

CITY OF OAKLAND

**PROPOSED CHARTER AMENDMENTS AND
PROPOSED ORDINANCE**

**TO BE VOTED UPON AT THE
MUNICIPAL NOMINATING ELECTION CONSOLIDATED WITH
THE STATEWIDE DIRECT PRIMARY ELECTION TO BE
HELD IN THE CITY OF OAKLAND
ON TUESDAY, MARCH 26, 1996**

THE TEXT OF THE PROPOSED AMENDMENTS TO THE CHARTER OF THE CITY OF OAKLAND AND PROPOSED ORDINANCE TOGETHER WITH LEGAL ANALYSES OF EACH MEASURE PREPARED BY THE CITY ATTORNEY AND FINANCIAL ANALYSES OF EACH MEASURE PREPARED BY THE CITY AUDITOR AND ARGUMENTS IN SUPPORT OF ADOPTION. ARGUMENTS IN SUPPORT OF THE PROPOSED CHARTER AMENDMENTS AND PROPOSED ORDINANCE ARE THE OPINIONS OF THE AUTHORS.

The Council of the City of Oakland does hereby submit on its own motion the following proposed amendment to the City Charter of the City of Oakland to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED CHARTER AMENDMENT

**MEASURE PROVIDING FOR THE INVESTMENT IN COMMON STOCKS
AND MUTUAL FUNDS BY THE POLICE AND FIRE RETIREMENT BOARD**

E Measure E. Shall Section 2601(e) of the Charter of the City of Oakland be amended to provide that a maximum of fifty percent (50%) of all invested funds of the Police and Fire Retirement System may be invested in common stocks and mutual funds; and that the Police and Fire Retirement Board may approve, on a case by case basis, the purchase of common stocks that have not paid a cash dividend for the five years next preceding the date of investment?

YES

NO

FULL TEXT OF MEASURE E

Article XXVI of the Charter of the City of Oakland is amended at section 2601(e) to read:

- (e) The Board shall possess power to make all necessary rules and regulations for its guidance and shall have exclusive control of the administration and investment of the fund established for the maintenance and operation of the System, subject to the terms, conditions, limitations and restrictions hereinafter set forth. All funds received by the Board not required for current disbursements shall be invested in, but not limited to: . . .
 - (3) Common Stocks provided that:
 - a. The total of such investments together with the total of all holdings of shares of diversified management investment companies (Mutual Funds) (4 next below) shall not exceed fifty (50) percent of the book value of all invested funds of the retirement system. . . .
 - c. Such stocks shall, at the time of purchase, have paid cash dividends for not less than five years next preceding the date of investment or prior to the purchase of such stocks, the Board shall expressly approve purchase of same by motion adopted with not less than five (5) Board members voting in favor of such purchase. . . .
 - (4) Shares of diversified management investment companies (Mutual Funds) provided that:
 - a. The total of such investments together with the total of all holdings of shares of common stocks (3 next above) shall not exceed fifty (50) percent of the book value of all invested funds of the retirement system."

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE E

This measure would amend Article XXVI of the Oakland City Charter by increasing the percentage of the invested funds of the Police and Fire Retirement System ("PFRS") that may be invested in common stocks and mutual funds and giving the PFRS Board the option to invest in common stocks that have not paid cash dividends for the five years preceding the date of investment.

Article XXVI of the Charter creates the PFRS and establishes the PFRS Board and its duties. PFRS provides retirement benefits for sworn members of the Police and Fire Departments. The Charter vests in the board the authority to manage the PFRS and the exclusive control of the administration and investment of the Police and Fire Retirement Fund. The PFRS was closed in 1976.

Article XXVI currently provides that the PFRS Board shall invest no more than forty percent (40%) of the book value of all invested funds of the retirement system in common stocks and mutual funds; and that the PFRS Fund may be invested only in common stocks that have paid cash dividends for the five years preceding the date of investment.

The proposed amendment would (1) authorize the PFRS Board, on a case by case basis, to approve investment in common stocks that have **not** paid cash dividends for

OM-2

the five years preceding the date of investment; and (2) increase by 10% the percentage of the total book value of invested funds of the retirement system that may be invested in common stocks and mutual funds.

The proposed amendment would expand the PFRS Board's investment universe by authorizing investment in common stocks that have not paid cash dividends for the five years preceding the date of investment. The amendment would increase the percentage of the retirement system funds that may be invested in common stocks and mutual funds from forty percent (40%) to fifty percent (50%).

In selecting investment advisors and approving the purchase of common stocks that have not paid cash dividends for the five years preceding the date of investment, the PFRS Board, as a matter of law, is required to comply with the "prudent person" standard. Under the "prudent person" standard, the PFRS' Board is required to make such inquiry and take such action as may be necessary and appropriate to determine that its investment decisions are sound.

The Charter requires that the City make such contributions to the PFRS Fund as may be necessary when added to the retirement system members' contributions and the amount in the PFRS Fund to pay the retirement benefits specified in the Charter. Accordingly, the proposed amendment would not jeopardize retirement system members' benefits. If the investment return on PFRS funds increases after passage of the proposed amendment, the City's obligation to ensure payment of the retirement benefits specified in the Charter would be reduced; alternatively, if the investment return on the PFRS Fund decreased after passage of the amendment, the City's obligation would be greater.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE E
"MEASURE PROVIDING FOR THE
INVESTMENT IN COMMON STOCKS AND MUTUAL FUNDS
BY THE POLICE AND FIRE RETIREMENT BOARD"

BACKGROUND

The Charter established the Police and Fire Retirement System (PFRS) to provide retirement benefits for Police and Fire Department sworn employees, and created the Police and Fire Retirement Board (Board) to manage and administer PFRS funds. PFRS was closed in 1976 and sworn employees subsequently hired by the Police and Fire Departments belong to the Public Employees' Safety Retirement System, administered by the State of California.

PURPOSE OF MEASURE

Adoption of Measure E will increase the potential for greater returns on investments by allowing the Board to: (1) increase the percent of the PFRS funds that may be invested in common stocks and mutual funds; and (2) expand the universe of potential investments.

The Charter imposes certain restrictions on the investment activities of the Board,
OM-3

two of which would be amended if Measure E is adopted.

A comparison of the two Charter provisions and the proposed amendments is shown below:

Charter Provisions

1. The amount of PFRS funds invested in common stocks and mutual funds shall not exceed 40% of the book value of all invested funds of the retirement system.

2. PFRS funds may be invested only in common stocks that at the time of purchase have paid cash dividends for not less than five years next preceding the date of investment.

Proposed Amendments

1. The amount of PFRS funds invested in common stocks and mutual funds shall not exceed 50% of the book value of all invested funds of the retirement system.

2. PFRS funds may be invested in common stocks that have not paid cash dividends for the five years next preceding the date of investment, on a case-by-case basis, with approval of not less than five Board members voting in favor of such motion to purchase.

IMPACT ON COST OF CITY GOVERNMENT

The cost of City government as it relates to PFRS increases or decreases depending on the returns of PFRS investments. Therefore, the amount of increase or decrease in cost of City government cannot be determined because it will vary in accordance with the performance of the financial markets and the companies selected for investment.

