient paid time to contact the police and provide a police statement and to consult with a counselor or advisor of the hotel employee’s choosing; the hotel employer will permit, but may never require, the complaining hotel employee to report an incident involving alleged criminal conduct by a guest to the law enforcement agency with jurisdiction; and

3. The hotel employer shall cooperate with any investigation into the incident undertaken by the law enforcement agency and/or any attorney for the complaining hotel employee.

D. Each hotel shall place a sign on the back of each guestroom door, written in a font size of no less than 18 points, that includes the heading “The Law Protects Hotel Housekeepers and Employees From Threatening Behavior,” a citation to this Chapter of the Oakland Municipal Code, and notice of the fact that the hotel is providing panic buttons to its housekeepers, room servers, and other hotel



employees assigned to work in guest rooms without other employees present, in compliance with this Chapter.

#### **Sec. 5.93.030 - Humane workload.**

**A. Purpose.** Hotel employees who clean guest rooms are frequently assigned overly burdensome room cleaning quotas and unexpected overtime, which undermines the public interest in ensuring that hotel room cleaners can perform their work in a manner that adequately protects public health and interferes with their ability to meet family and personal obligations. This provision assures that workers receive fair compensation when their workload assignments exceed proscribed limits and prohibits hotel employers from assigning hotel employees overtime work when their shifts exceed 10 hours in a day, except in emergency situations, without obtaining workers' informed consent.

**B.** A hotel employer shall not require a room cleaner to clean rooms amounting to more than 4,000 square feet of floorspace, or more than the maximum floor space otherwise specified in this Section, in any one, eight-hour workday unless the hotel employer pays the room cleaner twice his or her regular rate of pay for all hours worked by the room cleaner during the workday. If a room cleaner works fewer than eight hours in a workday, the maximum floor space shall be reduced on a prorated basis. When a room cleaner during a workday is assigned to clean any combination of seven or more checkout rooms or additional-bed rooms, the maximum floorspace to be cleaned shall be reduced by 500 square feet for each such checkout or additional-bed room over six. The limitations contained herein apply to any combination of spaces, including guest rooms and suites, meeting rooms or hospitality rooms, and apply regardless of the furniture, equipment or amenities in any rooms.

**C.** A hotel employer shall not suffer or permit a hotel employee to work more than 10 hours in any workday unless the hotel employee consents. Consents must be written and signed by the hotel employee or communicated electronically through an account or number particular to the hotel employee. No consent is valid unless the hotel employer has advised the hotel employee in writing not more than 30 days preceding the consent that the hotel employee may decline to work more than 10 hours in any workday and that the hotel employer will not subject the hotel employee to any adverse action for declining. Such notice shall be provided in each language spoken by more than ten percent (10%) or ten (10) hotel employees at the hotel, whichever is less. An assignment in excess of 10 hours in a workday due to an emergency situation shall not violate this section. For purposes of this Section, an "emergency situation" shall mean an immediate threat to public safety or of substantial risk of property loss or destruction.

#### **Sec. 5.93.040 - Hotel employee minimum wage.**

**A.** Effective July 1, 2019, hotel employers shall pay hotel employees a wage of no less than \$15.00 per hour with health benefits, not including gratuities, service charge distributions, or bonuses, or \$20.00 per hour without health benefits, not including gratuities, service charge

distributions, or bonuses.

**B.** Health benefits under this Section shall consist of the payment of the difference between the higher wage and lower wage under Section 5.93.040(A) towards the provision of health care benefits for hotel employees and their dependents. Proof of the provision of these benefits must be kept on file by the hotel employer, if applicable.

**C.** The wage rates set forth in this Section shall be adjusted for inflation annually in the manner set forth in Section 5.92.020(B).

#### **Sec. 5.93.050 - Preservation of records.**

**A.** Each hotel employer shall preserve for at least three (3) years:

1. for each room cleaner, a record of his or her name, pay rates received, and the rooms (or at the hotel employer's option, total amount of square footage) each cleaned each workday;

2. a record of the written consents it received from hotel employees to work more than ten hours during a shift; and

3. for each hotel employee, a record of his or her name, hours worked, pay rate, and proof of health benefits consistent with Section 5.93.040(B) (if applicable).

**D.** The hotel employer shall make such records available to hotel employees or their representatives for inspection and copying, except that hotel employees' names (and any addresses and social security numbers) shall be redacted unless the requester is a hotel employee requesting his or her own records. Where a hotel employer does not maintain or retain adequate records consistent with this Section, or does not permit reasonable access to such records, it shall be presumed, in any administrative or judicial proceeding enforcing this Chapter, that:

1. the hotel employer required the room cleaner to clean total square footage in excess of 4,000 square feet on the day for which records are missing or inadequate, absent clear and convincing evidence otherwise;

2. no written consent to work more than ten hours during a shift exists for a hotel employee for days on which written consents are missing or inadequate, absent clear and convincing evidence otherwise; and

3. the hotel employer paid the hotel employee no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise.

**5.93.060 - No retaliation.** A hotel employer shall not discharge, reduce the compensation of nor otherwise discriminate against any person for making a complaint to the City, participating in any of its proceedings, using any civil remedies to enforce his or her rights, or otherwise asserting his or her rights under this Chapter. Within one hundred twenty (120) days of a hotel employer being notified of such activity, it shall be unlawful for the hotel employer to discharge any person who engaged in such activity unless the hotel employer has clear and convincing evidence of just cause for such discharge.

### **5.93.070 - Waiver.**

The provisions of this Chapter may not be waived by agreement between an individual hotel employee and a hotel employer. All of the provisions of Section 5.93.030 and 5.93.040, or any part thereof, may be waived in a *bona fide* collective bargaining agreement but only if the waiver is explicitly set forth in such agreement in clear and unambiguous terms.

### **5.93.080 - Enforcement and miscellaneous provisions.**

A. This Chapter shall be enforced in accordance with the procedures set forth in Oakland Municipal Code Section 5.92.050, and the remedies set forth in that Section shall apply to violations of this Chapter, except that for a willful violation of Section 5.93.060, the amount damages attributable to lost income due to the violation shall be trebled.

C. No hotel employer may fund increases in compensation required by this Chapter, nor otherwise respond to the requirements of this Chapter, by reducing the compensation of any non-management hotel employees nor by reducing the pension, vacation, or other non-wage benefits of any such hotel employees, nor by increasing charges to them for parking, meals, uniforms or other items. If a hotel employer makes such adverse changes after the filing of the notice to circulate the petition giving rise to this Chapter but before this Chapter has become effective, then upon this Chapter's effective date, such hotel employer shall restore the conditions of the *status quo ante*.

D. Each hotel employer shall give written notification to each current hotel employee, and to each new Hotel Employee at time of hire, of his or her rights under this Chapter. The notification shall be in each language spoken by more than ten percent (10%) or ten (10) hotel employees at the hotel, whichever is less.

E. A hotel employer that contracts with another person, including, without limitation, another hotel employer, a temporary staffing agency, employee leasing agency or professional employer organization, to obtain the services of hotel employees shall share all civil legal responsibility and civil liability for violations of this Chapter by that person for hotel employees performing work pursuant to the contract. For the purposes of this subsection, the term "person" shall not include: (1) A bona fide nonprofit, community-based organization that provides services to workers; (2) A bona fide labor organization or apprenticeship program or hiring hall operated pursuant to a collective bargaining agreement.

### **5.93.090 - No preemption of higher standards.**

The purpose of this Chapter is to ensure minimum labor standards for hotel employees. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City or Port of Oakland. This Chapter shall not be construed to limit a discharged hotel employee's right to bring a common law cause of action for wrongful termination.

## **SECTION 2. WORKER RETENTION AT LARGE-SCALE HOSPITALITY BUSINESSES.**

Oakland Municipal Code Section 2.36.010(A) is amended to read as follows:

A. "Hospitality Business" means any for-profit hotel within the City with 50 or more guest rooms or food service operation within the City which has employed more than one hundred and fifty (150) persons at a single site during any payroll period during the prior year. For these purposes "hotel" also includes any related facilities such as pools, restaurants, or spas which hotel guests may use.

## **SECTION 3. DEPARTMENT OF WORKPLACE AND EMPLOYMENT STANDARDS.**

A new Chapter 2.44 is added to the Oakland Municipal Code, entitled "Department of Workplace and Employment Standards," as follows:

**2.44.010. Department of Workplace and Employment Standards.** There is hereby created under the jurisdiction of the City Administrator a Department of Workplace and Employment Standards. Effective July 1, 2020, the Department of Workplace and Employment Standards shall enforce Chapter 2.28 ("Living Wage Ordinance"); Chapter 2.36 ("Worker Retention at Large-Scale Hospitality Business Ordinance"); Chapter 5.92 ("City Minimum Wage, Sick Leave, and Other Employment Standards"); Chapter 5.93 ("Hotel Minimum Wage and Working Conditions"); Prevailing Wage Resolution (Resolution No. 57103 C.M.S.), Local Employment Program (Part IV of the Local and Small Local Business Enterprise Program, Resolution No. 69687 C.M.S., as amended and codified by Ordinance No. 12389 C.M.S., and as subsequently amended), and 15% Apprenticeship Program (Resolution No. 74762 C.M.S.), and shall carry out such additional duties and functions as assigned by the City Administrator, or by Charter, ordinance, or City Council resolution. The Department of Workplace and Employment Standards may impose penalties and take any and all appropriate action to enforce the requirements of such provisions. The Department of Workplace and Employment Standards shall have authority to adopt rules and regulations consistent with and necessary for the implementation of the foregoing laws. Such rules and regulations shall have the force and effect of law, and may be relied upon by employers, employees and other persons to determine their rights and responsibilities. The Department of Workplace and Employment Standards may enforce the provisions of the California Labor Code to the extent permitted by State law.

**2.44.020.** The Department of Workplace and Employment Standards shall be administered by a Chief Officer, who shall be appointed by, and shall serve at the pleasure of, the City Administrator. In appointing the Chief Officer, the City Administrator shall consider, among other relevant factors, the individual's experience enforcing employment standards, including prevailing wage requirements. The Chief Officer shall coordinate his or her activities with federal and state labor standards agencies.

**2.44.030.** All City departments and agencies shall

cooperate with the Chief Officer and his or her designees. The Chief shall have the authority to subpoena the production of books, papers, records or other items relevant to investigations under the jurisdiction of the Department of Workplace and Employment Standards.

#### **SECTION 4. ENFORCEMENT OF CERTAIN CITY EMPLOYMENT STANDARDS.**

Oakland Municipal Code Section 5.92.050 is amended as follows (deleted text is indicated by ~~strikethrough~~; added text is indicated with an underline; omitted text is indicated by (\* \* \* \*):

##### **A. Retaliation. \* \* \* \***

**C. Retention of Records.** Each Employer shall maintain for at least (3) three years for each Employee a record of his or her name, hours worked, pay rate, Paid Sick Leave accrual and usage, and Service Charge collection and distribution. Each Employer shall provide each Employee or his or her representative a copy of the records relating to such Employee upon the Employee's or representative's reasonable request, except that the Employees' names (and any addresses and social security numbers) shall be redacted unless the requester is an Employee requesting his or her own records. Where an Employer does not maintain or retain adequate records documenting wages paid or does not allow reasonable access to such records, it shall be presumed in any administrative or judicial enforcement proceeding to enforce the provisions of this Chapter that the Employer paid the Employee no more than the applicable federal or state minimum wage, absent clear and convincing evidence otherwise. \*\*\*\*

##### **G. Enforcement Procedures.**

**1. Enforcement Priority.** It is the policy of the City of Oakland that all employees be compensated fairly according to the law and that Employers who engage in wage theft be held accountable.

