

PROPOSED BOND MEASURE
AN ORDINANCE OF THE CITY OF OAKLAND ORDERING THE
SUBMISSION OF A BALLOT MEASURE TO INCUR BONDED
INDEBTEDNESS NOT TO EXCEED \$198,250,000 FOR THE
PURPOSES OF IMPROVING, REHABILITATING, ACQUIRING OR
CONSTRUCTING RECREATIONAL FACILITIES, WATER QUALITY
IMPROVEMENTS, OPEN SPACE AND PUBLIC ACCESS
BORDERING LAKE MERRITT, THE OAKLAND ESTUARY,
CREEKS, AND LAKE MERRITT CHANNEL

CITY OF OAKLAND BOND MEASURE DD	
DD MEASURE DD: To improve water quality; provide educational and recreational facilities for children; clean up Lake Merritt; restore Oakland's creeks, waterfront and Estuary; preserve and acquire open space; renovate parks; provide safe public spaces; and provide matching funds to qualify for state and federal funding for these projects, shall the City of Oakland issue \$198,250,000 in bonds creating an Oakland Trust for Clean Water, Safe Parks to ensure money will be spent only on approved projects?	BONDS YES
	BONDS NO

CITY ATTORNEY'S BALLOT SUMMARY OF MEASURE DD

This measure would authorize the City of Oakland to issue general obligation bonds in the amount of one hundred ninety-eight million two hundred fifty thousand dollars (\$198,250,000) to provide funds to finance the acquisition, construction, restoration and/or improvement of recreational facilities, creeks and waterways, Lake Merritt and the Oakland Estuary.

The City may use the bond proceeds only to finance the projects/improvements specified in the measure.

Proceeds from the bonds authorized by this measure would be used to finance: (i) Lake Merritt restoration and water quality improvements; (ii) estuary waterfront access, parks and clean up; (iii) Lake Merritt to estuary connection (Lake Merritt Channel); (iv) public recreation facilities; and (v) creeks and waterways restoration.

Specifically, the bond proceeds may be used to help finance the following projects:

- replacement of the 12th Street culvert with an arched bridge;
- improvements to water quality improvements, including storm water filters, trash barriers, wildlife waste clean-up facilities and aeration fountains;
- improvements to Children's Fairyland;
- renovation and restoration of the municipal boathouse and the Lakeside Park sailboat house;
- creation of park space and beach area along Lake Merritt south shore;
- redesign of 12th Street to create pedestrian and bicycle access from Lake Merritt to Kaiser Convention Center and Channel Park;

- renovation of maintenance facilities, landscaping, docks, restrooms, furnishings and signage;
- repair of Lake Merritt retaining walls; improvement of pedestrian and bicycle paths and lanes in and around Lake Merritt;
- reconfiguration of Bellevue Avenue; expansion of Snow Park;
- reconfiguration of El Embarcadero roadways;
- acquisition of land for environmental clean up and conservation;
- clean up of hazardous materials clean up;
- acquisition and construction of pedestrian and bicycle trails along the Estuary's waterfront;
- creation of public access area for shoreline parks, Martin Luther King wetlands and trails and City sports fields;
- acquisition and development of Estuary Park, Meadows Park, Union Point Park and creation of a new park along the Estuary waterfront;
- removal of 10th Street; relocation of flood control barrier at 7th Street;
- other Lake Merritt Channel and shoreline improvements;
- East Oakland aquatic, sports and recreation facilities;
- Studio One seismic renovations and recreation facilities;
- creek restoration; and
- acquisition of watershed protection easements.

The general obligation bonds would be secured by a supplemental property tax levy based upon the assessed value of real property and improvements within the City (known as an "ad valorem" tax). The interest rate on the bonds secured by this levy cannot legally exceed twelve percent (12%) per annum.