ADDITIONAL INFORMATION

PFRS Board members are fiduciaries who serve in positions of trust, and are required to administer and invest the PFRS funds responsibly, in accordance with the "prudent person" standard. They must make necessary inquiries and take appropriate actions to determine that their investment decisions are prudent.

Adoption of Measure E will not change: (1) the Board's fiduciary responsibilities; or (2) the City's obligation to provide adequate funds to PFRS to pay the retirement benefits specified in the Charter.

The performance of the investment counselors hired by the Board is evaluated quarterly by an independent consultant.

A survey of other City and County retirement systems disclosed that the stock component of their investment portfolios was 50% or more of their total investment portfolios. Historically, common stocks have provided a greater return than fixed income securities.

s/NORMA NG LAU
City Auditor

ARGUMENT IN FAVOR OF MEASURE E

This measure is proposed by the Board of Administration of the Oakland Police and Fire Retirement System (OPFRS) and was approved for placement on the ballot by the City Council's Finance Committee, City Council, City Manager's Office, and the Charter Review Committee.

Section 2601(e) of the City Charter currently allows that they can invest a maximum of forty percent (40%) of the Police & Fire Retirement System's assets in common stocks and mutual funds. Additionally, the Charter requires, common stock issues to have paid dividends for the five years preceding purchase. The proposed charter amendment will allow up to a maximum of fifty percent (50%) of the Police & Fire System's assets to be invested in common stock issues or mutual funds, further it will allow the Police & Fire Board on a case by case basis to purchase common stock that has not paid a dividend for the five-year period before purchase. Approving this amendment will expand the Police & Fire Board's opportunities to increase its investment returns and maintain a prudent investment position.

s/HORACE A. COHN
Board Member

s/WILLIAM J. HUBARTT
Board Member

NO ARGUMENT AGAINST MEASURE E WAS SUBMITTED.

The Council of the City of Oakland does hereby submit on its own motion the following proposed amendment to the City Charter of the City of Oakland to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED CHARTER AMENDMENT

MEASURE PROVIDING FOR MEMBERSHIP ON THE POLICE AND FIRE RETIREMENT BOARD

F Measure F. Shall Section 2601 of the Charter of the City of Oakland be amended to provide that in the event no active member of the Police or Fire Department is willing to serve on the Police and Fire Retirement Board in the positions designated for such members, the retired and active membership of the Police or Fire Department, as the case may be, shall elect a retired member of such department to serve in such position?	YES
	NO

FULL TEXT OF MEASURE F

Article XXVI of the Charter of the City of Oakland is amended at section 2601 to read:
"Police and Fire Retirement Board

Section 2601. In order to continue in force and make effectual pensions and retirements already existing or that may be granted in the future in favor of members of the Police or Fire Departments, the systems heretofore existing under the provisions of Articles XIV and XV of this Charter are hereby combined into one system to be known as the Police and Fire Retirement System and the funds heretofore created, existing and known as the Police Relief and Pension Fund and the Firemen's Relief and Pension Fund, are hereby combined in a common fund to be known and designated as the Police and Fire Retirement Fund. This System and fund shall be managed and administered by a Board hereby created to be known and designated as the Police and Fire Retirement

Board, which shall be the successor of and shall have the powers and duties heretofore possessed and exercised by the Board of Trustees of the Police Relief and Pension Fund and Board of Trustees of the Firemen's Relief and Pension Fund. This Retirement Board shall consist of seven (7) members as follows: the Mayor of the City; one active member of the Police Department, or a retired member elected by the active and retired members of the Police Department if no active member of the Police Department is elected to serve on the Board; one active member of the Fire Department, or a retired member elected by the active and retired members of the Fire Department if no active member of the Fire Department is elected to serve on the Board; a life insurance executive of a local office, a senior officer of a local bank; a community representative; and a Police-Fire retired member who shall be elected from the retired members of the Fire Department for a first three (3) year term commencing the first day of the month next following his or her election, and from the retired members of the Police Department for the next successive three (3) year term, and thereafter alternately from the retirement rolls of each of said departments for successive three (3) year terms. The election of the first such Police-Fire retired member by the vote of the retired members of the Fire Department shall be held within ninety (90) days following the effective date of this amendment in the manner heretofore established by and under the supervision of the Retirement Board. In the event an active or retired Police-Fire member does not serve out his or her three (3) year term, his or her successor shall be elected from the department which has most recently elected him or her for the remainder of said unexpired three (3) year term. All members elected from the Police and Fire Departments or from the police-fire retirement rolls shall be elected by vote of the active or retired Police and Fire Retirement System members of the respective departments as the case may be, and the Retirement Board may from time to time revise the manner of conducting such elections. The representative of a life insurance company, the representative of a bank, and the community representative shall be appointed by the City Council upon the recommendation of the Mayor. The Mayor, with the approval of the City Council, may designate a City officer or official to serve in his or her place and stead as a member of the Retirement Board for the term of his or her office. The terms of the incumbent board members who are serving terms immediately prior to the effective date of this amendment shall not be affected by this amendment, and those members shall be entitled to serve the balances of their respective terms on the Retirement Board; the terms of office of the future elected member of the Fire Department, of the future elected member of the Police Department and of the future insurance and bank representatives shall be five (5) years and shall follow successively the end of the term of the respective incumbent member of the Fire Department, member of the Police Department, and insurance and bank representative members; the first term of office of the community representative shall be two (2) years commencing the first day of the month next following the effective date of this amendment, and thereafter such member shall be appointed for successive five (5) year terms. The Mayor or his or her designated alternate shall serve the term of the Mayor. In the event of a vacancy, a successor shall be elected or appointed as the case may be for the unexpired portion of the term vacated. Election or appointment of successors as hereinabove provided shall be held or made not more than ninety (90) days prior to the expiration of the term of office of the member to be succeeded,

or in the event of a vacancy in an office prior to the termination thereof not more than ninety (90) days immediately following the occurrence of such vacancy. The members of the Board shall serve without compensation. . . ."

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE F

This measure would add to Article XXVI of the Oakland City Charter a provision that gives the active and retired members of the Police and Fire Retirement System ("PFRS") the option to elect retired members of the retirement system to serve in the two seats on the PFRS Board currently designated for active members of the Fire and Police Departments.

Article XXVI of the Charter creates the PFRS and establishes the PFRS Board and its duties. PFRS provides retirement benefits for sworn members of the Police and Fire Departments. The Charter vests in the PFRS Board the authority to manage and administer the PFRS and the exclusive control of the administration and investment of the Police and Fire Retirement Fund. PFRS was closed in 1976.

Article XXVI currently provides that the PFRS Board shall consist of the following seven members: the Mayor; one active member of the Police Department, one active member of the Fire Department, a life insurance executive of a local office, a senior officer of a local bank, a community representative and a Police-Fire retired member.

In the event that active members of the Police Department, or the active members of the Fire Department do not elect an active member of their department to serve in the seat on the Board designated for such member, the proposed amendment would permit the active and retired members of the Police or Fire Department, as the case may be, to elect a retired member of such department to serve in the seat on the PFRS Board currently designated for an active member of such department.

Authorizing the board to fill the active Fire and Police department seats with retired members of such departments will provide a mechanism for the board to continue to conduct its duties in the event that insufficient active members of such departments are willing to serve in the seats designated for such members.