##### **2. Administrative Enforcement.**

a. The City is authorized to take appropriate steps to enforce this Chapter. The City may investigate any possible violations of this Chapter by an Employer or other person and, where the City has reason to believe that a violation has occurred, it may order appropriate temporary or interim relief to mitigate the violation or maintain the *status quo* pending completion of a full investigation or hearing.

b. Where the City, after a hearing that affords a suspected violator due process, determines that a violation has occurred, it may order any appropriate relief, including, but not limited to, reinstatement, the payment of any back wages unlawfully withheld, and the payment of an additional sum as an administrative penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued. A violation for unlawfully withholding wages or service charges shall be deemed to continue from the date immediately following the date that the sums were due and payable as provided in Part 1 (commencing with

Section 200) of Division 2 of the California Labor Code, to the date immediately preceding the date the sums are paid in full. Where prompt compliance is not forthcoming, the City may take any appropriate action to secure compliance, including initiating a civil action pursuant to Section 5.92.050(G)(3), and, except where prohibited by state or federal law, requesting that City agencies or departments revoke or suspend any registration certificates, permits, or licenses held or requested by the Employer or person until such time as the violation is remedied. All City agencies and departments shall cooperate with such revocation or suspension requests. In order to compensate the City for the costs of investigating and remedying the violation, the City may also order the violating Employer or person to pay to the City a sum of not more than \$50 for each day and for each Employee or person as to whom the violation occurred or continued. Such funds shall be allocated to the City and shall be used to offset the costs of implementing and enforcing this Chapter and, on and after July 1, 2020, other laws under the jurisdiction of the Department of Workplace and Employment Standards. The amounts of all sums and payments authorized or required under this Section shall be updated annually for inflation, beginning January 1, 2019, using the inflation rate and procedures set forth in Section 5.92.020(B).

c. An Employee, representative of Employees, or other person may report in writing any suspected violation of this Chapter to the City. The City shall encourage reporting pursuant to this subsection by keeping confidential, to the maximum extent permitted by applicable laws, the name and other identifying information of the person reporting the violation and any Employee whose name is included in the report. Provided, however, that with the written authorization of such person, the City may disclose his or her name and identifying information as necessary to enforce this Chapter or for any other appropriate purpose. In order to further encourage reporting by Employees, if the City notifies an employer that the City is investigating a complaint, the City shall require the Employer to post or otherwise inform its Employees that the City is conducting an investigation, using a form provided by the City.

3. Civil Enforcement. The City, the City Attorney, any person aggrieved by a violation of this Chapter, any entity a member of which is aggrieved by a violation of this Chapter, or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court of competent jurisdiction against the Employer or other person violating this Chapter and, upon prevailing, shall be entitled to **G. Private Rights of Action.** Any Person claiming harm from a violation of this Chapter may bring an action against the Employer in court to enforce the provisions of this Chapter and shall be entitled to all remedies available to remedy any violation of this Chapter, including but not limited to back pay, reinstatement and/or injunctive relief, and the payment of an additional sum as penalty in the amount of \$50 to each Employee or person whose rights under this Chapter were violated for each day that the violation occurred or continued, up to a maximum of \$1,000 per Employee or aggrieved person. Violations

of this Chapter are declared to irreparably harm the public and covered employees generally. The Court shall award reasonable attorney's fees, witness fees and expenses to any plaintiff who prevails in an action to enforce this Chapter. Provided that any person or entity enforcing this Chapter on behalf of the public shall, upon prevailing, be entitled only to equitable, injunctive or restitutionary relief, and reasonable attorneys' fees and costs. Any Person who negligently or intentionally violates this Chapter shall be liable for civil penalties for each violation with a maximum of one thousand dollars (\$1000.00) per violation, the amount to be determined by the court. No criminal penalties shall attach for any violation of this Chapter, nor shall this Chapter give rise to any cause of action for damages against the City.

**H. Interest.** In any administrative or civil action brought for the non-payment of wages or service charge distributions under this Chapter, the City or court, as the case may be, shall award interest on all due and unpaid sums at the rate of interest specified in subdivision (b) of Section 3289 of the California Civil Code, which shall accrue from the date the sums were due and payable, as provided in Part 1 (commencing with Section 200) of Division 2 of the California Labor Code, to the date the sums are paid in full.

**HI. No Preemption of Higher Standards.** The purpose of this Chapter is to ensure minimum labor standards. This Chapter does not preempt or prevent the establishment of superior employment standards (including higher wages) or the expansion of coverage by ordinance, resolution, contract, or any other action of the City or Port of Oakland. This Chapter shall not be construed to limit a discharged Employee's right to bring a common law cause of action for wrongful termination.

**IJ. Severability.** If any provision or application of this Chapter is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid or inoperative shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this Chapter in order to preserve the maximum permissible effect of each subsection herein. Nothing herein may be construed to impair any contractual obligations of the Port or City of Oakland. This Chapter shall not be applied to the extent it will cause the loss of any federal or state funding of City or Port activities.

**J. Department of Workplace and Employment Standards.** On and after July 1, 2020, the Department of Workplace and Employment Standards shall enforce this Chapter, and shall have authority to take any action permitted of the City in this Section.

**K. Regulations.** The City and, on and after July 1, 2020, the Department of Workplace and Employment Standards, may promulgate and enforce rules and regulations, and issue determinations and interpretations, consistent with and necessary for the implementation of this Chapter. Such rules and regulations, determinations and interpretations shall have the force of law and may be relied upon by Employers, Employees, and other persons to determine their rights and responsibilities under this

Chapter.

#### **SECTION 4. SEVERABILITY.**

If any provision or application of this Ordinance is declared illegal, invalid or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof shall remain in full force or effect. The courts are hereby authorized to reform the provisions of this chapter in order to preserve its maximum permissible effect.

#### **SECTION 5. CONFLICTING MEASURES.**

In the event that another measure or measures on the same ballot seeks to affect the same subject matter as this Initiative, any provisions of the other measure or measures shall be deemed to be in conflict with this Initiative. In the event that this Initiative receives a greater number of affirmative votes, the provisions of this Initiative shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

#### **SECTION 6. AMENDMENTS.**

The City Council may amend this Ordinance in order to further this Ordinance's purposes of providing workplace protections to hotel workers and effective enforcement of City employment standards."

# CITY OF OAKLAND MEASURE AA

AA	Shall the measure amending Oakland’s Charter for the purposes of funding services to: expand access to early childhood and preschool education; improve high school and college graduation and career readiness; provide mentoring and college financial assistance; by establishing a \$198, 30-year parcel tax for single family parcels and specified rates for other parcel types, raising approximately \$25,000,000 - 30,000,000 annually, with citizen’s oversight, and exemptions for low-income households and others, be adopted?	YES
		NO

## CITY ATTORNEY’S BALLOT TITLE AND SUMMARY OF MEASURE AA

The City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure:

### BALLOT TITLE:

Proposed Amendment to the Oakland City Charter Creating the Children’s Initiative of 2018 and Approving a Parcel Tax to Fund Early Childhood Education and College Readiness Programs

### BALLOT SUMMARY:

This measure would amend the City Charter to add Article XVI, “The Children’s Initiative of 2018”, and authorize a thirty-year annual special parcel tax. The tax revenue could be used only for the purposes specified in the measure, which include the following:

- 62% would be used to support programs to expand access to and quality of early childcare and education and preschool to increase educational outcomes and reduce educational inequality.
- 31% would be used to reduce disparities in postsecondary education outcomes, and increase college awareness and expectations, college savings, family economic well-being, college and career access, college application, enrollment, admission rates, affordability and graduation rates.
- 7% would be used for oversight and accountability costs including the cost of operating the Citizens’ Oversight Commission (“Commission”) established by the measure, staffing, operations, audits, implementation planning, outreach and independent third-party evaluations.

This measure creates a new City staff position to serve as the Children’s Initiative accountability officer. This measure establishes guidelines for programs funded by tax revenue (“Guidelines”) for the first five years. After the first five years, Guidelines would be developed by the accountability officer and approved by the Commission. The Commission would be appointed by the Mayor subject to City Council confirmation, to oversee programs funded by this measure and perform other tasks. The Commission would select a nonprofit or government agency to administer

the funds.

The parcel tax would be imposed through fiscal year (“FY”) 2048-2049. The tax for each single-family residential parcel is \$198. For multiple unit residential parcels, the tax is \$135.25 per occupied unit. For non-residential parcels, the tax would vary depending on parcel frontage and square footage, based on the formula specified in the measure. Exemptions from the parcel tax would be available to qualifying low-income households, low-income senior households, and affordable housing projects. The City would provide a rebate of 50% of the tax to qualifying tenants in single-family homes that have been foreclosed upon.

Beginning in FY 2020-2021, and each year thereafter, the City Council could increase the parcel tax by making one of the following findings:

- The cost of living in the immediate San Francisco Bay Area, as determined by the U.S. Department of Labor, has increased, or
- California per capita personal income, as determined by the California Department of Finance, has increased.

The increase in the parcel tax could not exceed the greater of the verified increase in the cost of living in the Bay Area using 2019 as the index year and the California per capita personal income, using FY 2018-2019 as the index year.

Passage of this measure requires approval by two-thirds of the voters who cast ballots. A “yes” vote will approve the parcel tax; a “no” vote will reject the parcel tax.

s/BARBARA J. PARKER  
City Attorney

## **CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE AA**

This measure would amend the Oakland City Charter to add Article XVI, "The Children's Initiative of 2018", and authorize a thirty-year annual parcel tax from fiscal year ("FY") 2019-2020 through FY 2048-2049.

The parcel tax revenue would be used solely to fund three new funds, with the revenue allocated as follows:

- 62% to the Early Education Fund,
- 31% to the Oakland Promise Fund, and
- 7% to the Oversight Accountability and Evaluation Fund.

See the Ballot Summary for details of allowable uses of the revenue in each fund.

This measure would create a new City staff position, funded by the tax revenue, to serve as the accountability officer to oversee the programs funded by the measure. This measure would establish a Citizens' Oversight Commission ("Commission"); the Mayor would appoint members subject to City Council confirmation.

After it receives the accountability officer's recommendation, the Commission would select a nonprofit agency, government agency or City department, as specified in the measure, to administer the funds, and submit its selection to the City Council for approval. The Council must approve or reject the Commission's recommendation. First 5 Alameda County (a County agency) or another public entity would administer the Early Education Fund for the first five years. The measure requires independent financial audits of fund expenditures and external evaluations of the entities administering the funds.