TAX RATE STATEMENT FOR MEASURE DD

An election will be held in the City of Oakland (the "City") on November 5, 2002, to authorize the sale of up to \$198,250,000 in bonds of the City to finance improving the recreational facilities, water quality, open space, and public access bordering Lake Merritt, the Oakland estuary, creeks, and Lake Merritt Channel, and including the Studio One Arts Center and the East Oakland Aquatic Center as described in the proposition. If the bonds are approved, the City expects to sell the bonds in five series. Principal and interest on the bonds will be payable from the proceeds of tax levies made upon the taxable property in the City. The following information is provided in compliance with Sections 9400-9404 of the Elections Code of the State of California.

1. The best estimate of the average tax rate which would be required to be levied to fund this bond issue over 46 years, based on estimated assessed valuations available at the time of filing of this statement, is 1.93 cents per \$100 (\$19.30 per \$100,000) of assessed valuation.
2. The best estimate of the tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the first series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is 2.11 cents per \$100 (\$21.10 per \$100,000) of assessed valuation in fiscal year 2003-04.
3. The best estimate of the tax rate which would be required to be levied to fund this bond issue during the first fiscal year after the sale of the last series of bonds, based on estimated assessed valuations available at the time of filing of this statement, is 3.67 cents per \$100 (\$36.73 per \$100,000) of assessed valuation in fiscal year 2019-20.
4. The best estimate of the highest tax rate which would be required to be levied to fund this bond issue, based on estimated assessed valuations available at the time of filing of this statement, is 3.67 cents per \$100 (\$36.73 per \$100,000) of assessed valuation in fiscal year 2019-20.

Voters should note that estimated tax rate is based on the *ASSESSED VALUE* of taxable property on the official tax rolls, *not* on the property's market value. Property owners should consult their own property tax bills to determine their property's assessed value and any applicable tax exemptions.

Attention of all voters is directed to the fact that the foregoing information is based upon the City's projections and estimates only, which are not binding upon the City. The actual tax rates and the years in which they will apply may vary from those presently estimated, due to variations from these estimates in the timing of bond sales, the amount of bonds sold and market interest rates at the time of each sale, and actual assessed valuations over the term of repayment of the bonds. The dates of sale and the amount of bonds sold at any given time will be determined by the City based on need for construction funds and other factors. The actual interest rates at which the bonds will be sold will depend on the bond market at the time of each sale. Actual future assessed valuation will depend upon the amount and value of taxable property within the City as determined in the annual assessment and the equalization process.

s/ROBERT C. BOBB
City Manager

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE DD

Measure DD submits to the voters of the City of Oakland the question of whether or not general obligation bonds in the amount of \$198,250,000, that would be funded by a supplemental ad valorem property tax, should be issued.

The bonds will be repaid from supplemental property taxes. This tax will be based upon the assessed value of real property and improvements within the City and is known as an "ad valorem" tax. This measure would impose a supplemental ad valorem property tax specifically levied in each year to pay interest on, and a portion of the principal of, the bonds.

The proceeds of the bonds would finance the acquisition and construction of water quality improvements for and related to Lake Merritt, Lake Merritt Channel, the Estuary and creeks in Oakland, to improve, renovate and construct youth and public recreational facilities including the East Oakland Sports Center, Studio One and Fairyland, the rehabilitation and acquisition of parks, open space and other recreational, safety and maintenance facilities, and to provide safe public access to Lake Merritt, Lake Merritt Channel, and the Estuary.

A "Yes" vote is a vote in favor of authorizing the issuance of general obligation bonds and the levying of the supplemental ad valorem property tax.

A "No" vote is a vote against the issuance of the general obligation bonds and supplemental ad valorem property tax levy.