If this measure is not passed by the voters and the active members of the Police and/or Fire Departments are unable to fill the seats designated for such members with active members of their respective departments, it will become more difficult for the PFRS Board to obtain the quorum necessary for it to conduct business and manage and administer the retirement system.

The proposed amendment would expand the options for filling the two seats currently designated for active members of the Fire and Police Departments.

Under the current Charter provisions, only active members of the Police and Fire Departments may vote to select the active member of their respective department who will serve on the board. The amendment would allow retired members to participate in the selection of the two persons who would serve in the seats on the board currently designated for active members of the Fire and Police Departments. The amendment would not change the powers or duties of the PFRS' Board.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE F

"MEASURE PROVIDING FOR MEMBERSHIP ON THE POLICE AND FIRE RETIREMENT BOARD"

Adoption of Measure F will not increase the cost of City government.

The Police and Fire Retirement System (PFRS) provides retirement benefits for sworn employees of the Police Department and the Fire Department. PFRS was closed in 1976. Since then, all sworn employees hired by the Police Department and the Fire Department are members of the Public Employees' Safety Retirement System, which is administered by the State of California.

Charter Section 2601 provides that three positions on the seven-member PFRS Board shall be filled as follows:

- 1 active PFRS member of the Police Department;
- 1 active PFRS member of the Fire Department; and
- 1 Police/Fire retired PFRS member to be elected for alternate three-year terms from the retirees of the Police Department or the Fire Department, as the case may be.

Measure F amends the Charter so that if:

(1) an active PFRS member of the Police Department is unavailable to fill the position designated for an active member of the Police Department on the PFRS Board, the retired and active members of the Police Department shall be permitted to elect a retired PFRS member of the Police Department to serve in this position.

(2) an active PFRS member of the Fire Department is unavailable to fill the position designated for an active member of the Fire Department on the PFRS Board, the retired and active members of the Fire Department shall be permitted to elect a retired PFRS member of the Fire Department to serve in this position.

Measure F does not affect the Police/Fire retired PFRS member to be elected for alternate three-year terms from the retirees of the Police Department or the Fire Department, as the case may be.

s/NORMA NG LAU
City Auditor

ARGUMENT IN FAVOR OF MEASURE F

This measure is proposed by the Board of Administration of the Oakland Police and Fire Retirement System (OPFRS) and was approved for placement on the ballot by the City Council's Finance Committee, City Council, City Manager's Office, and the Charter Review Committee.

The Police and Fire Retirement System Board supports Measure F amending Section 2601 of the City Charter. Section 2601 of the charter requires that the Police and Fire Department each have an active member serving on the Board of Administration. Measure F will amend Section 2601 to allow a retired police or fire member elected by the active and retired membership to serve if no active member is elected to serve on the Board from their respective department. The approval of this amendment will allow for full representation on the Board of Administration if no active Police or Fire

Member is elected to serve on the Police and Fire Retirement System's Board of Administration. Allowing for participation and representation of those directly affected by the actions of the PFRS Board of Administration.

s/WILLIAM J. HUBARTT
Board Member

s/HORACE A. COHN
Board Member

NO ARGUMENT AGAINST MEASURE F WAS SUBMITTED.

The Council of the City of Oakland does hereby submit on its own motion the following proposed amendment to the City Charter of the City of Oakland to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED CHARTER AMENDMENT

**MEASURE TO PROVIDE REMEDIES FOR ACTS OF PAST AND PRESENT
RACIAL AND GENDER DISCRIMINATION AND IMBALANCES**

G MEASURE G. Shall Sections 710, 808 and 900 of the Charter of the City of Oakland be amended to provide appropriate remedies for race and gender discrimination and imbalances in contracting and hiring practices?	YES
	NO

FULL TEXT OF MEASURE G

Article VII of the Charter of the City of Oakland is amended at section 710 to read:

"Section 710. Contracts. All contracts shall be made and entered into in accordance with the conditions and procedures established by the Board, but subject to bid limit and race and gender participation programs established by the Council pursuant to the provisions of Section 807 and 808 of this Charter."

Article VIII of the Charter of the City of Oakland is amended at section 808 to read:

"Section 808. **Goods and Services.**

a) The Council shall establish by ordinance the conditions and procedures for any purchase or contract, including advertising and bidding requirements, and may provide that all bids may be rejected. The ordinance may provide that under specified conditions, which the Council must find and determine exist in each applicable instance, advertising and bidding may be dispensed with.

b) Every two years, the City shall conduct a race and gender disparity evaluation to determine if the City has been an active or passive participant in actual, identifiable discrimination within its relevant market place. If such disparity evaluation evidences such discrimination, the City Council, in order to remedy the discrimination, shall establish a narrowly tailored race and/or gender business participation program, as substantiated by the disparity evaluation, for the bidding and awarding of purchases and contracts. Any such program shall continue only until the discrimination has been remedied. The City

Manager or an officer authorized by him or her shall require all awardees and bidders to comply with the established program."

Article IX of the Charter of the City of Oakland is amended at section 900 to read:

"Section 900. Personnel Policy.

a) It is the policy of the City that there shall be a comprehensive personnel system based on merit which considers diversity based upon the relevant labor pool as set forth in section 900 (b). Such system shall be continued and maintained for the purpose of providing an equitable and uniform procedure for dealing with personnel matters; to serve the mutual interests of the people, the City as an employer and its employees through accepted modern concepts and practices of public personnel administration; to attract to municipal service the best and most competent person available; to assure that appointments will be based on merit and fitness as ascertained by practical competitive examination and by records of achievement; and to provide the employees security of tenure, with advancement or promotion within the service, where practicable, from among employees having appropriate qualifications, free of discrimination, subject to their adherence to established standards of performance and conduct, all as more particularly hereinafter set forth in this article.

b) The City shall study its workforce in comparison to the relevant labor pool to determine if there are manifest racial or gender imbalances in traditionally segregated job classifications. If the study demonstrates such manifest imbalances, the City shall adopt a remedial voluntary affirmative action plan which shall be periodically updated and in effect only until the imbalances are eliminated."

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE G

This measure would amend the Oakland City Charter at sections 710, 808 and 900 to allow the Oakland City Council to remedy discrimination in its marketplace and eliminate imbalances in its workforce.

Oakland City Charter section 710 provides that, "(a)ll contracts shall be made and entered into in accordance with the conditions and procedures established by the Board, but subject to bid limit established by the Council pursuant to the provisions of Section 807 and 808 of this Charter."

Oakland City Charter section 808 provides that, "(t)he Council shall establish by ordinance the conditions and procedures for any purchase or contract. . . ."

Oakland City Charter section 900 provides that, "(i)t is the policy of the City that there shall be a comprehensive personnel system based on merit. . . ."

If adopted, this measure would require the City to periodically conduct studies to determine if race or gender discrimination exists in the marketplace in which the City contracts or if racial or gender imbalances exist in its workforce, in accordance with constitutional standards set forth in Richmond v. Croson (1989) 488 U.S. 469, and Johnson v. Transportation Agency of Santa Clara County, California (1987) 480 U.S. 616; respectively. If such discrimination or imbalances exist, the City Council must establish race or gender programs or plans to remedy such discrimination or imbalances. Any such program or plan would be in effect only until the discrimination or imbalances have been remedied.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE G
"MEASURE TO PROVIDE REMEDIES FOR ACTS OF PAST AND PRESENT
RACIAL AND GENDER DISCRIMINATION AND IMBALANCES"

Adoption of Measure G will increase the cost of City government by approximately \$15,000 in the first year of its implementation.