This measure would establish guidelines for the programs funded by the measure; those guidelines cannot be amended for the first five years. After the first five years, the accountability officer would develop the guidelines and the Commission would approve them. The measure would establish additional requirements for the Early Education Fund for the first five years, and thereafter unless the Commission recommends and the City Council decides that they shall no longer apply.

The tax for each single-family residential parcel would be \$198. For multiple unit residential parcels, the tax would be \$135.25 per occupied unit. For non-residential parcels, the tax would vary depending on parcel frontage and square footage based on a formula specified in the measure. For hotels, the tax would depend on the percentage of transient occupancy based on a formula specified in the measure.

Exemptions from the parcel tax would be available to qualifying low-income households, low-income senior households, and affordable housing projects as defined in the measure. The City would provide a rebate of 50% of the tax to qualifying tenants in foreclosed upon single-family homes who paid a passed through parcel tax.

Each year beginning in fiscal year 2020-2021, the City Council, after making certain findings, may increase the parcel tax by the greater of the increase in the Bay Area cost

of living or the increase in California per capita personal income.

This measure was placed on the ballot by a petition signed by the requisite number of voters. This special tax measure requires a two-thirds vote for passage.

s/BARBARA J. PARKER  
City Attorney

# CITY AUDITOR'S IMPARTIAL ANALYSIS OF MEASURE AA

## Summary

This Measure, if adopted by two-thirds of voters, authorizes the City of Oakland to collect an annual parcel tax for a period of thirty (30) years. The use of proceeds would be restricted to the objectives of the Measure: to fund early education and 'Oakland Promise.' The Measure would take effect the day after the vote is declared by Oakland City Council.

The Early Education Fund would provide support to programs expanding access to, or enhancing, early child-care and preschool education.

The Oakland Promise Fund provides support such as mentoring, college savings, and scholarships, to ensure every Oakland public school student graduates high school and college.

The City would designate 62% of revenues collected to the Early Education Fund and 31% to the Oakland Promise Fund. The City estimates 20,000 children would benefit from this funding. The remaining 7% of revenue collected would be deposited into an Oversight, Accountability, and Evaluations Fund.

## Financial Impact

The Finance Department estimates approximately \$30 million in revenue would be generated annually. The City would expend approximately \$2.1 million annually to manage the funds and administer the programs.

The parcel taxes as proposed in this Measure are shown here:

Unit Type	Proposed Measure Tax Rate
Single Family Residential	\$198.00
Multiple Unit Residential	\$135.25
Non-Residential	Various rates*

*\* The tax for Non-Residential Parcels is calculated using both frontage and square footage measurements to determine total single family residential unit equivalents.*

Low-income and senior households, and rental housing owned by nonprofit corporations and nonprofit-controlled partnerships for senior, disabled, and low-income households may request tax exemptions or modifications.

The City would provide a rebate of one half (1/2) of the tax and subsequent increases to tenants in single family homes that have been foreclosed upon who have paid this proposed parcel tax through a pass-through.

The Oakland City Council may increase the parcel tax established by this Measure, each year, beginning in Fiscal Year 2020-21 and thereafter, based on the greater of:

1. An increase in the U. S. Department of Labor San Francisco Bay Area cost of living adjustment, or
2. An increase in the California Department of Finance per capita personal income.

## City of Oakland Programs for Youth

The City of Oakland supports various and multiple programs for children and youth. Each year, the City sets aside a portion of its unrestricted General Purpose fund to support programs such as Head Start, which promotes school readiness for children from low income families; and the Kids First! Fund, which provides grants to approximately 150 community-based, non-profits, and Oakland Unified School District programs. In total, the City spends approximately \$36 million each year on such programs that benefit Oakland's youth.

## Disclaimer

The Office of the City Auditor has not audited and, as such, has not validated the City of Oakland Finance Department's financial and statistical analysis that supports this Measure. References to this data in our independent analysis represent the best data available at this time.

## ARGUMENT IN FAVOR OF MEASURE AA

Measure AA will invest in early childhood education and increase high school and college graduation rates for more than 10,000 Oakland children annually. By voting YES, we will dramatically expand access to quality affordable preschool for children from low-income backgrounds, and increase access to and graduation from 2- or 4- year colleges and trade certificates by providing mentoring and scholarships.

In Oakland, 20% of residents live below the poverty level, and every year more than 2,000 children are born into poverty. By focusing resources on students from low- income backgrounds, this measure gives us a chance to disrupt poverty. Currently, only 15% of high school freshman will go on to earn college degrees. When 90% of a child's brain develops before age 5, expanding preschool in these critical years ensures that every child in Oakland is on the path to success. That's why we support YES on Oakland Measure AA.

Preschool shouldn't be a luxury, but many Oakland families are forced to dedicate up to 25% of their income on preschool. For many families, even working two jobs isn't enough to afford preschool. That means more children entering kindergarten underprepared.

Measure AA ensures that Oakland has the resources necessary to improve preschool, high school, college, and career readiness for students and sets them up for success. This measure invests in children and makes sure every child achieves their potential, regardless of their family's income.

Oakland will be required to spend this money only on preschool and college access. An independent citizens' oversight commission, mandatory annual audits and external evaluations will ensure that funds are spent properly. It also includes exemptions for low-income residents and seniors, and affordable housing.

Join teachers, health advocates, childcare providers, labor leaders, parents, community leaders, and us in voting YES on Measure AA.

[www.YesOnMeasureAA.com](http://www.YesOnMeasureAA.com)

s/BARBARA LEE  
Member of Congress

s/LIBBY SCHAAF  
Mayor of Oakland

s/GEORGE HOLLAND, SR.  
President, NAACP Oakland

s/GARY F. JIMENEZ  
Vice President, SEIU 1021

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE AA

Proponents of Measure AA have absolutely no facts to support their outrageous and unproven claims that passage of the gigantic tax will in fact "increase high school and college graduation rates for 10,000 children."

Unlike other Oakland taxes that support our schools and community college, (we are paying for at least 6 separate ones currently) the money from Measure AA will be managed by individuals selected by the council members with no public oversight. \$30,000,000 a year will be distributed to organizations without accountability or a track record of success.

Why should an Oakland resident, with no children in the schools, or a senior with limited income be forced to pay almost \$200 a year for 30 years for programs that have not even been approved?

Of the endorsers of Measure AA, the majority are not Oakland residents and will not have to pay this tax. They want you to pay. The low income exemption is a scam, written so no one will qualify.

The proponents rushed to get Measure AA on the ballot as they know Oakland schools and Peralta Colleges are proposing additional parcel taxes as well. Every election there new proposals asking for more money, always providing emotional arguments and always saying the money is needed.

Over the past few years our City Government has grown astronomically, with no increase in services or benefits to citizens. By their own admission over \$2,000,000 a year will be spent on "administration." How many scholarships could that fund?

Vote no.

s/GEORGIA W. RICHARDSON  
Homeowner

s/GRANT CHAPPELL  
Homeowner



## ARGUMENT AGAINST MEASURE AA

This is one of the largest parcel tax proposals in Oakland's history.

It was put on the ballot without community input and without a plan on how to spend the \$30,000,000 a year the measure would generate. Lost in the details of the measure is the fact that the money can be used to fund the growing bureaucracy of the city.

We share the wonderful goals of this 15-page ballot measure. Unfortunately, we don't see any realistic steps to reaching them. "Give us the money and we'll figure out how to do it" is not acceptable.

Who controls the estimated \$30 million annually? New, unnamed city employees. But nothing in this measure holds public employees accountable for all this money! A "Citizens' Oversight Commission" is created, but its members would be handpicked by city bureaucrats.

The "Oakland Promise Fund" is full of promises to "increase early college awareness and expectations" and "increase college persistence and graduation rates." How? What exactly is the plan? There is no plan. Over and over we've seen similar taxes raising money with good intentions but without clear programs. Local organizations are promised funding and taxpayers get the bill.

While we share Mayor Libby Schaaf's commitment to address persistent problems with the Oakland schools, this initiative is deeply flawed. Our children deserve better! This measure will last 30 years, long past the term of this Mayor.

Oakland children, born today will be over 30 before this tax expires.

Rather than work with the Council or the School District to prioritize funding for Oakland's children, Schaaf is passing the buck to homeowners without a realistic plan.

Despite the feel good language, this 'Initiative' is nothing but another thinly disguised attempt to raise more money for programs that sound good but yield little results.

Please vote NO!

s/GEORGIA W. RICHARDSON

Property Owner

s/VITO ESPOSITO

Homeowner

s/KAREN FRANCISCO

Homeowner

s/HOMAYOUN GHADERI

Homeowner

s/GRANT CHAPPELL

Homeowner

## REBUTTAL TO ARGUMENT AGAINST MEASURE AA

In Oakland, 43% of students enter school kindergarten ready and only 15% earn college degrees. Measure AA increases graduation rates for more than 10,000 children annually, while making college more affordable through scholarships and mentorships.

Our opponents' argument isn't rooted in facts. Over 400 community members participated in drafting this measure. Measure AA includes strict guidelines to ensure funds are spent wisely and exclusively on early education and college access and completion programs, including annual audits, external evaluations, an automatic sunset, and an accountability officer to oversee spending. An independent citizens' oversight commission - not City Council or OUSD - approves funding guidelines regularly, with mandatory representation for homeowners, parents, students, and teachers. Administrative expenses are capped at 7%. Measure AA includes exemptions for low-income households and seniors, and affordable housing.

Over 2,000 Oakland children are born into poverty annually, and only a third of African American, Latino and low-income students enter school kindergarten ready. Measure AA expands quality, affordable preschool for all 4-year-olds from low-income backgrounds and provides children with the financial aid they need to graduate from college. Research shows that early education produces returns on investment of up to \$9 for every dollar spent, including reduced taxpayer costs in welfare and public safety.

Measure AA is endorsed by local teachers and Lt. Gov. Gavin Newsom, Congresswoman Barbara Lee, Mayor Libby Schaaf, Assemblyman Rob Bonta, NAACP Oakland, Latino Education Network, Alameda Labor Council, SEIU 1021, Oakland Parents Together, and many more. Vote YES on Measure AA.

[www.YesonMeasureAA.com](http://www.YesonMeasureAA.com)

s/MICAH WEINBERG

President, Bay Area Council Economic Institute

s/BARBARA LESLIE

Businessperson & Civic Leader

s/CARMINA PORTEA

Oakland Transitional Kindergarten (TK) Teacher

s/ELIZABETH ACOSTA-CROCKER

Parent and Former Preschool Director and Head Teacher

s/GENA LEWIS

Oakland Pediatrician & Medical Director

## FULL TEXT OF MEASURE AA

### SEC. 1. Title.

This Act shall be known and may be cited as “The Children’s Initiative of 2018.”

### SEC. 2. Findings and Declarations.

The People of the City of Oakland hereby find and declare the following:

A. Regardless of the zip code of their birth, the children of Oakland are our future and will provide the leadership, creativity, and productivity to strengthen and sustain the quality of life in our City.

B. Research shows that 90% of a child’s brain develops during the first five years of life, and this critical period is a window of opportunity to lay the foundation for all of the years that follow.