Measure DD is submitted to the voters of the City in accordance with the Constitution of the State of California. In order to pass, a "Yes" vote by two-thirds (2/3) of the voters voting on the measure is required.

s/JOHN RUSSO
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE DD

This measure will authorize the City of Oakland to issue \$198,250,000 in bonds creating an Oakland Trust for Clean Water and Safe Parks. This Trust will ensure that money will be spent only on approved projects to improve water quality; provide educational and recreational facilities for children; clean up Lake Merritt; restore creeks, waterfront and Estuary; preserve and acquire open space; renovate parks; provide safe public spaces; and provide matching funds to qualify for state and federal funding for these projects.

Approved projects include the following.

Lake Merritt Restoration and Water Quality Improvements	\$88,250,000
Estuary Waterfront Access, Parks and Clean Up	\$53,000,000
Lake Merritt to Estuary Connection (Lake Merritt Channel)	\$27,000,000
Youth and Public Recreation Facilities	\$20,000,000
Creeks and Waterways Restoration	\$10,000,000

FISCAL IMPACT

The best estimate of the *average* tax rate which would be required to be levied to fund this bond issue over 46 years, based on estimated assessed valuations, is 1.93 cents per \$100 (\$19.30 per \$100,000) of the estimated assessed valuation. Based on the fiscal year 2002-03 average assessed value of \$175,000 for a single-family residence, the estimated annual tax levy would be \$34.

The best estimate of the *highest* tax rate which would be required to be levied to fund this bond issue, based on estimated assessed valuations, is 3.67 cents per \$100 (\$36.73 per \$100,000) of the estimated assessed valuation in fiscal year 2019-20. Based on an assessed value of \$175,000, the estimated annual tax levy would be \$64.

The actual tax rates and the years in which they will apply may vary from estimates due to the timing of bond sales, the amount of bonds sold, market interest rates at the time of each sale, and actual assessed valuations over the repayment term of the bonds.

The City Council may levy and collect additional tax sufficient to pay debt service on the bonds in any fiscal year.

The administrative costs for the issuance and sale of the bonds is included in the approved projects' budget listed above.

There will be other administrative costs associated with this measure; however, these costs cannot be determined until program implementation.

s/ROLAND E. SMITH, CPA
City Auditor

ARGUMENT IN FAVOR OF MEASURE DD

Measure DD has been placed on the ballot to implement a comprehensive plan to clean up Lake Merritt, improve water quality and expand recreational opportunities for Oakland citizens.

Measure DD has earned the support of all segments of the Oakland community. Specifically Measure DD will:

- Clean up Lake Merritt, Oakland creeks and improve the water quality flowing into the estuary
- Reduce pollution and contaminated storm water
- Expand park and recreation facilities that provide safe havens to keep kids away from gangs and drugs
- Improve the safety and security at Lake Merritt and neighborhood parks
- Preserve open space while protecting and restoring the Oakland waterfront

By passing this measure, Oakland will be eligible for additional state and federal matching funds that will be given to other communities if Measure DD does not pass. The cost (less than \$20 per \$100,000 of assessed valuation of property) is reasonable and tax deductible.

All funds raised by Measure DD can only be spent on specific projects authorized in the Oakland Trust for Clean Water, Safe Parks plan. There will be an annual audit to ensure all money is spent properly.

All funds will stay in Oakland to benefit all Oakland children and residents.

Please vote YES on Measure DD.

s/JOHN SUTTER

Director, East Bay Regional
Park District

s/RITA TORRES-GONZALEZ

Program Manager, The Unity Council

s/R. KIDD

President, Jack London Aquatic Center

s/STANA HEARNE

Chair, Lake Merritt Institute

s/JUDITH A. COX

Vice President League of
Women Voters

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE DD

DD should be read as Deceptively Deceitful because the actual proposed spending on the official Project List doesn't match the promises of the politicians' argument. Cleaning up Lake Merritt gets only a tiny fraction of the enormous \$198,250,000 bond funds. And, do you really believe flushing polluted water back and forth from the Estuary will clean up the Lake?

VOTE NO ON MEASURE DD!