PURCHASES AND CONTRACTING SERVICES

Measure G will amend the Charter so that every two years the City shall conduct a race and gender disparity evaluation to determine if there are race and gender discrimination within its relevant marketplace. If the study discloses such discrimination, the Council shall establish a narrowly tailored race and/or gender business participation program for the bidding and awarding of purchases and contracts. Any such program shall continue only until the discrimination has been remedied.

The City's Minority Business Enterprise/Women Business Enterprise Disparity Study, which is nearing completion, will provide an updated data base to the Contract Compliance Unit of the Office of Public Works to enhance their monitoring activities relevant to race and gender discrimination in the marketplace in which the City contracts. The Contract Compliance Unit will continue to update the database. They do not anticipate an increase in their operating costs with the adoption of Measure G.

The Purchasing Unit of the Office of Budget and Finance will continue to implement their internal race and gender participation program in conjunction with their purchasing and bidding activities. The Purchasing Unit does not anticipate an increase in their operating costs with the adoption of Measure G.

HIRING PRACTICES

Measure G will amend the Charter so that the City shall study its workforce in comparison to the relevant labor pool to determine if there are race or gender imbalances in traditionally segregated job classifications. If the study discloses such imbalances, the City shall adopt a remedial voluntary affirmative action plan, which shall be periodically updated and in effect only until the imbalances are eliminated.

The Equal Opportunity Programs Division of the City Manager's Office prepares annual reports on the City's workforce composition by gender and ethnicity. Adoption of Measure G will require the Equal Opportunity Programs Division's staff to compile information and comparative statistics on the relevant labor pool. They anticipate the need to obtain the services of a consultant to structure the initial study. Subsequently, the Equal Opportunity Programs Division's staff will periodically update the study. The estimated cost for the consultant's services is a maximum of \$15,000.

s/NORMA NG LAU
City Auditor

NO ARGUMENTS IN FAVOR OR AGAINST MEASURE G WERE SUBMITTED.

The Council of the City of Oakland does hereby submit on its own motion the following proposed amendment to the City Charter of the City of Oakland to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED CHARTER AMENDMENT

MEASURE PROVIDING FOR THE COMPOSITION OF THE OAKLAND MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM BOARD

H MEASURE H. Shall Section 2002 of the Charter of the City of Oakland be amended to provide that in the event that less than three members of the Oakland Municipal Employees' Retirement System are elected to serve in the three seats of the Oakland Municipal Employees' Retirement System Board designated for such members, the retirement system members may elect widows, widowers and beneficiaries to the vacant seats designated for active, retired and deferred members of the retirement system?

YES

NO

FULL TEXT OF MEASURE H

Article XX of the Charter of the City of Oakland is amended at section 2002 to read:

Board of Administration of Retirement Fund

Section 2002. A Board of Administration of said retirement system is hereby created consisting of the City Treasurer, the Auditor, three (3) members elected from the active, retired and deferred membership of the retirement system, a resident representative of a life insurance company and the officer of a local bank. Notwithstanding the foregoing, in the event that less than three Board members are elected from the active, retired and deferred membership of the retirement system, such membership may elect widows, widowers and beneficiaries of retirement system members to the vacant seats designated for active, retired and deferred members of the retirement system.

The Council, shall, upon the recommendation by the Mayor, appoint the resident representative of a life insurance company and the officer of a local bank hereinbefore referred to. Persons holding membership on said Board upon the adoption of this amendment shall continue to serve the terms to which they were elected or appointed.

The City Treasurer and Auditor shall be members of the Board ex-officio.

All members shall serve without compensation.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE H

This measure would add to Article XX of the Oakland City Charter a provision that will give the members of the Oakland Municipal Employees' Retirement System ("OMERS") the option to elect widows, widowers and beneficiaries of OMERS members to serve in the three seats on the OMERS Board that currently are designated for OMERS members.

Article XX of the Charter creates the OMERS Board, specifies the board's member-

ship and powers, and authorizes the City Council, by ordinance, to establish, under the conditions set forth in Article XX, a retirement system for all City employees except sworn members of the Police and Fire Departments. The OMERS was established by Ordinance No. 713 C.M.S. In 1970 the OMERS was closed.

The Charter vests in the OMERS Board the authority to manage and administer the OMERS and the exclusive control of the administration and investment of the OMERS Fund. The Charter mandates that the City pay OMERS' members, upon their retirement, the benefits specified in the Charter.

Article XX currently provides that the OMERS Board shall consist of the following seven members: the City Treasurer, the City Auditor, three members elected from the active, retired and deferred membership of the OMERS, a resident representative of a life insurance company, and an officer of a local bank.

In the event that less than three board members are elected from the active, retired and deferred membership of the OMERS, the proposed amendment would permit the OMERS members to elect widows, widowers and beneficiaries to serve in the three positions on the OMERS Board that are designated for OMERS members.

Including widows, widowers and beneficiaries in the categories of persons who are eligible to serve on the OMERS Board, will provide a mechanism for the Board to continue to conduct its duties in the event that insufficient OMERS members are willing to serve in the three seats designated for such members.

If this measure is not passed by the voters and the OMERS members are unable to fill the three seats designated for such members with OMERS members, the ratio of Board members who represent the interests of retirement system members will decrease and it will become more difficult for the OMERS Board to obtain the quorum necessary for the OMERS Board to conduct business and manage and administer the retirement system.

The proposed amendment would expand the OMERS members' options for filling the three seats currently designated for OMERS members. The amendment would not change the balance of power on the Board; and it would not change the benefits provided to OMERS members or the powers and duties of the OMERS Board. OMERS members would continue to select persons who will serve in the seats currently designated for retirement system members.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE H
"MEASURE PROVIDING FOR THE COMPOSITION OF THE OAKLAND
MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM BOARD"

Adoption of Measure H will not increase the cost of City government.

The Oakland Municipal Employees' Retirement System (OMERS) provides retirement benefits for civilian City employees. OMERS was closed in 1970. Since then, all newly hired eligible civilian employees are members of the Public Employees'

Retirement System, which is administered by the State of California.

Charter Section 2002 provides that three positions on the seven-member OMERS Board are to be filled by members elected from the active, retired, and deferred membership of OMERS.

Measure H amends the Charter so that if less than three members are elected from the active, retired, and deferred membership of OMERS, due to the unavailability of eligible members to serve, the OMERS membership shall be permitted to elect widows, widowers, or beneficiaries of OMERS members to fill any unfilled positions designated for OMERS members.

s/NORMA NG LAU
City Auditor

ARGUMENT IN FAVOR OF MEASURE H

This measure is proposed by the Board of Administration of the Oakland Municipal Employees' Retirement System (OMERS) and was approved for placement on the ballot by the City Council's Finance Committee, City Council, City Manager's Office, and the Charter Review Committee.