C. Only 43% of assessed Oakland Unified School District (OUSD) students entered school “kindergarten-ready,” and more specifically, while 82% of white students and 82% of children from families making more than \$100,000 entered kindergarten-ready, just 36% of African American students, 29% of Latino students, and 34% of students from families making less than \$35,000 were ready for kindergarten in 2015.

D. Parents and caregivers and support for them are crucial to a child’s development, but many marginalized families, including the working poor, are unable to access quality child care, early education services, particularly in preschool deserts, and post-secondary educational support. The homeless population in Oakland in particular includes hundreds of children who cannot equitably access the educational system.

E. Studies have shown that workforce compensation for early educators is one of the most effective guarantees of quality early education, and low compensation for early educators combined with a lack of outreach to immigrant and newcomer communities drives turnover and hampers the ability to attract and retain skilled educators, which in turn undermines stable, continuous relationships that are essential to children.

F. Kindergarten readiness has a demonstrated impact on success in a child’s early elementary school years, and research suggests that students who are not reading proficiently by 3rd grade are four times less likely to graduate by age 19 than their peers who are proficient readers. Poverty compounds the effect of third grade literacy on high school graduation rates. Students who face poverty and are not proficient readers are 13 times less likely to graduate than proficient readers from wealthier families.

G. Research demonstrates that public investment in quality early education programs produces some of the highest returns on investment, with up to \$8.90 for every public dollar we spend, with reduced costs for special education, welfare, and public safety.

H. Over a lifetime, college graduates will earn up to \$1 million more than those with a high school diploma, and

college graduates are far less likely to suffer from poverty, unemployment, poor health outcomes, or to be involved with the criminal justice system.

I. In 2016, only 51% of OUSD graduates completed the comprehensive course requirements for enrollment in a California state university, including just 33% of African American graduates and 53% of Latino graduates, compared to 71% of white graduates.

J. According to OUSD’s latest data, only 15% of OUSD high school students will have a Bachelor’s degree within 6 years of graduating from high school, and just 19% will have a 2-year college and/or 4-year degree.

K. 63.4% of the OUSD class of 2016, including just 54% of African American students and 59% of Latino students, enrolled in 2-year or 4-year colleges the fall after graduating, compared to 79% of White students.

L. Educational achievement is a strong social determinant of health. At age 25, U.S. adults without a high school diploma can expect to die nine years sooner than college graduates. By 2011, the prevalence of diabetes had reached 15 percent for adults without a high school education, compared with seven percent for college graduates.

M. Professionals in many industries have long recognized the value of joining together in professional organizations to facilitate their participation in training opportunities, provide a collective voice to improve their professions, and make it easier for them to jointly provide feedback to policymakers. However, early educators face barriers to participating in professional organizations, including low pay, high turnover, and isolation of the workforce. Facilitating early educators’ participation in professional organizations would help to strengthen and professionalize the workforce, which would in turn improve the quality and stability of early education paid for with city funds, including for city employees.

N. Low- and moderate-income students with as little as \$500 in dedicated savings for post-secondary education are three times more likely to attend college and four times more likely to graduate from college than youth without college savings.

O. All students have the capacity to learn and be successful, but current systems, policies, and norms cumulatively benefit certain populations and disadvantage others, and thus reinforce and perpetuate inequities, such as those related to race, income, wealth, and language background, which ultimately affect educational, health, wealth, and general life outcomes. As a result, the City has a fundamental interest in working across traditional silos to comprehensively support educational equity from a child’s earliest days.

### SEC. 3. Purpose and Intent.

In enacting the Children’s Initiative, it is the purpose and intent of the people of the City of Oakland to expand support for children from their earliest years until their successful completion of a two-year college, four-year college, accredited technical degree, and/or certificate. The

Initiative will accomplish this by expanding access to early care and education and high-quality preschool; increasing early college awareness and expectations in children and their families; instilling a college-bound identity in students and a college-going culture in schools; increasing college savings and family economic well-being starting early in a child's life; aligning preschool, TK-12 education, and postsecondary education systems; coordinating federal, state and local funding streams to increase impact; removing barriers to college access in elementary, middle, and high school; increasing college and career awareness and success, access, planning, and eligibility, as well as college eligibility, application, admission, and enrollment rates; making college more affordable, including by expanding access to public and private student financial aid, and direct scholarships to students; increasing college retention, persistence and graduation rates, such as by expanding access to mentoring; and ultimately reducing disparities in both kinder-readiness and college completion, such as those related to income and wealth or for children traditionally underrepresented in higher education.

**SEC. 4.** The Charter of the City of Oakland is hereby amended by adding Article XVI, to be titled "The Children's Initiative of 2018", to the Appendix of the Charter as follows:

**The Children's Initiative of 2018.**

**SEC. 1600. Definitions.**

- (a) "Act" shall mean the Children's Initiative of 2018.
- (b) "Citizens' Oversight Commission" shall mean the Children's Initiative Citizens' Oversight Commission created by Section 1601 of this Act.
- (c) "College" shall mean a not-for-profit post-secondary educational institution, including two-year, four-year accredited career technical educational degrees, and/or certificates.
- (d) "Early Education Fund" shall mean the Oakland Early Education Fund established by Section 1604 of this Act.
- (e) "Early Education Implementation Partner" shall mean the body selected to implement the early education program, either directly or through subcontracts, pursuant to Section 1605 of this Act.
- (f) "First 5 Alameda County" shall mean the independent county agency established by the County of Alameda pursuant to Section 130140 of the California Health and Safety Code.
- (g) "Guidelines" shall mean strategic guidelines developed by the accountability officer and adopted by the Citizens' Oversight Commission every five (5) years for the Early Education and Oakland Promise Funds to outline the priorities for programs supported by the Funds in support of the Purpose and Intent and consistent with the Act.
- (h) "High need" shall mean a child experiencing homelessness, or other criteria as recommended by the accountability officer and approved by the Citizens' Oversight Commission, such as homelessness as broadly defined by the McKinney Vento Homeless Assistance

Act, child abuse or neglect, trauma, interaction with the foster care system, interaction with the criminal-justice system including incarceration or deportation, linguistic isolation, domestic violence, a child or family with disabilities or special needs, or children living in areas of high concentrated poverty, or children facing other similar challenges.

- (i) "Preschool" shall mean a developmentally-appropriate and evidence-based educational program for children prior to kindergarten.
- (j) "Oakland Promise Fund" shall mean the Oakland Promise Fund established by Section 1607 of this Act.
- (k) "Oakland Promise Implementation Partner" shall mean the body selected to implement the Oakland Promise program, either directly or through subcontracts, pursuant to Section 1608 of this Act.
- (l) "Oakland Public School" shall mean a K-12 educational institution in Oakland that is supported with public funds and that is authorized by action of and operated under the oversight of a publicly constituted local or state educational agency.
- (m) "Oversight, Accountability, and Evaluation Fund" shall mean the Oversight, Accountability and Evaluation Fund established by Section 1603 of this Act.
- (n) "Proceeds of the parcel tax" shall mean all revenue derived from the parcel tax imposed by this Act net of Alameda County's cost of collection.

**The Children's Initiative Oversight and Accountability.**

**SEC. 1601. The Children's Initiative Citizens' Oversight Commission.**

- (a) **Establishment.** There is hereby established the Children's Initiative Citizens' Oversight Commission.
- (b) **Membership; Appointment Process; Qualifications.** The Citizens' Oversight Commission shall be composed of nine (9) to fifteen (15) members. Members of the Citizens' Oversight Commission shall be appointed by the Mayor and confirmed by the Council pursuant to Section 601 of the Charter. The Mayor shall request recommendations from members of the City Council and the Oakland Unified School District Board of Education and Superintendent at least fourteen (14) days prior to submitting any appointments for confirmation. The composition of the Commission should be reflective of the diversity of Oakland and shall include the following members:
  - (1) At least one (1) member with professional expertise in early childhood education policy;
  - (2) At least one (1) member with professional expertise in, or who is a provider of, early childhood care or education;
  - (3) At least one (1) member with at least two (2) years of experience teaching in early childhood education;
  - (4) At least one (1) member with at least two (2) years of experience teaching TK-12, or who has professional expertise in TK-12 education or college access;
  - (5) At least one (1) member with professional expertise in

college completion, college or university leadership, or support for traditionally underrepresented college students;

(6) At least one (1) member with experience in budgeting, auditing, finance, or early asset building;

(7) At least one (1) member of a union or labor advocacy group who is employed by the City of Oakland Head Start, the Oakland Unified School District, or a participating early care and education provider;

(8) At least one (1) homeowner who is subject to the parcel tax imposed by Section 5 of the Act;

(9) At least one (1) parent, who presently has, or has had within five (5) years from the time of appointment, a child of preschool age who attended a preschool program benefiting from public subsidy, or who was on a waitlist for such a program; and

(10) At least one (1) member who is, or who within five (5) years from the time of appointment was, enrolled in an Oakland public school, or who has graduated from an Oakland public school and enrolled in college within five (5) years from the time of appointment, or who is the first in their immediate family to graduate from College.

(c) **Qualifications; Conflicts.** A majority of the members of the Commission shall be residents of Oakland. The members in paragraphs (7) through (10) must be residents of Oakland. The members set forth in paragraphs (1) through (6) must reside and/or work in Oakland. At least one (1) member in paragraphs (1) or (2) must be an employee of the Oakland Unified School District. One member may satisfy more than one of the requirements set forth in paragraphs (1) through (10) of subdivision (b). Members may not receive income from or serve as an officer, director, or employee of an Implementation Partner.

(d) **Terms.** A member shall serve no more than four (4) full, consecutive terms. A member may be removed for cause pursuant to Section 601 of the Charter, or for the failure to attend three (3) consecutive meetings of the Citizens' Oversight Commission or more than fifty percent (50%) of the meetings in a twelve-month period. For the initial nine (9) appointments only, one-third (1/3) of the members shall be appointed to serve for four (4) years, one-third (1/3) shall be appointed to serve for three (3) years, and one-third (1/3) shall be appointed to serve for two (2) years. Subsequently, all terms shall be for three (3) years.

(e) **Quorum.** A majority of the appointed members of the Commission shall constitute a quorum, but in no case shall a quorum be fewer than five (5) members.

(f) **Compensation.** Members shall serve without compensation, provided that members may request and receive reimbursement for actual transportation and childcare expenses, not to exceed five hundred dollars (\$500) annually.

(g) **Responsibilities.** It shall be the responsibility of the Citizens' Oversight Commission to:

(1) Approve subsequent five-year Guidelines for the Early Education and Oakland Promise Funds after the expiration of the initial five-year Guidelines, which are set forth in

Sections 1606 and 1609 of this Act;

(2) Review the analysis and recommendations of the accountability officer for the selection of Implementation Partners, approve or reject the recommendation for the selection of Implementation Partners for the Early Education and Oakland Promise Funds, ensure that the selection is consistent with the Act, and once approved, submit the final selection to the Oakland City Council for its adoption without amendment;

(3) After considering the recommendation of the accountability officer, approve any extensions of the term of an Implementation Partner, by a majority vote, or any termination of an Implementation Partner for reasons as specified in Sections 1605 and 1608, by a two-thirds (2/3) vote, if extension or termination would further the purposes of the Act;

(4) Review and approve the results of annual independent financial audits of each of the Funds;

(5) Review the performance appraisals of the implementation of the Early Education and Oakland Promise programs presented by the accountability officer;

(6) Review the external evaluations of the implementation of the Early Education and Oakland Promise programs presented by the accountability officer; and

(7) Perform such other functions and duties as may be prescribed by the City Administrator.