Providing safe places for kids to play, away from gangs and drugs, is a worthwhile goal. Except here it's just a catchword – there's just \$10,000,000 for youth recreation and sports facilities. That doesn't approach real needs.

VOTE NO ON MEASURE DD!

In reality, as the Ordinance indicates, this pie-in-the-sky bond measure arises from the City's Estuary Policy Plan. That Plan "proposes a variety of uses that strengthen Oakland's position as an urban center, accommodate economic growth, and encourage development that complements the downtown and adjacent neighborhoods." These bonds are proposed to benefit special interests along the waterfront, and the Port of Oakland. But all of us are asked to pay!

VOTE NO ON MEASURE DD!

Oakland already has the highest per capita debt in the state, over \$4,000 for every resident. More debt just means higher taxes, higher costs for goods and services, higher rents! Defeat these bonds and make politicians come back with real plans to clean up Lake Merritt and provide citywide recreation for kids!

VOTE NO ON MEASURE DD!

s/ARTHUR B. GEEN

Executive Vice President

Alameda County Taxpayers Association

ARGUMENT AGAINST MEASURE DD

Measure DD is incredibly deceptive, unwarranted, and unaffordable. VOTE NO ON MEASURE DD!

It's deceptive because out of \$198,250,000 of bonds the taxpayers would have to pay off, only \$4,500,000 is earmarked for Lake Merritt water filters – and yet they list "clean water" as the first attribute. It's deceptive because only a fraction would actually be used to "clean up" Lake Merritt.

VOTE NO ON MEASURE DD!

It's unwarranted because most of the proposed spending should come from the City's general funds or Port of Oakland funds. In truth, the proposed bonds would construct pet projects of ego-driven politicians, mainly along the scruffy Estuary. Don't be deceived by their deceptive language.

VOTE NO ON MEASURE DD!

This November ballot is loaded with billions of dollars of proposed bond issues. Bonds aren't "free money" – they must be paid off by the taxpayers, you and me! The bonds called for in Measure DD rank far down the scale of important services that would be funded by bonds or taxes. Choose carefully, prioritize, and then VOTE NO ON MEASURE DD!

s/ARTHUR B. GEEN

Executive Vice President

Alameda County Taxpayers Association

REBUTTAL TO ARGUMENT AGAINST MEASURE DD

The opponent of Measure DD deliberately misleads voters. He simply does not have his facts straight.

If he'd done his homework, he'd know that Measure DD is dedicated to improving water quality including Lake Merritt, the Estuary and Oakland creeks which flow into the Lake and the Bay.

Here are the facts:

1. Measure DD is very specific about how the bond money will be spent. It will be used to clean up Lake Merritt, improve water quality and expand recreational opportunities for Oakland citizens.
2. Passage of Measure DD will enable Oakland to qualify for state and federal funds. We cannot get matching funds if Measure DD doesn't pass. These funds will reduce the cost to local taxpayers of repairing our parks and waterfront.
3. Measure DD will expand park and recreation facilities that provide safe havens to keep kids away from gangs and drugs.
4. All money raised by Measure DD is tax deductible and will stay in our community.
5. Measure DD projects will be reviewed by an annual audit to ensure that every dollar is spent properly.

The time has come to transform Oakland's parks and waterfront into a safe, clean and friendly place.

We urge you to vote YES on Measure DD.

s/R. KIDD, President

Jack London Aquatic Center, Inc.

s/STANA HEARNE, Chair

Lake Merritt Institute

s/RITA TORRES-GONZALEZ

Program Manager

Spanish Speaking Unity Council

s/JUDITH A. COX, Vice President

League of Women Voters

s/DANNY WAN

Oakland City Council, District 2

FULL TEXT OF MEASURE DD

WHEREAS, the City of Oakland has, through years of extensive public outreach and receiving volumes of public input from the residents of Oakland, adopted the Estuary Policy Plan and developed the Lake Merritt Park Master Plan for the purpose of preserving and enhancing open space, recreation and economic development activities along Oakland's lake and water front and protecting the environment and water quality;

