

ORDINANCE No. 11851 C. M. S.

AN ORDINANCE OF THE CITY OF OAKLAND, CALIFORNIA, ADDING CHAPTER 20 TO THE MUNICIPAL CODE, RELATING TO POWERS AND PROCEDURES RELATING TO FINANCING AND REFINANCING OF THE OBLIGATIONS OF THE CITY TO THE POLICE AND FIRE RETIREMENT SYSTEM PURSUANT TO ARTICLE XXVI OF THE CHARTER, INCLUDING THE ISSUANCE OF DEBENTURES AND OTHER INSTRUMENTS TO EVIDENCE SUCH OBLIGATIONS AND THE ISSUANCE OF BONDS TO FINANCE AND REFINANCE SUCH OBLIGATIONS AND INCLUDING DEFINITIONS, GENERAL PROVISIONS, ISSUANCE PROCEDURES AND CERTAIN SUPPLEMENTAL PROVISIONS

WHEREAS, the City of Oakland (the "City") is a municipal corporation and charter city duly organized and existing under a freeholders' charter (the "Charter") pursuant to which the City has the right and power to make and enforce all laws and regulations in respect of municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Article II of the Charter of the City; and

WHEREAS, Article XXVI of the City Charter, as such may be amended from time to time (the "Retirement Law") obligates the City to make annual contributions to The Police and Fire Retirement System of the City (the "System") to fund pension benefits of its employees, and to amortize the unfunded accrued actuarial liability with respect to such pension benefits; and

WHEREAS, the City desires to establish a program (the "Program") to evidence its obligation to the System to pay amounts required pursuant to the Retirement Law, including the unfunded accrued actuarial liability of the City, by issuing debentures or other evidences of indebtedness to the System, to authorize additional debentures to be issued in the future from time to time, and to provide for the issuance of bonds for the purpose of funding and refunding the debentures, and to authorize the issuance of additional bonds in the future from time to time (collectively, the "Bonds"); and

WHEREAS, Section 219(5) and Section 812 of the Charter grant powers to the City with respect to the authorization to borrow money and to adopt ordinances with respect thereto; and

WHEREAS, on June 8, 1976, the voters of the City approved Measure R, a Charter amendment to the Retirement Law, which (as later amended) authorized a property tax to be levied annually by the City for the purpose of fully funding the obligations of the City to the System by the year 2026 (the "tax override"); and

WHEREAS, it is anticipated that the proceeds of the tax override collected annually will be applied to the payment of amounts due and owing from time to time on the Bonds; and

WHEREAS, the Council of the City, acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Article II of the Charter, finds that the public interest and necessity require the adoption of this Ordinance to authorize, and establish the procedures for, the issuance of the debentures or other evidence of the indebtedness of the City to the System pursuant to Article XXVI of the Charter and the issuance and sale of bonds by the City for the purpose of financing and refinancing the obligations of the City imposed by Article XXVI of the Charter;

NOW THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 20 entitled "PFRS Pension Obligation Bond Law" is added to the Oakland Municipal Code, to read as follows:

CHAPTER 20

PFRS PENSION OBLIGATION BOND LAW

- Article 1. General Provisions And Definitions.
- 2. Issuance Of Bonds To Finance The Program.
- 3. Miscellaneous Provisions.

ARTICLE I

GENERAL PROVISIONS AND DEFINITIONS

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| Section | 20-1.01. | Title. |
| | 20-1.02. | Purpose. |
| | 20-1.03. | Definitions. |

SECTION 20-1.01. TITLE. This Chapter may be cited as the "PFRS Pension Obligation Bond Law."

SECTION 20-1.02. PURPOSE. The Council hereby finds and declares that it is necessary, essential, a public purpose and a municipal affair for the City to be authorized to finance all or a portion of the obligations of the City to The Police and Fire Retirement System under the Retirement Law, from time to time as determined by the City, in the interests of the public health, safety and welfare.

SECTION 20-1.03. DEFINITIONS. Unless the context otherwise requires, the following definitions shall govern the construction of this Chapter:

(a) "Bonds" means any bonds, notes, interim certificates, or other obligations and evidences of indebtedness issued by the City pursuant to this Chapter.

(b) "Chapter" means this Chapter 20 of the Oakland Municipal Code, as amended from time to time.

(c) "Charter" means the Charter of the City, as amended from time to time.

(d) "City" means the City of Oakland, California, a charter city in the State existing under and exercising powers pursuant to the Charter and the Constitution of the State.