#### **SEC. 1602. The Children's Initiative Accountability Officer.**

(a) **Establishment.** A position that serves as accountability officer for the Children's Initiative is hereby established at a classification and at a salary scale commensurate with the duties of the position, as determined by the City Administrator. The City Administrator or his/her designee shall hire for the position, in consultation with the Superintendent of the Oakland Unified School District and shall oversee the work of the accountability officer for the Children's Initiative. The City Administrator may appoint an interim Children's Initiative accountability officer to carry out the duties set forth in subdivision (b) until such time as a permanent appointment is made or if the position is vacant.

(b) **Responsibilities.** The accountability officer shall be responsible for:

(1) Overseeing the Early Education and Oakland Promise programs and ensuring that the programs further the Purpose and Intent of the Act, supporting and providing recommendations to the Citizens' Oversight Commission, and bringing any required items to City Council;

(2) Preparing subsequent five-year Guidelines for the Early Education and Oakland Promise Funds after the expiration of the initial five-year Guidelines set forth in Sections 1606 and 1609. The subsequent five-year Guidelines shall be created through an assessment of the local context and needs, as well as national evidence-based best practices in the field, and shall identify metrics for each program to assess the achievement of outcomes central to the identified

goals in support of the statement of Purpose and Intent and consistent with the Act;

(3) Leading the selection process and contracting for the Early Education and Oakland Promise Implementation Partners, consistent with the Act, making a recommendation to the Citizens' Oversight Commission for the selection of the Implementation Partners, and developing the scope of services, including performance standards and mechanisms for monitoring and reporting progress to the Citizens' Oversight Commission at least every two (2) years;

(4) Ensuring that independent financial audits of expenditures from the Funds for the implementation of the Early Education and Oakland Promise programs are conducted, and presenting the audits to the Citizens' Oversight Commission;

(5) Monitoring the performance of the Implementation Partners through a formal performance appraisal, consistent with the metrics established in the five-year Guidelines and scope of services for the Implementation Partners, and reporting at least once every two (2) years regarding the Implementation Partners' performance to the Citizens' Oversight Commission;

(6) Overseeing a rigorous and reliable external evaluation or evaluations of the Implementation Partners' performance, including the selection of external evaluation partners or the utilization of existing external evaluations as applicable, and presenting the results of such evaluations to the Citizens' Oversight Commission;

(7) Carrying out such other duties as may be delegated by the City Administrator; and

(8) Providing or coordinating training for members of the Citizens' Oversight Commission.

### **SEC. 1603. Funding for Oversight, Accountability, and Evaluation.**

(a) **The Fund.** There is hereby established the Oakland Children's Initiative Oversight, Accountability, and Evaluation Fund.

(b) **Revenue.** For each fiscal year, seven percent (7%) of the proceeds of the parcel tax imposed pursuant to Section 5 of this Act shall be deposited in the Children's Initiative Oversight, Accountability, and Evaluation Fund, and shall be appropriated, together with any interest that accrues thereon, for the purposes specified in subdivision (c) of this Section.

(c) **Eligible Uses.** Moneys in the Children's Initiative Oversight, Accountability and Evaluation Fund shall be used to support the oversight and accountability costs of the Citizens' Oversight Commission, including but not limited to the costs of Commission and accountability staff, operations and meetings, financial management, audits, strategic and implementation planning, and communications and outreach. At least one-third (1/3) of the moneys deposited in the Oversight, Accountability and Evaluation Fund shall be appropriated for independent third-party evaluations.

(d) **Transfer to Program Funds.** To the extent that at

the end of each two-year (2) budget period, any unspent and unencumbered or undesignated funds remain in the Oversight, Accountability, and Evaluation Fund, fifty percent (50%) of the funds remaining shall be transferred to the Early Education Fund and shall be available for appropriation to achieve the goals of the Early Education Fund, twenty-five percent (25%) shall be transferred to the Oakland Promise Fund and shall be available for appropriation to achieve the goals of the Oakland Promise Fund, and twenty-five percent (25%) shall remain in the Oversight, Accountability and Evaluation Fund as a reserve for the eligible uses set forth in subdivision (c) of this Section.

### **The Oakland Early Education Program.**

#### **SEC. 1604. Early Education Fund.**

(a) **The Account.** There is hereby established the Oakland Early Education Fund.

(b) **Revenue.** For each fiscal year, sixty-two percent (62%) of the proceeds of the parcel tax imposed pursuant to Section 5 of this Act shall be deposited in the Early Education Fund, and shall be appropriated, together with any interest that accrues thereon, for the purposes specified in subdivision (c) of this Section.

(c) **Eligible Uses.** Moneys in the Early Education Fund shall be used to support programs to expand access to, or to enhance the quality of, early care and education and preschool for children who reside in Oakland or whose parents resided in Oakland at the time of their enrollment in such programs, including the collection and maintenance of data to enable evaluation over time and family support services, in order to increase educational outcomes, such as kinder-readiness, and to reduce educational inequality, such as by disparities related to income and wealth or for children traditionally underrepresented in higher education, as further specified in the five-year Guidelines.

#### **(d) Non-Supplantation.**

(1) Moneys in the Early Education Fund shall only be used to expand access to, or enhance the quality of, early care and education, provided, however, that if federal, state, non-City, or restricted Oakland Unified School District funding was committed for the purpose of providing such services and subsequently ceases to be provided and is not replaced by other federal, state, non-City, or restricted Oakland Unified School District funding committed for that same purpose, then moneys in the Early Education Fund may be expended to the extent necessary for such services to continue.

(2) Moneys in the Early Education Fund shall not be used for K-12 school day services except for the purpose of expanding transitional kindergarten eligibility to additional four-year old children.

#### **SEC. 1605. Early Education Implementation Partner.**

(a) **Selection.** The Early Education Implementation Partner shall be selected pursuant to paragraph (1) of subdivision (b) of Section 1606, and pursuant to subdivision (b) of this Section or through a request for proposals. If the requirement in paragraph (1) of subdivision (b) of Section

1606 is deemed not to apply pursuant to subdivision (c) of Section 1606, then the accountability officer shall recommend, and the Citizens' Oversight Commission shall select an Early Education Implementation Partner pursuant to a request for proposals or pursuant to subdivision (b) of this Section. The Early Education Implementation Partner shall meet the following minimum criteria:

(1) The Implementation Partner must have a mission consistent with the purposes of the Early Education Fund and the capability to implement all of the Guidelines of the Early Education Fund, through direct provision or through partnership agreements;

(2) The Implementation Partner must have expertise in early education or a record of successfully implementing programs or services for children age zero to five; and

(3) At the time of application and while acting as Early Education Implementation Partner, the Implementation Partner must not be a private preschool provider in the City of Oakland.

**(b) Alternative Selection Process.**

(1) The accountability officer may recommend First 5 Alameda County as the Early Education Implementation Partner to the Citizens' Oversight Commission, without issuing a request for proposals, provided that:

(A) The voters of Alameda County have approved a tax to fund child care and early education in June 2018 and that First 5 Alameda County is the entity selected to implement the child care and early education programs; and

(B) First 5 Alameda County is willing, and has the capacity, to serve as the Early Education Implementation Partner.

(2) The accountability officer may recommend administering the program through a City of Oakland department, which shall serve as the Early Education Implementation Partner, without issuing a request for proposals.

**(c) Term of the Early Education Implementation Partner.**

(1) The initial Early Education Implementation Partner shall act as the Early Education Implementation Partner for a period of five (5) years with an opportunity for renewal for additional terms of up to five (5) years, provided that it remains in good standing and continues to carry out the requirements specified in this Act and is not terminated prior to the expiration of its term pursuant to paragraph (2).

(2) The accountability officer may recommend, and the Citizens' Oversight Commission may approve, by a vote of two-thirds (2/3) of its members, the termination of the Early Education Implementation Partner before the expiration of the Early Education Implementation Partner's term, if the Early Education Implementation Partner breaches its agreement with the City, is unwilling or unable to carry out the purposes of this Act, or engages in gross negligence, fraud, or unlawful activity. In the event of termination, the accountability officer shall recommend an Early Education Implementation Partner in accordance with this Section to serve until the expiration of the then-current five-year Guidelines.

(3) At the expiration of the first five-year period, the accountability officer may recommend, based on the Early Education Implementation Partner's performance, that the Citizens' Oversight Commission renew the contract for an additional term of up to five (5) years, issue a request for proposals for an Early Education Implementation Partner, or if the requirement in paragraph (1) of subdivision (b) of Section 1606 is deemed not to apply, select an Early Education Implementation Partner in accordance with subdivision (a) or (b) of this Section for a period of up to five years. The terms of the Early Education Implementation Partner shall be aligned with the five-year Guidelines and there shall be no limit on the number of years an Implementation Partner may serve.

**(c) Requirements for the Early Education Implementation Partner.** The City Administrator shall have the authority to enter into a contract with the Implementation Partner that includes legally required terms and terms deemed to be in furtherance of the Purpose and Intent of this Act, such as but not limited to the following:

(1) Performance metrics and benchmarks;

(2) Plans for consultation or engagement with experts, community members, and program beneficiaries;

(3) Annual independent financial audits;

(4) Data sharing agreements including disaggregation by race and income of program beneficiaries; and

(5) Accounting practices that securely segregate Fund revenues and expenditures in order to ensure appropriate accounting of receipts and expenditures.

**SEC. 1606. The First Five Years of the Early Education Fund.**

**(a) Early Education Guidelines for the First Five Years.** For the first five (5) years following the appointment of a quorum of the Citizens' Oversight Commission, in order to expedite implementation and ensure the people of Oakland begin to feel the benefit of the approval of the Act, the Guidelines for the Early Education Fund, which are based upon an assessment of the local context and needs and national evidence-based best practices in the field, shall be as follows and shall not be amended:

(1) Increase overall attainment and reduce socioeconomic and/or other demographic disparities, in child educational outcomes, such as kinder-readiness, and provide family support services, to achieve the following outcomes prioritized as follows, such that plans to fund a lower priority outcome may only be implemented if the Early Education Implementation Partner has determined that the next highest priority goal is reasonably achievable within the five-year period:

(A) Make available free or affordable and high-quality early education and/or preschool for four-year old children from low-income families, such as those who make less than eighty-five-percent (85%) of the state median income, with a priority on serving the children of families with the lowest incomes and/or those who are in high need, while also supporting such families who need family, friend, and

neighbor care.

(B) Increase the availability of free or affordable and high-quality early education and/or preschool for three-year-old children from low-income families, with a priority on serving the children of families with the lowest incomes or those who are in high need, while also supporting such families who need family, friend, and neighbor care.

(C) Increase the affordability and/or quality of preschool for all four-year-old children, with a priority on serving the children of families with the lowest incomes or those in highest need, while also supporting such families who need family, friend and neighbor care.