WHEREAS, the Lake Merritt Park Master Plan states:

"Lake Merritt is a park for all of Oakland. The Master Plan promotes a park concept that strengthens the natural resource value for wildlife while providing a unique outdoor experience to people who use the park. As a part of the downtown urban fabric, the park becomes a central green – a place of respite for residents and visitors alike. Recommendations carefully balance the needs of human users with provisions that improve habitat value.";

WHEREAS, the Estuary Policy Plan has been incorporated as part of Oakland's General Plan so that:

"The Estuary Policy Plan calls for a system of open spaces and shoreline access that provides recreational use opportunities, environmental enhancement, interpretive experiences, visual amenities, and significant gathering places . . .

Further, the Estuary Plan proposes a variety of uses that strengthen Oakland's position as an urban center, accommodate economic growth, and encourage development that complements the downtown and adjacent neighborhoods.";

WHEREAS, residents of the City of Oakland, through opinion surveys and City Council public hearings, have strongly expressed support for youth recreational facilities and programs in order to provide youths with positive recreational activities, and the City Council has conducted numerous public hearings to plan and develop the East Oakland Aquatic Center and the Studio One seismic improvements and renovations.

WHEREAS, creek protection and restoration projects reflect the priorities of the City's watershed improvement program, which include water quality improvement, hydrology, flood prevention, and wildlife habitat preservation and which program has the support of community organizations and a variety of county, state and federal agencies;

WHEREAS, it is desirable to implement public priorities pursuant to the Estuary Policy Plan, the Lake Merritt Master Plan, and develop public recreation facilities, and to ask voters to approve public investments for the implementation;

WHEREAS, the City of Oakland has certified three previous programmatic environmental impact reports that broadly cover the potential, adverse, significant environmental impacts associated with the proposed improvements described herein. These EIRs are as follows: The Estuary Plan EIR (6/99), the Land Use and Transportation Element (LUTE) EIR (6/98) and the Coliseum Area Redevelopment Plan EIR (6/95);

WHEREAS, in compliance with the California Environmental Quality Act (CEQA), Section 15162, the City has completed a review of the proposed projects using the three previously certified EIRs as a basis to prepare an addendum to each certified EIR which demonstrates that there will be no new significant environmental effects or a substantial increase in the severity of previously identified significant effects as the result of implementation of the proposed projects;

WHEREAS, the Oakland City Council has reviewed the following environmental documentation for the proposed project:

- The Estuary Plan FEIR (6/99)
- The Land Use and Transportation Element EIR (6/98)
- The Coliseum Area Redevelopment Plan EIR (6/95)
- The Addendum to the Estuary Plan EIR, the LUTE EIR and the Coliseum Area Redevelopment Plan EIR Prepared for the Clean Water, Safe Waterfront Parks and Recreation Trust Fund bond measure (6/02);

WHEREAS, the City Council on July 9, 2002, unanimously adopted Resolution No. 77253, entitled a "resolution of the City Council of the City of Oakland determining and declaring that the public interest and necessity demand water quality improvements, recreational facilities, Lake Merritt, Estuary and creek rehabilitation and restoration and open space acquisition and improvements to be financed through the issuance of general obligation bonds (the "Resolution");

WHEREAS, pursuant to said Resolution the City Council found and determined that the cost of these improvements would require City expenditures greater than the amount allowed for by the annual tax levy of the City and that public interest and necessity demand the rehabilitation, restoration, acquisition and completion of these improvements;

WHEREAS, in order to provide for the issuance by the City of Oakland of general obligation bonds to finance the improvements and acquisitions described in said Resolution, it is now necessary for the City Council to pass an ordinance ordering the submission of the proposition of incurring bonded indebtedness for such purposes to the qualified voters of the City of Oakland at an election held for that purpose; and

WHEREAS, the City Council therefore desires to submit said ballot measure to the qualified voters of the City at a general municipal election to be held on November 5, 2002.