The Oakland Municipal Employees' Retirement System Board of Administration supports Measure H amending Section 2002 of the City Charter. The current charter requires that three (3) members are elected from the active, retired and deferred membership to serve on the Oakland Municipal Employees' Retirement System Board of Administration. The proposed charter amendment will allow that if less than three Board members are elected from the active, retired or deferred membership of the system that widows, widowers and beneficiaries may be elected to serve on the Board. Approving this amendment will provide full representation on the Board of Administration if no active, retired or deferred members are elected to serve on the Oakland Municipal Employees' Retirement System's Board of Administration. Thus allowing for participation and representation of those directly affected by the actions of the OMERS Board of Administration.

s/HORACE A. COHN
Board Member

s/WILLIAM J. HUBARTT
Board Member

NO ARGUMENT AGAINST MEASURE H WAS SUBMITTED.

The Council of the City of Oakland does hereby submit on its own motion the following proposed ordinance to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED PARCEL TAX

SENIOR CITIZENS' SERVICES RETENTION AND ENHANCEMENT ACT OF 1996

MEASURE I. Shall the City of Oakland impose a Special Tax to provide funds necessary for services to the elderly?	YES
	NO

FULL TEXT OF MEASURE I

Be It Ordained by the People of the City of Oakland as follows:

Section 1. TITLE AND PURPOSE

(A) Title. This Ordinance may be cited as the "Senior Citizens' Services Retention and Enhancement Act of 1996."

(B) Purpose. The tax imposed under this Ordinance is solely for the purpose of raising revenue necessary to retain and enhance senior citizen services in the City of Oakland. It is not intended to supplant current General Fund appropriations for Senior Citizen programs.

In recognition of the potential hardship on low-income families the Ordinance provides a complete exemption from the tax for low-income homeowners.

The Senior Citizens' Services Retention and Enhancement Act of 1996 is for the sole purpose of raising revenue that will be utilized for senior citizen services. This special tax is not an ad valorem tax on real property nor a transaction tax nor a sales tax on the sale of real property within the City.

Section 2. USE OF PROCEEDS

It is estimated that the Senior Citizens' Services Retention and Enhancement Act of 1996 will raise a minimum of \$3.4 million annually to enhance and sustain senior services in the City of Oakland.

Specifically, revenues would be used to:

(1) Staff, operate and maintain a network of five multipurpose senior centers. It is projected that three (3) multipurpose senior centers will be operating in 1996 and an additional two (2) multipurpose senior centers will be added in the future. It is proposed that funds be set aside for all five to address urgent service priorities that will provide social, cultural, recreational and supportive services for all Oakland seniors who wish to use them.

(2) Support Legal Assistance Programs. Funds will be provided to agencies which provide legal services to low and moderate income senior residents of the City of Oakland.

(3) Provide Meals: Food Programs. Funds will be provided to programs which address the need for home delivered meals to frail elderly citizens to enhance nutrition and a sense of security for the homebound elderly.

(4) Assist Care Management Programs For Special Needs Clients. Funds will be provided to programs for seniors with special access needs to care management services for frail elderly clients at risk of institutionalization.

(5) Provide Caregiver Support. Funds will be provided to develop programs in multipurpose senior centers or other protective settings for seniors with physical or cognitive impairment, such as day care services, respite support for family and caregivers and social and therapeutic services to prevent development of further impairment.

(6) Provide Escort Service. Funds will be provided to support intergenerational escort service programs to provide seniors with increased safety.

(7) Provide Social Services Transportation. Funds will be provided to support transportation programs, such as paratransit, for seniors with disabilities.

(8) Support Information and Referral Service. Funds will be provided to support a senior information and referral hotline to get information on services and other resources to the senior community.

(9) Provide Senior Employment and Volunteer Opportunities. Funds will be provided to expand and retain existing employment and volunteer programs for seniors.

(10) Develop Outreach Services for Isolated Underserved Seniors. Funds will be provided to develop a core of trained outreach workers in each City Council district to respond to the needs of isolated seniors city-wide.

(11) Identify and Respond to Special Education Needs. Programs will be funded to identify special education needs of seniors and develop programs to respond to such special education needs.

(12) Develop An Ombudsman Program. Funds will be provided to expand seniors' ombudsman services.

Section 3. CENTRAL SERVICES OVERHEAD AND ADMINISTRATION COSTS

For the purposes of allocation of revenue raised by the tax imposed by this Ordinance, there are hereby imposed the following limits on the Central Services Overhead and Administration Costs that may be borne by the tax:

(A) Revenue raised from the tax imposed by this Ordinance shall not be used or allocated to pay Central Services Overhead;

(B) Administration Costs needed to implement this measure will not exceed 3% of net revenues available to the City from the tax.

Section 4. DEFINITIONS

For purposes of this Ordinance only, the following terms shall be defined as set forth below:

(A) "Administration Costs" shall mean those direct salary and operations cost of City departments for providing services to other City departments.

(B) "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".

(C) "Central Services Overhead" shall mean the rate that is intended to recover the City's general administrative costs associated with those operations or departments providing services.

(D) "Family" shall mean one or more persons related by blood, marriage or adoption, who are living together in a single Residential Unit and maintaining a common household. Family shall also mean all unrelated persons who live together in a single Residential Unit and maintain a common household.

(E) "Hotel" shall mean any Building, or portion of a Building that is occupied or intended or designed for Occupancy by Transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home, house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar Building or portion thereof.

(F) "Improvements" shall mean all Buildings, structures, fixtures, fences and paving in the City erected or affixed to land, and all items which are permanently affixed to land which have become a part of real property by having been physically incorporated therein or permanently affixed thereto.

(G) "Non-Residential" shall mean all parcels that are not classified by this Ordinance as Residential Units, and shall include, but not be limited to, industrial, commercial and institutional Improvements, as well as Vacant Parcels.

(H) "Occupancy" shall mean the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any Hotel for dwelling, lodging or sleeping purposes.

(I) "Operator" shall mean the Person who is a proprietor of a Hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the Operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall be deemed an Operator for the purposes of this Ordinance.

(L) "Owner" shall mean the Person having title to real estate as shown on the most current official assessment role of the Alameda County Assessor.

(M) "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.

(N) "Person" shall include individuals, and for profit and nonprofit organizations, including, but not limited to, corporations, partnerships, business associations, limited liability companies and trusts.

(O) "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.

(P) "Residential" shall mean all Parcels classified by this Ordinance as Residential Units.

(Q) "Residential Unit" shall mean a Building or portion of a Building designed for or occupied exclusively by one Family.

(R) "Senior citizen" shall mean any person fifty-five (55) years or older in age.

(S) "Senior Citizens' Program" shall mean the twelve (12) programs identified in Section 2, Use of Proceeds, of this Ordinance.

(T) "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.

(U) "Vacant Parcel" shall mean an unimproved Parcel, but shall not include unimproved Parcels which have been dedicated as open space or parklands.

Section 5. IMPOSITION OF PARCEL TAX

There is hereby imposed a special tax on all parcels in the City of Oakland, except where the parcels are otherwise exempt from taxation by Section 7 of this Ordinance.

The tax imposed by this Section shall be assessed to the Owner unless the Owner is by law exempt from taxation, in which case, the tax imposed shall be assessed to the holder of the Possessory Interest in such parcel, unless such holder is also by law exempt from taxation.

The tax hereby imposed shall be at the following rates:

(A) For all single family Residential Parcels, the tax shall be at the annual rate of \$25 per Parcel.