(D) Increase the affordability and/or quality of preschool for three-year-old children, with a priority on serving the children of families with the lowest incomes or those in highest need, while also supporting such families who need family, friend and neighbor care.

(E) Increase the availability and/or quality of child development support services for children and families from low-income backgrounds with children from birth through age three, while also supporting such families who need family, friend, and neighbor care.

(2) Provide for a rigorous external evaluation of the impact of the early education programs, such as on child outcomes data including kindergarten-readiness, that will facilitate assessment of whether the early education programs are achieving the goals of the Act and provide information on how to mitigate disparities, such as those by wealth and income or for children in high-need.

(3) Ensure that professional development and coaching are generally available for educators, and that participating center-based preschool programs generally are able to do the following within a reasonable timeframe:

(A) Achieve a baseline rating of at least three (3) or higher on the regional Quality Rating and Improvement System (QRIS), or a successor system;

(B) Utilize a developmentally-appropriate curriculum aligned with California Department of Education standards, and in addition that is also evidence-based and/or has demonstrated success in improving preparation for kindergarten;

(C) Conduct formative assessments to shape instruction; and

(D) Participate in valid, regular, and reliable assessments of early education quality in order to foster continuous improvement and to reduce disparities, such as those by income and wealth, in child outcomes.

(4) Ensure that funding streams from federal, state and local sources, including Head Start, are coordinated to reduce the administrative burden of program beneficiaries in accessing services, and to ensure that existing high-quality early education programs are not made financially unviable.

(5) Give priority consideration to expanding higher quality programs and/or facilities for children who are in the highest need, from the lowest-income backgrounds, live in areas of high unmet early education need, and/or who

are traditionally underserved, as resources allow, which could include enhanced services, such as bilingual or dual-language instruction, supports to enhance cultural competency, or a higher rating on the QRIS or a successor system.

### **(b) Additional Requirements for the Early Education Fund for the First Five Years.**

#### **(1) Administration by a Public Agency.**

The Alameda County Children and Families First Commission, known as First 5 Alameda County, or another public entity, will be selected by the Citizens' Oversight Commission to be the Early Education Implementation Partner and to administer the program.

#### **(2) Expanding Existing Public Services.**

First funding priority shall be given to public agencies to expand public programs in all areas of the City that meet a baseline quality level and can accommodate more children using empty classrooms and/or filling vacancies, particularly programs at Oakland Unified School District and City of Oakland Head Start. This could include converting part-day OUSD preschool to full-day OUSD preschool at OUSD sites, hiring additional OUSD staff, or expanding the hours of service to better meet the needs of working families, subject to capacity limitations determined by OUSD and City of Oakland Head Start in consultation with the Implementation Partner. After OUSD and Head Start sites have reached agreement with the Implementation Partner on ensuring funding to reach capacity as outlined above, the Early Education Fund may contract with private nonprofit agencies that show a commitment to and interest in serving low income children, and adhere to the privatization requirements set forth in paragraphs (3) and (4) of this subdivision.

#### **(3) Private Contractor Requirements.**

(A) Maintenance of Wage Standards: All contracted nonprofit agencies receiving Fund dollars must pay all employees at least fifteen dollars (\$15) per hour, to be adjusted annually by the San Francisco-Oakland-San Jose Consumer Price Index (CPI). This is the minimum wage irrespective of whether the contracted nonprofit agency offers benefits and no reduction in total compensation that existed prior to the contract should occur.

(B) All contracted agencies must present as a part of the contracting process: (i) a list of current employees with employee names and job classifications, on a biannual basis. The contractor will also provide length of continuous employment of those employees provided that employer tracks length of employment; (ii) the annual rate of current staff turnover for early educators and teaching assistants; (iii) the number of hours of training planned for each employee in subject matters directly related to providing services to state residents and clients; (iv) a self-certification which requires the contractor report whether the contractor has or has not violated any applicable federal, state or local rules, regulations or laws, including laws governing employee safety and health, labor relations and other employment requirements, and any citations, court findings

or administrative findings for violations of such federal, state or local rules, regulations or laws. In the case where a contractor has violated aforementioned laws or regulations, contractor must disclose the date, enforcement agency, the rule, law or regulation involved and any additional information the contractor may wish to submit; and (v) any collective bargaining agreements or personnel policies covering the employees who provide services.

(C) (i) Union Neutrality: Moneys from the Early Education Fund shall not be used to support or oppose unionization, including but not limited to, preparation and distribution of materials which advocate for or against unionization; hiring or consulting legal counsel or other consultants to advise the contractor about how to assist, promote or deter union organizing or how to impede a union which represents the contractor's employees from fulfilling its representational responsibilities; holding meetings to influence employees about unionization; planning or conducting activities by supervisors to assist, promote, or deter union activities; or defending against unfair labor practice charges brought by federal or state enforcement agencies.

(ii) Contractors are prohibited from retaliating against early educators for participating in or contributing to a professional organization. Violation of this provision shall constitute an immediate breach of contract.

#### **(4) Worker Organization and Payroll Deduction.**

(A) The Early Education Implementation Partner will regularly convene organizations representing parents and/or early educators, as appropriate, to receive input on program development and implementation. They will collaborate with parent and early educator organizations and providers and other stakeholders to disseminate information in public meetings or other means, such as pamphlets, to families, child care providers and early educators and others about initiative-funded programs and to support robust involvement in Guideline components.

(B) Funding agreements with participating child care and early education programs paid for with Early Education Fund dollars will require these programs to honor their early educator employees' written, voluntary requests to contribute part of their pay via payroll deduction to a professional organization of their choosing. Funding agreements will require the participating child care and early education program operators to notify early educators about the programs' contractual obligation to honor their written request to contribute.

(C) Early educators will be informed about their rights under this program during an orientation. The Early Education Implementation Partner or a contracted third party will convene regular in-person orientation sessions for family child care center providers and their assistants, family, friend and neighbor providers, and center early educator employees who work in programs receiving funding from the initiative. These staff at participating programs will be required to attend an informational orientation session within a certain period of time after programs are contracted to participate in initiative funded components. For agencies who are unable to document full participation

of staff, information may be shared in alternative formats on a case-by-case-basis. Effort will be made to ensure that this information will include program overview, quality and other guidelines, and information on other city-related resources and programs will not deter participation in these initiative-funded activities. These information sessions shall also include presentations by qualified professional early childhood education organizations and other stakeholders with goals, missions, or resources related to the initiative's goals, including training and professional development at which qualified professional organizations will be invited to participate. Attendance sheets for orientation sessions and qualifying staff rosters will be made available twice per year upon request in order to allow professional organizations to monitor participation.

(D) Professional organizations will be required to meet minimum criteria, including nonprofit status, connecting early educators to professional development and training opportunities, and improving the ability of early educators to advocate for improvement to the child care system.

#### **(c) Applicability of Requirements After Five Years.**

(1) The requirements set forth in subdivision (b) of this Section shall remain in effect for a minimum of five (5) years, and shall remain in effect thereafter unless the Citizens' Oversight Commission recommends, and the City Council approves, deeming that any of the requirements set forth in subdivision (b) shall not apply.

(2) Prior to the Citizens' Oversight Commission's consideration of funding guidelines for each five-year period, the Early Education Implementation Partner shall convene a meeting of stakeholders, including organizations representing parents and early educators, to assess whether the requirements set forth in subdivision (b) are serving the purposes of the Act and to consider whether the requirements should be deemed not to apply for the purposes of the next five-year funding period. The Early Education Implementation Partner shall present any recommendations that the requirements should be deemed not to apply that it considers necessary to further the purposes of the Act to the Citizens' Oversight Commission for its consideration, and if the Citizens' Oversight Commission recommends adoption of any recommendations, the recommendations shall be presented to the City Council for approval so that the changes are in place for the next five-year period. In addition, upon a finding of a fiscal emergency by the Citizens' Oversight Commission, the Early Education Implementation Partner shall follow the process outlined above and present any recommendations that the requirements should be deemed not to apply that it considers necessary to address the fiscal crisis to the Citizens' Oversight Commission for its consideration, and if the Citizens' Oversight Commission recommends adoption of any recommendations, they shall be presented to the City Council for approval.

(3) Notwithstanding paragraph (1) of this subdivision, the requirement in subparagraph (A) of paragraph (3) of subdivision (b) of this Section that all contracted nonprofit agencies receiving Fund dollars pay all employees at least fifteen dollars (\$15) per hour may not be amended. In



addition, if, in any fiscal year, the percentage increase in the San Francisco-Oakland-San Jose Consumer Price Index (CPI) is greater than the percentage increase in the proceeds of the parcel tax, or if the proceeds of the parcel tax decline, the requirements in subparagraph (A) of paragraph (3) of subdivision (b) of this Section that the minimum wage be adjusted annually by the San Francisco-Oakland-San Jose Consumer Price Index (CPI) and that no reduction in total compensation occur shall not apply for that fiscal year.

(4) When considering whether the requirement set forth in paragraph (2) of subdivision (b) of this Section should be deemed not to apply, the Citizens' Oversight Commission and the City Council shall consider the ability and the capacity of public agencies to serve the early care and education needs of children age three and below in determining whether the funding priority is consistent with achieving the purposes and intent of the Act.

### **The Oakland Promise Program.**

#### **SEC. 1607. The Oakland Promise Fund.**

(a) **The Account.** There is hereby established the Oakland Promise Fund.

(b) **Revenue.** For each fiscal year, thirty-one (31%) of the proceeds of the parcel tax imposed pursuant to Section 5 of this Act shall be deposited in the Oakland Promise Fund, and shall be appropriated, together with any interest that accrues thereon, for the purposes specified in subdivision (c) of this Section.

(c) **Eligible Uses.** Moneys in the Oakland Promise Fund shall be used exclusively to achieve the following public purposes for Oakland residents and children who attend Oakland Public Schools, as further specified by the five-year Guidelines, and including the collection and maintenance of data to enable evaluation over time:

(1) Increase early college awareness and expectations in children and their families, such as by instilling a college-bound identity in students and college-going culture in schools;

(2) Increase college savings and/or family economic well-being starting early in a child's life;

(3) Increase college- and/or career- access, such as by increasing awareness, preparedness, planning, and/or eligibility;

(4) Increase college enrollment rates, and application and/or admission rates;

(5) Increase college affordability, such as by expanding access to public and private student financial aid, and direct scholarships to students for tuition, room and board, and/or other college expenses;

(6) Increase college persistence and graduation rates, such as by expanding access to mentoring; and

(7) Reduce disparities in post-secondary education outcomes for students traditionally underrepresented in post-secondary education.