NOW, THEREFORE, the Council of the City of Oakland does ordain as follows:

Section 1. A municipal election is hereby called and ordered to be held in the City of Oakland on November 5, 2002, at which election there shall be submitted to the qualified voters the ballot measure set forth below in Section 2.

Section 2. The following measure shall appear on the ballot for said municipal election in the following form:

MEASURE DD: To improve water quality; provide educational and recreational facilities for children; clean up Lake Merritt; restore Oakland's creeks, waterfront and Estuary; preserve and acquire open

space; renovate parks; provide safe public spaces; and provide matching funds to qualify for state and federal funding for these projects, shall the City of Oakland issue \$198,250,000 in bonds creating an Oakland Trust for Clean Water, Safe Parks to ensure money will be spent only on approved projects?

The City Council does hereby submit to the qualified voters of the City of Oakland, at the said municipal election, this Ordinance and the measure set forth above.

Section 3. The object and purpose of incurring the indebtedness is to acquire and construct water quality improvements for and related to Lake Merritt, Lake Merritt Channel, the Estuary and creeks in Oakland, to improve, renovate and construct youth and public recreational facilities including the East Oakland Sports Center, Studio One and Fairyland, to rehabilitate and acquire parks, open space and other recreational, safety and maintenance facilities, and to provide safe public access to Lake Merritt, Lake Merritt Channel, and the Estuary. The estimated cost of the improvements and acquisitions is One Hundred and Ninety Eight Million and Two Hundred and Fifty Thousand Dollars (\$198,250,000). This estimated cost includes legal and other fees, the cost of printing the bonds and other costs and expenses incidental to or connected with the issuance and sale of the bonds. The improvements, acquisition and construction to be funded by the net proceeds of the bonds shall be limited to those listed in Exhibit A attached to this Ordinance.

Section 4. Based on its review and consideration of the foregoing environmental documentation, the Oakland City Council finds that it has received, reviewed and considered the CEQA documentation and other substantive and procedural components of CEQA compliance for the Clean Water, Safe Waterfront Parks and Recreation Trust Fund bond measure. The CEQA documentation prepared for the bond measure has been completed, and review procedures required by CEQA have been completed in conformance with CEQA as set forth in the recitals to this resolution. The City Council further determines that there are no new significant environmental impacts associated with the proposed projects that have not been previously identified in the CEQA documentation, and that there is no substantial increase in the severity of an impact that has been previously identified.

Section 5. The amount of the principal of the indebtedness to be incurred is not to exceed One Hundred and Ninety Eight Million and Two Hundred and Fifty Thousand Dollars (\$198,250,000). The cost of repayment of the bonds is projected to average no more than \$20.00 per year per \$100,000 of assessed property valuation, provided however that such projection shall not be construed to limit the power and duty of the City Council to cause to be levied and collected a tax sufficient to pay debt service on the bonds in any fiscal year.

Section 6. The maximum rate of interest to be paid on the indebtedness shall not exceed twelve percent (12%) per annum, or such higher rate as may be established for general obligation bonds of the City by the legislature of the State of California.

Section 7. The net proceeds of the bonds shall be deposited into a special

trust account with the treasury of the City of Oakland and shall be allocated and expended at the direction of the City Council of the City of Oakland for purposes set forth in this Ordinance. The City Council shall order an independent audit of the expenditure of bond proceeds no later than three years from the date of the issuance of the bonds for such proceeds to ensure proceeds are being expended for purposes set forth in this Ordinance.