(e) "Costs" means all costs representing or relating to the obligations of the City to the System under Article XXVI of the Charter, and shall include, but not be limited to, the following: (1) the costs of services provided to implement the Program, including costs of consultants, advisors, actuaries, accountants, planners, attorneys, financial and feasibility consultants, in each case, whether an employee of the City or an independent consultant; (2) costs of the City properly allocated to the Program and with respect to costs of its employees or other labor costs, including the cost of medical, pension, retirement and other benefits as well as salary and wages and the allocable costs of administrative, supervisory and managerial personnel and the properly allocable cost of benefits provided for such personnel; (3) costs of amortizing any unfunded accrued actuarial liability of the System; (4) financing expenses, including costs related to issuance of and securing of Bonds, costs of credit facilities, liquidity facilities, municipal bond

insurance or any other kind of credit enhancement relating to the Bonds, any amount to be deposited in any debt service reserve fund, the cost of any reserve fund surety policy, trustee's and paying agent's fees and expenses; (5) any interest rate swap termination payments due under a swap relating to any Series of Bonds or the failure to issue Bonds, or any payments due upon initiation of any swap arrangement, and (6) such other costs and expenses that can be capitalized under generally accepted accounting principles in effect at the time the cost is incurred by the City.

(f) "Council" means the Council of the City.

(g) "Debentures" means any one or more of the obligations or evidences of indebtedness issued by the City in favor of the System, which may be denominated "Pension Obligation Debentures" or by such other appellation selected by the City in the proceedings relating thereto, which evidence all or a portion of the obligations of the City imposed by the Retirement Law.

(h) "Program" means the program of the City established pursuant to the provisions hereof, to finance the obligations of the City pursuant to the Retirement Law;

(i) "Retirement Law" means Article XXVI of the City Charter and, as such may be amended from time to time.

(j) "State" means the State of California.

(k) "System" means The Police and Fire Retirement System of the City established and operating pursuant to Article XXVI of the City.

(l) "Tax Override" means the proceeds of the tax levied by the City pursuant to Measure R adopted by the voters of the City on June 8, 1976, as amended, for the purpose of amortizing the obligations of the City to the System by the year 2026.

ARTICLE 2

ISSUANCE OF BONDS TO FINANCE THE PROGRAM

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| Section | 20-2.01. General Procedures Authorized Herein. |
| | 20-2.02. Authorization Of Bonds. |
| | 20-2.03. Proceedings Authorizing Issuance; Public Or Private Sales. |
| | 20-2.04. Application Of Proceeds Of Bonds. |
| | 20-2.05. Trust Agreements. |

- 20-2.06. Insurance, Credit Enhancement and Liquidity Support.
- 20-2.07. Bonds And Investments; Contracts To Place On Interest Rate, Cash Flow, Or Other Basis; Other Program Agreements.
- 20-2.08. Delegation to City Officers; Personal Liability.
- 20-2.09. Refunding Bonds.
- 20-2.10. Repayment Of Bonds.
- 20-2.11. Agreements with System.

SECTION 20-2.01. GENERAL PROCEDURES AUTHORIZED HEREIN. The City is authorized, by adoption of one or more authorizing resolutions or by any other official action permitted by the Charter, to implement the following procedures pursuant to the powers granted by the Charter so as to cause Debentures and Bonds to be issued pursuant to the Program:

(a) To cause one or more Debentures to be issued, from time to time as determined by the City, to evidence all or any portion of the obligation of the City to the System under the Retirement Law.

(b) To issue Bonds pursuant to the procedures set forth in this Chapter for the purpose of funding or refunding the Debentures and otherwise assisting the Program authorized by this Chapter and for the purpose of refunding any outstanding Bonds.

(c) To establish the terms and conditions for the Program undertaken pursuant to this Chapter.

(d) To employ or contract for such legal, consultant, financial advisory, underwriting, actuarial, economic feasibility, or other services in connection with the Program, as may be necessary in the judgment of the Council for the successful implementation of the Program, the issuance of the Debentures and the issuance and sale of Bonds, and to pay the Costs of the Program.

(e) In addition to all other procedures specifically authorized in this Chapter, to do all things necessary or convenient and consistent with the Charter to carry out the purposes of this Chapter.

SECTION 20-2.02. AUTHORIZATION OF DEBENTURES AND BONDS. The City may issue Debentures from time to time and in such amounts as determined by the City in connection with the Program to evidence all or any portion of the then-existing obligation of the

City to the System under the Retirement Law and to pay the Costs relating thereto. The City may issue its Bonds for the purpose of implementing the Program as authorized by this Chapter. Any Debentures and any issue of Bonds may be payable from such sources as the City may determine, including the Tax Override and any funds pledged to any issue of Bonds in connection with the proceedings relating thereto.

SECTION 20-2.03. PROCEEDINGS AUTHORIZING ISSUANCE OF DEBENTURES AND BONDS; PUBLIC OR PRIVATE SALES.

(a) The proceedings of the City authorizing the issuance of the Debentures and Bonds may provide all of the following for the Debentures and Bonds:

(1) The form of the Debentures, the Costs evidenced thereby, and the terms and conditions set forth therein, which shall be consistent with the Retirement Law, the other provisions of the Charter and this Chapter.