(B) For all multiple unit Residential Parcels, the tax shall be at the annual rate of \$17 per Residential Unit located on such Parcels, with the following exception: if a majority of the Residential Units have been vacant for 6 months or more, the rate shall be reduced by 50% to \$8.50 per Residential Unit located on the Parcel.

(C) For Non-Residential Parcels, the tax rate shall be at the annual rate of \$13 for every Single Family Residential Unit Equivalent. Single Family Residential Unit Equivalents will be based on square footage and frontage and by land use category as follows:

<u>LAND USE CATEGORY</u>	<u>FRONTAGE (FT)</u>	<u>AREA (SF)</u>
Commercial/Institutional	80	6,400
Industrial	100	10,000
Public Utility	1,000	100,000
Golf Course	500	100,000
Quarry	1,000	250,000

Example: assessment calculation for a commercial or institutional parcel with a frontage of 160 feet and an area of 12,800 sq. ft.:

Frontage

160 FT

80 FT/SFE = 2 SFE;

2 SFE + 2 SFE = 4 SFE; 4 SFE x \$13 = \$52

Area

12,800 SF

6,400 SF/SFE = 2 SFE

Section 6. HOTELS

The tax imposed by this Ordinance shall be imposed on each Hotel within the City in accordance with the following:

1. *Residential Hotels.* If rooms in a Hotel were occupied by individuals who were not Transients for 80% or more of the previous fiscal year, such Hotel shall be deemed a Residential Hotel, and such rooms shall be deemed Residential Units and shall be subject to the Parcel tax imposed on Residential Units. The remainder of the Building shall be subject to the applicable Square Footage tax computed in accordance with the Single Family Residential Unit Equivalent calculations.

2. *Transient Hotels.* Notwithstanding the previous subsection, 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 5, Article 20 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, Industrial, and shall be subject to the Square Footage and Single Family Residential Unit Equivalent calculations set forth in Section 4(C), and the Parcel tax imposed on Residential Units shall not apply.

Section 7. EXEMPTIONS

The tax imposed by this Ordinance shall be subject to the exemptions set forth in this section.

(A) *Low-Income Homeowner Exemption.* Exempt from this tax are owners of single-family Residential Units in which they reside whose combined Family income, from all sources for the previous calendar year, is at or below the income level qualifying as "very low-income" for a Family of such size under Section 8 of the United States Housing Act of 1937 42 U.S.C.A. Section 1437 et. seq., for such year. Owners must apply for the exemption provided for in this section annually by petition to the Director of Finance of the City of Oakland in the manner and at the time set forth in procedures established by the Director of Finance. Such petitions shall be on forms provided by the Director of Finance and shall provide such information as the Director of Finance shall require, including, but not limited to, federal income tax returns and W-2 forms of owner-occupants eligible for this exemption.

Section 8. REDUCTION IN TAX; RATE ADJUSTMENT

(A) Subject to paragraph (B) of this Section 8, the tax rates imposed by this Ordinance are maximum rates and may not be increased by the City Council above such maximum rates. The tax imposed by this Ordinance may be reduced or eliminated by the City Council for a subsequent fiscal year upon a vote of the City Council on or

before June 30th in any year in which the City Council determines that after such reduction or elimination there will be sufficient revenues available to balance the City Council's Adopted Policy Budget. Such reduction or elimination shall be effective for the fiscal year following such vote.

(B) After the third year of imposition of this tax, the City Council may increase the tax imposed hereby only upon a finding that the cost of living in the immediate San Francisco Bay Area, as shown on 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; the increase of the tax imposed hereby shall not exceed such increase, using 1996 as the index year. It is further provided that in no event shall the tax rate adjustment imposed hereby exceed, on an annual basis, five percent (5%) of the tax rates imposed by the City of Oakland pursuant to this Ordinance during the immediately preceding fiscal year.

Section 9. MINIMUM SENIOR CITIZENS' APPROPRIATION PREREQUISITE AT FISCAL YEAR 95-96 LEVEL

For any year during which this tax is in effect, the City Council may collect this tax only if the General Fund appropriation for Senior Citizens' services is maintained at a level that is no lower than the General Fund appropriation for Senior Citizens' services for fiscal year 1995-96. The General Fund appropriation for Senior Citizens' services for fiscal year 1995-96 was \$2.02 million.

Section 10. TERM OF TAX IMPOSITION

The tax imposed by the Senior Citizens' Services Retention and Enhancement Act of 1996 shall become effective on July 1, 1996 and shall continue in effect for 15-years thereafter. The tax imposed by this Ordinance shall be deemed extended for an additional 15-year period if on or before June 30th of 2011, the City Council submits an ordinance to the voters of the City of Oakland extending this tax, and the voters approve such extension. The tax imposed by this Ordinance shall remain in full force and effect during the pendency of such election if it is held subsequent to June 30th of 2011. In the event that this Ordinance is extended as provided in this section, this Ordinance shall be deemed extended for all purposes and such extension shall relate back to the original passage of this Ordinance and shall not constitute a reimposition of the tax imposed by this Ordinance.

Section 11. ANNUAL AUDIT

The City Auditor will perform an annual audit to assure accountability and the proper disbursement of the proceeds of this tax in accordance with the objectives stated herein.

Section 12. DUTIES OF THE DIRECTOR OF FINANCE; NOTICE OF DECISIONS

It shall be the duty of the Director of Finance to collect and receive all taxes imposed by this Ordinance, and to keep an accurate record thereof.

Said Director of Finance is hereby charged with the enforcement of this Ordinance, except as otherwise provided herein, and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this Ordinance, including

provisions for the re-examination and correction of returns and payments. The Director of Finance may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

Upon disallowing any claims submitted pursuant to Section 16, the Director of Finance shall mail written notice thereof to the claimant at the claimant's address as shown on the Alameda County Assessor's property tax rolls.

Section 13. EXAMINATION OF BOOKS, RECORDS, WITNESSES; PENALTIES

The Director of Finance, or the Director'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 Ordinance.

The Director of Finance or the Director's designee is hereby authorized to examine the books, papers and records of any person subject to the tax imposed by this Ordinance 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'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 Ordinance and for this purpose may compel the production of books, papers and records before him or her, whether as parties or witnesses, whenever he or she 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 Ordinance.

Section 14. COLLECTION OF TAX; INTEREST AND PENALTIES

The City Council of the City of Oakland is authorized to have the taxes imposed by this Ordinance collected by the County of Alameda in conjunction with the County's collection of property tax revenues for the City of Oakland. In the event that the County of Alameda collects the taxes imposed by this Ordinance, the imposition of penalties, additional fees and interest upon persons who fail to remit any tax imposed by this Ordinance, or who fail to remit any delinquent remittance under this Ordinance, shall be subject to and governed by the rules, regulations, and procedures utilized by the County of Alameda in its collection of property taxes for the City of Oakland and its collection of this additional tax for the City of Oakland.

In addition to any other penalties otherwise imposed, a one-time penalty at a rate set by the City Council, which in no event shall exceed 25% of the tax due per year, is hereby imposed by this Ordinance on all taxpayers who fail to timely pay the tax provided by this Ordinance, in addition, interest shall be assessed at the rate of 1% per month on the unpaid tax and the penalty thereon.