#### **SEC. 1608. Oakland Promise Implementation Partner.**

(a) **Selection.** The accountability officer shall recommend and the Citizens' Oversight Commission shall approve the Oakland Promise Implementation Partner pursuant to a request for proposals. The Implementation Partner must meet the following minimum criteria:

(1) The Implementation Partner must be an Oakland-based non-profit organization in good standing or a government agency, or an entity, project, or program within such a body;

(2) The Implementation Partner must be a non-profit organization, government agency, or an entity, project or program within such a body, with a mission consistent with the purposes of the Oakland Promise Fund and the capability to implement all of the Guidelines, including the initial Guidelines set forth in Section 1609, and the eligible uses of the Oakland Promise Fund, as set forth in paragraphs (1) through (7) of subdivision (c) of Section 1607, through direct provision or through partnership agreements;

(3) The Implementation Partner must have the capability to successfully implement, either directly or through subcontracts, evidence-based programs or services for children from birth through college graduation and experience serving populations reflective of the diversity of Oakland, in service of all Oakland Promise Fund eligible uses as set forth in paragraphs (1) through (7) of subdivision (c) of Section 1607;

(4) The Implementation Partner must have the ability to leverage other funding sources, such as private philanthropy, grants, and/or an endowment or quasi-endowment, to achieve the purposes of the Oakland Promise Fund; and

(5) The Implementation Partner must have the ability to enable the external evaluation of programs, demonstrated through means such as having an existing data-evaluation system or an existing relationship with a credible external evaluator.

#### **(b) Term of the Oakland Promise Implementation Partner.**

(1) The initial Oakland Promise Implementation Partner shall act as the Oakland Promise Implementation Partner for a period of five (5) years with opportunity for renewal for additional terms of up to five (5) years, provided that it remains in good standing and continues to carry out the requirements specified in this Act and is not terminated prior to the expiration of its term pursuant to paragraph (2) of this subdivision.

(2) The accountability officer may recommend, and Citizens' Oversight Commission may approve, by a vote of two-thirds (2/3) of its members, the termination of the Oakland Promise Implementation Partner before the expiration of the Oakland Promise Implementation Partner's term, if the Oakland Promise Implementation Partner breaches its agreement with the City, is unwilling or unable to carry out the purposes of this Act, or engages in gross negligence, fraud, or unlawful activity. In the event of termination, the accountability officer shall recommend a new Oakland Promise Implementation Partner in accordance with subdivision (a) of this Section to serve until the expiration of the then-current five-year Guidelines.

(3) At the expiration of the first five-year period, the accountability officer may recommend, based on the Oakland Promise Implementation Partner's performance, that the Citizens' Oversight Commission renew the contract for additional terms of up to five (5) years, without issuing a request for proposals. In the event an existing contract is not extended, the Oakland Promise Implementation Partner shall be selected in accordance with subdivision (a) of this Section for a period of up to five years. The terms of the Oakland Promise Implementation Partner shall be aligned with the five-year Guidelines and there shall be no limit on the number of years an implementation partner may serve. In any event, the Oakland Promise Implementation Partner must be selected pursuant to a request for proposals at least once every ten (10) years, and the Oakland Promise Implementation Partner selected pursuant to the decennial request for proposals shall act as the Oakland Promise Implementation Partner for a period of five years, unless terminated pursuant to paragraph (2) of this subdivision.

**(c) Requirements for the Oakland Promise Implementation Partner.** The City Administrator shall have the authority to enter into a contract with the Implementation Partner that includes legally required terms and terms deemed to be in furtherance of the purposes of this Act, such as but not limited to the following:

- (1) Performance metrics and benchmarks;
- (2) Plans for consultation or engagement with experts, community members, and program beneficiaries;
- (3) Annual independent financial audits;
- (4) Data sharing agreements including disaggregation by race and income of program beneficiaries;
- (5) Accounting practices that securely segregate Fund revenues and expenditures in order to ensure appropriate accounting of receipts and expenditures; and
- (6) Ensuring that students who receive a financial benefit through a program funded by the initiative are not deprived of that financial benefit for as long as they are eligible to participate in the program, even if the program is discontinued.

### **SEC 1609. Oakland Promise Guidelines for the First Five Years.**

For the first five (5) years following the appointment of a quorum of the Oversight Commission, in order to expedite implementation and ensure the people of Oakland begin to feel the benefit of the approval of the Act, the Guidelines for programs supported by the Oakland Promise Fund, which are based upon an assessment of the local context and needs and national evidence-based best practices in the field, shall be, consistent with the public purposes expressed in the Act, as follows and shall not be amended:

(a) Reduce socioeconomic and/or demographic disparities, such as those related to wealth and income, for children from an early age, in College readiness, access, affordability, applications, enrollment, retention and completion, particularly for students in high-need or who are traditionally underrepresented in post-secondary education.

(b) Increase early College savings and asset building for families with children ranging in age from zero to grade five, such as through the creation and seeding of college savings accounts and the provision of financial coaching and supports to families.

(c) Increase the expectations and resources to attend College among children and families of all socioeconomic backgrounds in Oakland public schools, with a priority for students from low-income backgrounds and/or traditionally underrepresented in College, through strategies, such as increasing school-based programming that builds the college-bound identity of students and a college-going culture in elementary, middle, and high schools.

(d) Increase College awareness, application, and eligibility, as measured by increases in completing courses required for College enrollment, such as those required by the University of California, and in College acceptance rates of Oakland Public School students, through means such as providing College access services that are integrated into schools.

(e) Increase College affordability, including by expanding access to public and private student financial aid, such as by increasing FAFSA or Dream Act Application completion rates, increasing the direct provision of College scholarships including multi-year last dollar scholarships, and partnering with educational institutions in order to provide institution-specific scholarships and to reduce tuition, room and board, and/or other college expenses.

(f) Increase College admission, matriculation, and enrollment rates, such as increasing the percent of students who enroll in College in the fall directly following high school graduation through a focus on the above strategies.

(g) Increase full-time College persistence rates for students enrolled in College, especially persistence between their first and second year of enrollment, through means such as mentoring, peer advising, and on-campus supports.

(h) Increase the number of Oakland students graduating from College within six (6) years of high school graduation.

## **SEC. 5. Parcel Tax**

### **SEC. 5.1. Definitions.**

For purposes of Section 5 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) "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.

(d) "Hotel" shall be as defined by Oakland Municipal Code Section 4.24.020.

(e) “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.

(f) “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.

(g) “Occupancy” shall be as defined by Oakland Municipal Code Section 4.24.020.

(h) “Operator” shall be as defined by Oakland Municipal Code Section 4.24.020.

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

(j) “Parcel” shall mean a unit of real estate in the City of Oakland as shown on the most current official assessment role of the Alameda County Assessor.

(k) “Person” shall 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.

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

(m) “Residential Unit” shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

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

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

**SEC. 5.2. Imposition of Parcel Tax**

For each year beginning in fiscal year 2019-2020 and ending in 2048-49, 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 (1%) property tax 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 5.4 of this Act:

(a) For owners of all Single Family Residential Parcels, the tax shall be at the annual rate of one hundred ninety-eight dollars (\$198) per Parcel.

(b) For owners of all Multiple Residential Unit Parcels, the tax shall be at the annual rate of one hundred thirty-five dollars and twenty-five cents (\$135.25) 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 one hundred ninety-eight dollars (\$198) 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 one hundred sixty (160) feet and an Area of 12,800 square feet:

$$\begin{aligned}
 \text{Frontage} & 160 \text{ feet} \div 80 = 2 \text{ SFE} \\
 \text{Area} & 12,800 \text{ square feet} \div 6,400 = 2 \text{ SFE} \\
 & 2 \text{ SFE} + 2 \text{ SFE} = 4 \text{ SFE} \\
 & 4 \text{ SFE} \times \$198 = \$792 \text{ tax}
 \end{aligned}$$

(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 5.2(c) of this Act.

(2) **Transient Hotels.** Notwithstanding paragraph (1) of this subdivision, if 80% or more of the Operator's gross receipts for the previous Fiscal Year were reported as rent received from Transients on a return filed by the Operator in compliance with Section 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 5.2(c) of this Act, and the parcel tax imposed on Multiple Residential Units shall not apply.

### **SEC. 5.3. Exemptions.**

(a) **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.

(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.

### **SEC. 5.4. Reduction in Tax Rate; Rate Adjustment.**

Beginning in the Fiscal Year 2020-2021, and each year thereafter, the City Council may increase the tax imposed hereby only upon making one of the following findings:

(a) That 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, has increased; or

(b) That the fiscal year 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, has increased.

The increase of the tax imposed hereby shall not exceed the verified increase in either (1) the cost of living in the immediate San Francisco Bay Area, using 2019 as the index year, or (2) California per capita personal income, using Fiscal Year 2018-2019 as the index year, whichever is greater.

### **SEC. 5.5. 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.

### **SEC. 5.6. 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.

**SEC. 5.7. 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.

**SEC. 5.8. 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.

**SEC. 5.9. 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.

**SEC. 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.

**SEC. 7. Regulations.**

The City Administrator is hereby authorized to promulgate such regulations as he or she shall deem necessary in order to implement the provisions of this Act.

**SEC. 8. Amendment.**

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

**SEC. 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.

**SEC. 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.

**SEC. 11. Conflicting Initiatives.**

(a) In the event that this measure and another measure addressing the educational development and potential of

Oakland children and youth shall appear on the same City ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

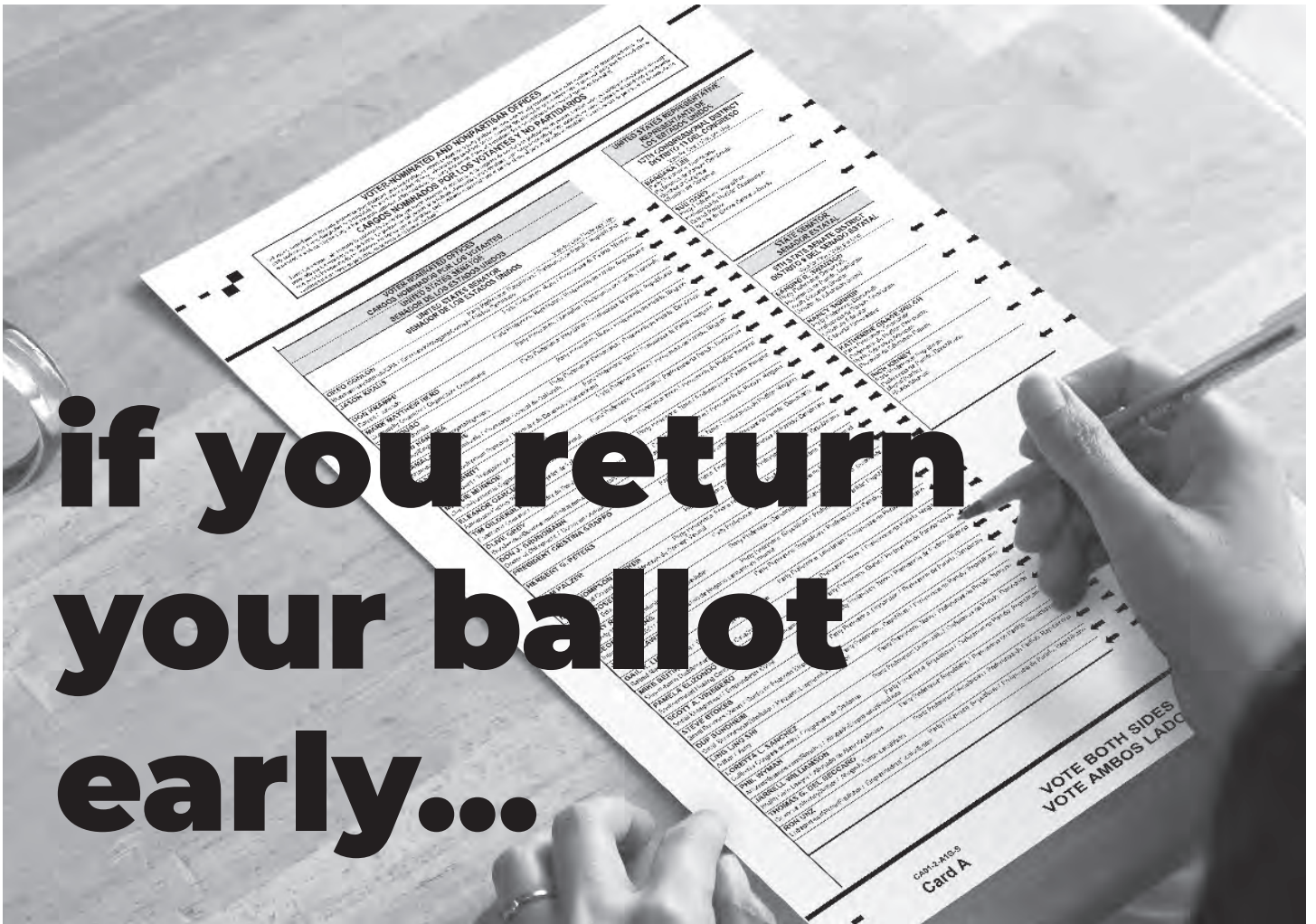
(b) If this measure is approved by the voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

**SEC. 12. Liberal Construction.**

This Act shall be liberally construed to effectuate its purposes.