(2) The form of the Bonds, which may be issued as serial bonds, term bonds, capital appreciation bonds, zero-coupon bonds, limited interest bonds, installment bonds, notes or other forms of obligations and evidences of indebtedness, or any combination thereof, and which may be issued in one or more series having like or different terms and may be issued at one time or in multiple issuances as determined by the City.

(3) The Costs to be financed by the issuance of the Bonds.

(4) The date or dates of the Bonds.

(5) The time or times of maturity of the Bonds.

(6) The interest, fixed or variable, to be borne by the Bonds and whether or not any interest or other income on the Bonds is intended to be subject to taxation under state and federal tax laws.

(7) The time or times that interest on the Bonds shall accrue and be payable and the time or times that principal may be payable.

(8) The denominations, and the registration privileges of the Bonds and the currency in which the Bonds shall be paid.

(9) The manner of execution of the Bonds.

(10) The place or places the Bonds are payable.

(11) The terms of redemption, if any, of the Bonds.

(12) Any other terms and conditions deemed necessary or advisable by the City.

(b) The Bonds may be sold at either public or private sale and for such prices as the City shall determine.

SECTION 20-2.04. APPLICATION OF PROCEEDS OF BONDS. Proceeds of any issue of Bonds may be applied, subject to such arrangements and procedures as are approved by the City in connection with such proceedings, including any agreement between the City and the System relating to the repayment of one or more Debentures and the refunding of outstanding Bonds, together with all Costs relating to the issuance of Bonds and Debentures or any refunding Bonds, including any bond reserve funds which the City determines to be reasonably required, the costs of any insurance or other credit enhancement authorized by Section 20-2.06, and any related investment or other contracts and for such other purposes as the City shall determine.

SECTION 20-2.05. TRUST AGREEMENTS. In the discretion of the City, any Bonds issued under the provisions of this Chapter may be secured by a trust agreement or indenture, including any master trust agreement or indenture and any supplemental trust agreements or supplemental indentures pursuant thereto, by and between the City and a corporate trustee or trustees, which may be any trust company or bank approved by the City and having the powers of a trust company within or without the State. Such trust agreement or indenture (and any supplemental trust agreements or indentures) may contain such provisions for protecting and enforcing the rights and remedies of the Bond owners as may be reasonable and proper and not in violation of law. Any such trust agreement or indenture (and any supplemental trust agreements or indentures) may set forth the rights and remedies of the Bond owners and of the trustee or trustees, and may restrict the individual rights of action by Bond owners. In addition to the foregoing, any such trust agreement or indenture (and any supplemental trust agreements or indentures) may

contain such other provisions as the City may deem reasonable and proper for the security of the Bond owners, including covenants of the City relating to the Bonds.

SECTION 20-2.06. INSURANCE, CREDIT ENHANCEMENT AND LIQUIDITY SUPPORT. The City may obtain insurance or other credit enhancement or liquidity support for the Bonds or the Program and may enter into any credit, reimbursement agreement or other agreement with any person or entity in connection therewith. The agreement or agreements shall contain such terms as the City deems necessary or appropriate.

SECTION 20-2.07. BONDS AND INVESTMENTS; CONTRACTS TO PLACE ON INTEREST RATE, CASH FLOW, OR OTHER BASIS; OTHER PROGRAM AGREEMENTS. In connection with, or incidental to, the issuance of the Debentures and the Bonds and the implementation of the Program, the City may enter into any contracts which the City determines to be necessary or appropriate to place the Bonds, in whole or in part, on the interest rate, cash flow, or other basis desired by the City, including, without limitation, contracts commonly known as interest rate swap agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of, or changes in, interest rates, stock or other indices, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, interest rate floors, caps or collars, options, puts or calls to hedge payment, rate, spread, valuation of currency or similar exposure. These contracts and arrangements shall be entered into with the parties, selected by the means, and contain the payment, security, default, remedy, and other terms and conditions, determined by the City, after giving due consideration for the creditworthiness of the counterparties, where applicable, including any rating by a nationally recognized rating agency or any other criteria as may be determined to be appropriate by the City. The City may enter into any other agreements necessary or appropriate in connection with the issuance of Debentures or Bonds.

SECTION 20-2.08. DELEGATION TO CITY OFFICERS; NO PERSONAL LIABILITY. In any proceedings undertaken by the City to implement the Program, the City may delegate to such of its officers as it shall determine the authority to execute and deliver any

Debenture, Bond, certificate, contract, agreement or arrangement to be executed and delivered in connection with the Program, within such parameters and subject to the terms and conditions determined by the City in such proceedings. Neither the members of the Council nor any person executing the Debentures or the Bonds shall be liable personally on the Debentures or the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

SECTION 20-2.09. REFUNDING BONDS. The City may provide for the issuance of Bonds any portion of which is to be used for the purpose of refunding outstanding Bonds, including the payment of the principal thereof and interest and redemption premiums, if any, thereon. The proceeds of Bonds issued to refund any outstanding Bonds may, in the discretion of the City, be applied to the defeasance and retirement of such outstanding Bonds at maturity, or the redemption (on any redemption date) or purchase of such outstanding Bonds prior to maturity, upon such terms and subject to such conditions as the City shall deem advisable.