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

Section 15. COLLECTION OF UNPAID TAXES

The amount of any tax, penalty, and interest imposed under the provisions of this Ordinance shall be deemed a debt to the City. Any person owing money under the provisions of this Ordinance shall be liable to an action brought in the name of the City for the recovery for such amount.

**Section 16. 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 Ordinance 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 claim in writing therefor, stating the specific ground upon which such claim is founded, is filed with the Director of Finance within one (1) year from the date of payment. 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 his/her administrators or executors.

Section 17. SAVINGS CLAUSE

The provisions of this Ordinance shall not apply to any Person, or to any property as to whom or which it is beyond the power of the City of Oakland to impose the tax herein provided. If any provision, sentence, clause, section or part of this Ordinance 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 Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared to be the intention of the City of Oakland, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 18. MISDEMEANOR VIOLATION

Any Person who fails to perform any duty or obligation imposed by this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than \$1,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment.

The penalties provided in this section are in addition to the several remedies provided in this Ordinance, or as may otherwise be provided by law.

Section 19. BOARD OF REVIEW

Any Person dissatisfied with any decision of the Director of Finance adversely affecting the rights or interests of such Person made by the Director of Finance under the authority of this Ordinance, may appeal therefrom in writing to the Business Tax Board of Review (the "Board") within sixty (60) days from the date of mailing such decision by the Director of Finance. All filings with the Board relating to appeals or otherwise shall be made to the Chairperson of the Business Tax Board of Review in care of the City Manager's Office, One City Hall Plaza, Oakland, CA 94612. The Board may affirm, modify or reverse such decision or dismiss the appeal therefrom, as may be just, and shall prescribe such rules and regulations relating to appeals as it may deem necessary. The Board's decision on appeal will become final upon mailing notice thereof to the Person appealing the Board's decision at such Person's last known address shown on the Senior Citizens' Services Retention and Enhancement Tax Records.

Any tax, penalty or interest found to be owing is due and payable at the time the Board's decision becomes final.

The Board shall approve, modify or disapprove all forms, rules and regulations prescribed by the Director of Finance in administration and enforcement of this tax; such forms, rules and regulations shall be subject to and become effective only on such approval.

All decisions rendered by the Board shall be final, and no further administrative appeal of these decisions is provided or intended.

Section 20. REGULATIONS

The City Council is hereby authorized to promulgate such regulations as it shall deem necessary in order to implement the provisions of this Ordinance.

Section 21. NO AMENDMENT

This Ordinance may not be amended by action of the City Council without the applicable voter approval.

Section 22. ESTABLISHMENT OF CITIZENS' ADVISORY COMMITTEE

ORGANIZATION; COMPENSATION: The Senior Services Citizens' Advisory Committee shall consist of the eleven (11) members of the Mayor's Commission on Aging.

The members of the Committee shall serve without salary or compensation.

OFFICERS. The Committee shall elect one of its members to serve as President and one of its members to serve as Vice President. These officers shall hold office for one year and until their successors are elected unless their terms as members of the Committee expire sooner. The President and Vice President shall be elected at the first business meeting of the Committee, and on an annual basis thereafter.

POWERS AND DUTIES OF THE COMMITTEE. The Committee shall serve as a policy-making body and complete the following activities on an annual basis:

- (1) Submit an annual budget relative to the use of the revenues from this parcel tax for the Senior Citizens' Program to the City Council.
- (2) Receive and review quarterly reports on the performance of projects and programs authorized by the City Council for the Senior Citizens' Program.
- (3) Recommend operational changes to improve the level of service in the Senior Citizens' Program.
- (4) Adopt the Annual Report as required in this section, which outlines the expenditure of funds for the previous year and evaluates program effectiveness and the expected uses of the tax for the next fiscal year.
- (5) Accept public comment regarding the activities of the Senior Citizens' Program.

The Committee shall have access to all public documents, reports, studies and other public materials and data necessary to carry out the duties and exercise the powers herein enumerated. The City Manager and the City Attorney shall provide administrative and legal support to the Committee to the extent necessary to carry out the Committee's duties and exercise its powers.

ANNUAL BUDGET. Under the direction of the Committee, the City Manager shall prepare an annual budget which includes the tax rate for the next fiscal year as well as the programs to be funded by the tax. The budget may include accounts which may be used to fund contract services to meet Senior Citizens' Program objectives. The Committee shall establish the scope of work and recommend the budget for such services. The City Council's approval of all contracts shall be required.

The City Manager must submit the budget to the Committee no later than December 15th of each year. The Committee must review and submit the budget to the City Council no later than the following January 30th for City Council approval. In the event that the City Council desires any revisions, the City Council shall submit the budget with findings to the Committee for the Committee's approval. In the event that a budget has not been approved by the Committee by February 28th, the budget may be approved by a two-thirds majority of the City Council.

ADDITIONAL POWERS. The City Council may confer upon and delegate to the Committee, from time to time, such additional powers and duties related to Senior Citizen's Program activities which the City Council may deem necessary or convenient to carry out the Committee's general purposes.

MEETINGS. The Committee shall establish a regular time and place for its official meetings, which shall be held at least quarterly. Notice of all meetings shall be provided in the official newspaper of the City at least ten (10) days in advance of such meetings. A majority of Committee members actually appointed shall constitute a quorum. An affirmative vote of the majority of the Committee members present at a properly called meeting shall be required to take action. At the request of the Committee, the City Manager shall assign appropriate City staff to serve as liaisons to the Committee. The Committee shall keep a written record of its proceedings which shall be made public.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE I

The proposed ordinance, the "Senior Citizens' Services Retention and Enhancement Act of 1996", would impose a fifteen year city-wide special tax to fund programs and services for the elderly to: (1) staff, operate and maintain a network of five multipurpose senior centers; (2) support legal assistance programs; (3) provide meals and food programs; (4) assist care management programs for special needs clients; (5) provide caregiver support; (6) provide escort services; (7) provide social services transportation; (8) support an information and referral service; (9) provide senior employment and volunteer opportunities; (10) develop outreach services for isolated underserved seniors; (11) identify and respond to special education needs; and (12) expand ombudsman services.

The Mayor's Commission on Aging will be the advisory committee to assist the City Council in overseeing the expenditure of the tax revenues.

The City Council may adjust the annual tax rates by a maximum of 5% after the third year of the tax's implementation, consistent with annual increases in the cost of living in the San Francisco Bay Area.

Low-income homeowners could qualify for an exemption from the tax by providing income documentation. The use of tax proceeds for City administration costs is limited

to 3% and no central overhead charges may be imposed by the City.

The tax is based upon a per parcel rate of \$25.00 for single family residential units, \$17.00 per unit for multi-unit residential parcels and \$13.00 per "single family equivalent" for nonresidential parcels, such as industrial and commercial property. The multi-unit residential rate is reduced by 50% to \$8.50 per unit if the majority of the residential units on such parcel have been vacant at least 6 months out of a year. For the different categories of nonresidential property, tax liability is based on a standard measurement determined to be the equivalent of a single family residential unit. This formula is expressed in terms of parcel frontage and area.

The tax is estimated to annually generate \$3.4 million in revenues, before allowable exemptions and county collection fees, during each of the first three fiscal years. Any unspent tax revenues from one year will be carried over to the next fiscal year for the above program purposes only. The proposed tax revenues may not supplant any existing funding for senior citizens' programs derived from the General Fund. In order for the City to collect this tax, the City must maintain a General Fund contribution of \$2.02 million annually to senior citizens' programs.