**SEC. 13. Effective Date.**

This Act shall take effect the day after the election at which it is adopted.



# if you return your ballot early...

- Your vote will be counted in the first update at 8 p.m. on Election Day
- Campaigns are less likely to solicit your vote (mail, text, phone calls)
- Carefully evaluate each issue at your leisure

## Early Voting begins October 8th

- Request a Vote by Mail ballot to be sent to you
- Vote early in our office
- Save a stamp! Drop off your ballot at one of our Postage-Free 24-Hour Drop Boxes

For more information about Early Voting, Vote by Mail, or Vote by Mail ballot drop off locations, visit: **ACVOTE.org/VBM**

# VOTE BY MAIL

Easy.  
Convenient.  
Simple.



**I WANT TO  
VOTE BY MAIL  
IN EVERY  
ELECTION**

Complete the application on  
the back of this guide,  
**check the box next to “YES, I want  
to be a permanent Vote by Mail  
voter,”** and mail it to us

**OR**

Print and complete the application  
on our website and mail it to us

**I WANT TO  
VOTE BY MAIL  
ONLY IN THIS  
UPCOMING  
ELECTION**

Complete the application on the  
back cover of this guide  
and mail it to us

**OR**

Apply online at [acvote.org/vbm](https://acvote.org/vbm)

**OR**

Call (510) 272-6973 to request a  
ballot to be mailed to you

**For more information,  
visit [acvote.org/vbm](https://acvote.org/vbm)  
or call us at (510) 272-6973.**

All requests must be received by the Registrar of Voters' Office no later than 7 days before an election by 5pm.

*Only the registered voter himself or herself may apply for a Vote by Mail ballot. An application for a Vote by Mail ballot that is made by any person other than the registered voter is a criminal offense.*



# THE BALLOT DROP STOP Coming to your city!

Visit our website to find us in a city near you! [ACVOTE.ORG/dropstop](http://ACVOTE.ORG/dropstop)

Drive through and drop off your ballot early.

**MAIN LOCATION:** René C. Davidson Courthouse  
1225 Fallon Street  
Oakland, CA 94612

**HOURS:** 9:00 a.m. – 3:00 p.m.  
October 27<sup>th</sup>-28<sup>th</sup>  
November 3<sup>rd</sup>-4<sup>th</sup>

8:30 a.m. – 5:00 p.m.  
November 5<sup>th</sup>

7:00 a.m. – 8:00 p.m.  
Election Day, November 6<sup>th</sup>



## POSTAGE-FREE 24-HOUR DROP BOXES

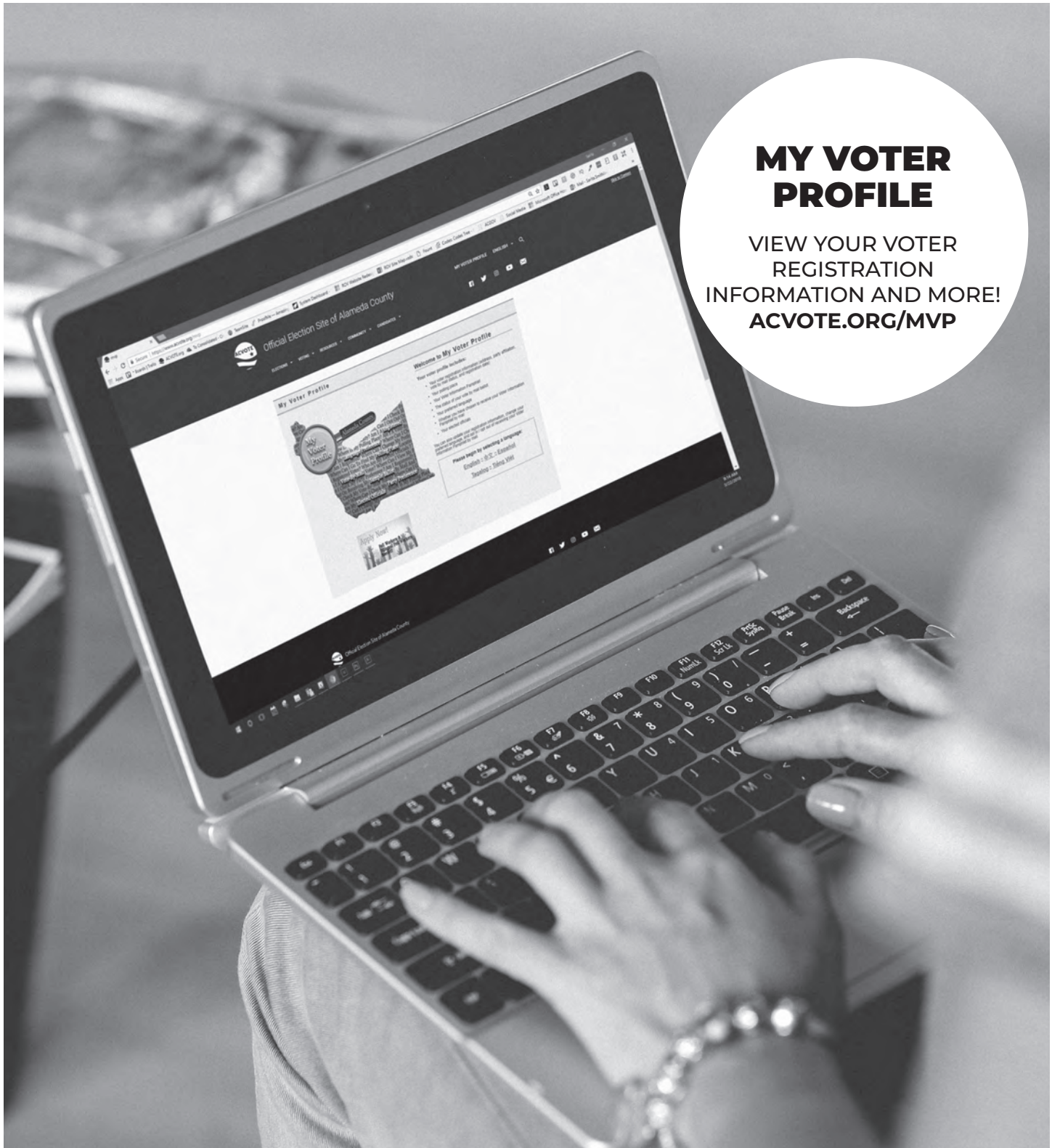
24-hour drop boxes will be open  
29 days before the election up until  
8:00 p.m. on Election Day

Drop your ballot off early at any 24-hour drop box located throughout Alameda County. **No postage necessary.** Make your vote count—Remember to sign the back of your return envelope!

FOR LOCATION INFORMATION, VISIT: [ACVOTE.ORG/DROPBOX](http://ACVOTE.ORG/DROPBOX)

***FOLLOW US!*** @ACVOTE

**FACEBOOK • TWITTER • INSTAGRAM**



**MY VOTER  
PROFILE**

VIEW YOUR VOTER  
REGISTRATION  
INFORMATION AND MORE!  
[ACVOTE.ORG/MVP](http://ACVOTE.ORG/MVP)

**Your Choice. Your Voice. Your Vote.**



# ADOPT-A-POLL

EARN OVER \$600\* AS A GROUP ON ELECTION DAY

Gather a group of 4-6 people to work at a Polling Place on Election Day—it's that simple!

## Earn Money Towards Your Goal!

- Travel
- Donate to your favorite Animal Shelter
- Donate to your favorite Charity

**SIGN UP TODAY!**

**ACVOTE.ORG**

**(510) 272-6963**

\*Amount varies based on number of individuals and bilingual Poll Workers in your group.

## BECOME A POLL WORKER

- Earn extra money (\$130 - \$205) by serving your community for a day
- Gain valuable work experience as an Inspector, Judge, Clerk, or Student worker
- Lawful Permanent Residents (Green Card Holders) may serve as Bilingual Poll Workers

**Bilingual Poll Workers Must Be Fluent in English and One of the Following Languages:**

Cantonese or Mandarin, Khmer, Korean, Punjabi, Spanish, Tagalog, Vietnamese



**Sign up today! Visit ACVOTE.ORG or call (510) 272-6971**





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# NEWS & ANNOUNCEMENTS

To receive the latest news and announcements, like us, follow us, and connect with us through your favorite social media channels!

Become an e-Subscriber and join the Alameda County Registrar of Voters e-mail subscription lists. You will receive e-mail announcements when updated information is available. <http://www.acgov.org/rov/esubscribe.htm>

**@ACVOTE**

**YOUR POLLING PLACE IS**



TO:

For Voter Assistance, Call:  
English - (510) 272-6973

選民如需協助, 請致電:  
中文 - (510) 208-9665

मतदाता सहायता के लिए, कॉल करें:  
हिंदी - (510) 272-5035

投票に関するご質問は、以下までお問い合わせ下さい。  
日本語 - (510) 272-5036

សំរាប់ជំនួយការអ្នកបោះឆ្នោត សូមទូរស័ព្ទមកលេខ  
ភាសាខ្មែរ - (510) 272-5038

투표자 지원을 원하시면, 다음번호로 전화주십시오:  
한국어 - (510) 272-5037

वैटर सहायता लयी, बाल बरु:  
पंजाबी - (510) 272-5035

Para Asistencia al Votante, llamar:  
Español - (510) 272-6975

Tulong para sa Botante, Tumawag:  
Tagalog - (510) 272-6952

Cử Tri Cần Trợ Giúp, Xin Gọi:  
Tiếng Việt - (510) 272-6956