SECTION 20-2.10. REPAYMENT OF BONDS. The principal and any premium, and interest on the Bonds may be payable from any source of funds determined by the City and such other funds, if any, pledged to or made available for the payment of such Bonds as determined by the City in connection with the proceedings relating to any issue of Bonds.

SECTION 20-2.11. AGREEMENTS WITH THE SYSTEM. In connection with any proceedings for the issuance of Debentures or Bonds, the City and the System may enter into such agreements pertaining thereto as the City deems necessary or appropriate. The City may require the delivery of such certifications and opinions of the System, its actuary or other consultants or experts acting for or on behalf of the System as the City may deem necessary or appropriate.

ARTICLE 3

MISCELLANEOUS PROVISIONS

Section	20-3.01.	Liberal Construction.
	20-3.02.	Provisions Of This Chapter Are Complete, Additional And Alternative.
	20-3.03.	Actions To Determine Validity Of Bonds And Proceedings.
	20-3.04.	Chapter Controlling.
	20-3.05.	Partial Invalidity.

SECTION 20-3.01. LIBERAL CONSTRUCTION. This Chapter, being necessary for the health, welfare and safety of the City and its residents and the satisfaction by the City and the System of their respective obligations under Article XXVI of the Charter, shall be liberally construed to effect its purposes. Furthermore, the Council hereby declares that this Chapter is an exercise of the power granted to the City by the City Charter and the Constitution of the State and is an exercise by the City of its powers as to municipal affairs and its police powers, and this Chapter shall be liberally construed to uphold its validity under the laws of the State.

SECTION 20-3.02. PROVISIONS OF THIS CHAPTER ARE COMPLETE, ADDITIONAL AND ALTERNATIVE. This Chapter shall be deemed to provide a complete, additional and alternative method for doing the things authorized hereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of the Debentures and Bonds and the entering into of any credit, reimbursement or other agreement under the provisions of this Chapter need not comply with the requirements of any other law applicable to the issuance of debentures and bonds or the execution of such agreements, except that all such actions shall be consistent with the Charter. The purposes authorized hereby may be effectuated and Debentures and Bonds are authorized to be issued for any such purposes under this Chapter, notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations or differing provisions contained in any other law. Notwithstanding the foregoing provisions of this Section, the City may avail itself of any power or authority conferred upon general law cities by the general laws of this State in order to better effectuate the purposes of this Chapter which are consistent and not conflicting with the provisions of the Charter and this Chapter and any such laws which are relied upon by the City in connection with any proceedings under this Chapter are hereby expressly authorized pursuant to Section 106 of the Charter.

SECTION 20-3.03. ACTIONS TO DETERMINE VALIDITY OF BONDS AND PROCEEDINGS. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure of the State of California or any

of the general laws of the State applicable in the premises, to determine the validity of the Debentures and Bonds and the legality and validity of all proceedings previously taken and proposed to be taken for the authorization and issuance of Debentures and Bonds, the authorization, issuance, sale, and delivery of the Debentures and Bonds, for entering into any trust agreement, funding agreement, credit, reimbursement or other agreement in connection therewith, for the application and use of the proceeds of the Debentures and Bonds, and for the payment of the principal thereof and interest thereon.

SECTION 20-3.04. CHAPTER CONTROLLING. To the extent that the provisions of this Chapter are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this Chapter shall be deemed controlling.

SECTION 20-3.05. PARTIAL INVALIDITY. If any Section, paragraph, sentence, clause or phrase of this Chapter shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Chapter. The Council hereby declares that it would have adopted this Chapter and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the proceedings authorized to be taken pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Chapter may be held illegal, invalid or unenforceable.

SECTION 2. EFFECTIVE DATE. This ordinance shall become effective and be in full force and effect in accordance with Section 216 of the Charter.

INTRODUCED: January 9, 1996

IN COUNCIL, OAKLAND, CALIFORNIA, JAN 23 1996, 19 ____

PASSED BY THE FOLLOWING VOTE:


AYES- BAYTON, ~~CHANG~~, DE LA FUENTE, JORDAN, MILEY, RUSSO, SPEES, WOODS-JONES, and PRESIDENT
HARRIS — 8

NOES- **NONE**

ABSENT- **NONE**

ABSTENTION- **NONE**

Excused - Chang - 1

ATTEST: 
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California