Ordinances adopted by a 2/3 voter approval for special taxes similar to this proposed ordinance have been upheld by the California Supreme Court.

s/JAYNE W. WILLIAMS
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE I

"SENIOR CITIZENS' SERVICES RETENTION AND ENHANCEMENT ACT OF 1996"

Adoption of Measure I will increase the expenditures paid out of the General Fund by approximately \$55,000 to cover the unreimbursed costs of direct City services needed to help implement this Measure.

If the proceeds generated by this Measure are insufficient to fully implement the proposed "Senior Citizens Program," the program services will be accordingly reduced. The amount of costs to be reimbursed to the City for direct services shall not exceed 3% of the available proceeds, as shown in the spending plan below.

The purpose of Measure I is to impose a special tax through this "Senior Citizens' Services Retention and Enhancement Act of 1996" to raise projected revenues of \$3,400,000. These proceeds would be used to retain and enhance services to senior citizens. This would occur for each year that this tax is in effect only if the Council approves an annual budget from the General Fund of not less than \$2,020,000 (budget for fiscal year 1995-96) for services to senior citizens.

SPENDING PLAN ⁽¹⁾

Anticipated Proceeds	\$3,400,000
Less: Allowable Exemptions; Uncollectible Accounts; County Collection Fees (7%)	(238,000)
Available	<u>\$3,162,000</u> ⁽²⁾
Senior Centers	<u>\$1,700,000</u> ⁽³⁾
Legal Assistance	150,000
Food Programs	150,000
Special Needs	150,000
Caregiver Support	200,000
Escort	125,000
Transportation	100,000
Referrals	100,000
Employment	150,000
Outreach	120,000
Education	50,000
Ombudsman	40,000
Direct City Services	94,860 ⁽⁴⁾
Contingency	<u>32,140</u>
Total	<u>\$3,162,000</u>

Notes:

- ⁽¹⁾ Changes in community's priorities will affect spending allocations.
⁽²⁾ Unspent funds at fiscal year-end are carried forward.
⁽³⁾ Staff and operating costs, furniture and equipment; three centers operational in 1996.
⁽⁴⁾ Maximum 3% of available proceeds.

RESTRICTED USE OF PROCEEDS

Proceeds may not supplant 1995-96 General Fund funding, and must be used in accordance with the spending plan.

TAX INFORMATION

- | | |
|----------------|--|
| Duration: | <ul style="list-style-type: none">• Tax will be effective July 1, 1996 for 15 years.• Council must submit an ordinance for voters' approval if a 15-year extension is to be made. |
| Annual Rates: | <ul style="list-style-type: none">• \$25 per single family parcel.• \$17 per residential unit on multiple unit residential parcels.• \$13 per single family "equivalent" (function of area and frontage) for non-residential parcels. |
| Rate Increase: | <ul style="list-style-type: none">• No increase in the first three years.• After the third year, Council may increase tax rates if Consumer Price Index (CPI) in the San Francisco Bay Area has increased. Increase shall not exceed CPI increase, using 1996 as index year.• Annual tax rate adjustments shall in no event exceed 5% of rates imposed during the preceding fiscal year. |

Rate Decrease/
Elimination of Tax:

- Council may reduce or eliminate the tax for a subsequent fiscal year upon determining that after such reduction or elimination there are sufficient revenues to balance the budget.
- Such reduction or elimination is to take effect in the fiscal year following such vote.

ACCOUNTABILITY TO TAXPAYERS

Senior Services Advisory Committee will make policy, develop budget, and oversee "Senior Citizens Program."

Director of Budget and Finance will administer collection of tax.

City Auditor will perform annual audit.

City Attorney will provide legal services as needed.

s/NORMA NG LAU
City Auditor

ARGUMENT IN FAVOR OF MEASURE I

Yes on Measure I ensures needed services for senior citizens!

Oakland has over 70,000 senior residents and our aging population is increasing rapidly. With the current wave of cut-backs in social programs, we cannot rely on county, state and federal dollars to address the health, safety and social service needs of our aging population.

The Senior Services Retention and Enhancement Act of 1996 will:

- **Staff, operate and maintain a network of multipurpose senior centers.** These centers will provide social, cultural, recreational and supportive services for Oakland's seniors.
- **Support Legal Assistance Programs** providing legal services for low and moderate income seniors in Oakland.
- **Support Food Programs** addressing the need for home delivered meals for frail elders.
- **Assist "Care Management Programs" for Seniors with special needs** including elderly clients at risk of institutionalization.
- **Develop Outreach Services for Isolated and Under-served Seniors.**
- **Identify and educate seniors** regarding health welfare and housing.
- **Organize an Inter-generational Safety Escort Service Program.**
- **Coordinate Care Giver Programs** such as day care services and respite support for families.
- **Support Transportation Programs**, such as paratransit for seniors with disabilities.
- **Provide Senior Employment and Volunteer Opportunities.**
- **Maintain a Senior Information and Referral Hotline.**
- **Expand the Existing Ombudsman Program** which advocates and assists the frail elderly in nursing homes.

FACTS:

1. Measure I is a parcel assessment of \$25/residential property per year. This rate will not change for the next 15 years! This amounts to less than .07 cents per parcel per day!
2. Low income homeowners are exempted from this assessment.
3. The revenue raised will go directly to services; administrative costs will be limited to 3%.
4. The revenue raised will not replace current General Fund appropriations for senior citizen programs.

For Needed Senior Services, Vote Yes on Measure I!

s/JOHN C. ANDERSON, JR.
Commission on Aging

s/ANDREW MONTGOMERY
Commission on Aging

s/LOUIS HALL
Commission on Aging

s/NATHAN A. MILEY
Councilmember

s/HENRY CHANG, JR.
Councilmember

NO ARGUMENT AGAINST MEASURE I WAS SUBMITTED.

The Council of the City of Oakland does hereby submit on its own motion the following proposed amendment to the City Charter of the City of Oakland to be voted upon by the qualified electors of the City of Oakland at the Municipal Nominating Election consolidated with the Statewide Direct Primary Election to be held in the City of Oakland on Tuesday, March 26, 1996.

PROPOSED CHARTER AMENDMENT

**MEASURE TO PROVIDE FOR THE ANNUAL SELECTION OF THE
OFFICIAL NEWSPAPER OF THE CITY OF OAKLAND**

J MEASURE J. Shall Section 1205 of the Charter of the City of Oakland be amended to provide that the City Council shall annually designate the official newspaper of the City of Oakland?	YES
	NO

FULL TEXT OF MEASURE J

Article XII of the Charter of the City of Oakland is amended at section 1205 to read:

"Section 1205. **PUBLIC NOTICE.** Except as otherwise provided in this Charter or by general law, the City Council shall, by ordinance applying to all agencies of the City, designate the time and conditions under which adequate public notice should be given, through publication or otherwise, of the pending consideration of ordinances, invitations to bid, and awards of contracts or leases, notices of intention to grant franchise, election proceedings and other matters requiring public notice in accordance with this Charter, any ordinance enacted pursuant thereto or general state law. Publication, if required, shall be in an official newspaper designated annually by the Council."