Section 8. The City Council does hereby submit to the qualified voters of the City, at said municipal election, the ordinance and ballot measure set forth in Section 2. The City proposes to rehabilitate, renovate, acquire or construct the improvements referenced herein and to issue and sell general obligation bonds of the City of Oakland pursuant to Article 1, commencing with Section 43600, of Chapter 4 of Division 4 of Title IV of the Government Code of the State of California, in one or more series, in the maximum amount and for the objects and purposes set forth above if two-thirds of all qualified voters voting on the ballot measure vote in favor thereof. The bonds are to be general obligations of the City of Oakland payable from and secured by taxes levied and collected in the manner prescribed by laws of the State of California. All of said bonds are to be equally and ratably secured, without priority, by the taxing power of the City.

EXHIBIT A

OAKLAND TRUST FOR CLEAN WATER, SAFE PARKS PROJECT LIST

I. LAKE MERRITT RESTORATION AND WATER QUALITY IMPROVEMENTS

- A. Water Quality** **\$14,000,000**
 - Replace 12th Street culvert with arched bridge to increase tidal flow and flushing into Lake Merritt
 - Water quality improvements, including storm water filters, trash barriers, wildlife waste clean-up facilities and aeration fountains
- B. Recreation and Youth Activities** **\$14,500,000**
 - Children's Fairyland improvements, including historic restoration, drainage, amphitheater and play structure improvements
 - Renovate municipal boathouse and restore public use
 - Restore and renovate Lakeside Park sailboat house, including boat storage and conversion of parking lot to public shoreline area
- C. Park Restoration and Access** **\$59,750,000**
 - Create park space and beach area along Lake Merritt south shore and redesign 12th Street to create safe pedestrian and bicycle access from Lake Merritt to Kaiser Convention Center and Channel Park
 - Improve and renovate maintenance facilities, landscaping, docks, restrooms, furnishings and signage
 - Repair Lake Merritt retaining walls
 - Widen and improve pedestrian and bicycle paths and lanes
 - Reconfigure Bellevue Avenue for better access and parking accommodations
 - Expand Snow Park by reconfiguring Lakeside, Harrison and 20th intersection

- Reconfigure El Embarcadero roadways for safer pedestrian and traffic access

II. ESTUARY WATERFRONT ACCESS, PARKS AND CLEAN UP

- A. Water Quality Improvements and Hazardous Materials Remediation** **\$9,500,000**
 - Land acquisition for environmental clean up and conservation
 - Hazardous materials clean up
- B. Waterfront Trail and Parks Acquisition and Construction** **\$43,500,000**
 - Pedestrian and bicycle trail acquisition and construction along Estuary waterfront to provide continuous public access from Jack London Square to Martin Luther King, Jr. Regional Shoreline (\$19.5 million)
 - Public access area for shoreline parks, Martin Luther King wetlands and trails and City sports fields (\$2 million)
 - Acquisition and development of following parks along Estuary waterfront (\$22 million):
 - Estuary Park at mouth of Lake Merritt Channel into the Estuary
 - Meadows Park at 5th Avenue
 - New park in area of 9th Avenue Terminal
 - Union Point Park at 23rd Avenue

III. LAKE MERRITT TO ESTUARY CONNECTION (LAKE MERRITT CHANNEL)

- A. Water Quality Improvements** **\$25,000,000**
 - Removal of 10th Street culvert to improve water flow from Estuary to Lake and provide boat and pedestrian access
 - Relocation of flood control barrier at 7th Street to improve water flow and provide boat and pedestrian access
- B. Pedestrian and Bicycle Access, Wetlands Restoration and Other Channel and Shoreline Improvements** **\$2,000,000**

IV. YOUTH AND PUBLIC RECREATION FACILITIES

- A. East Oakland Aquatic, Sports and Recreation Facilities** **\$10,000,000**
- B. Studio One Seismic Renovations and Recreation Facilities** **\$10,000,000**

V. CREEKS AND WATERWAYS RESTORATION

- A. Creek Restoration Projects**, including restoration of creek segments to improve water quality, hydrology, and wildlife habitat to prevent floods, improve public accessibility and increase community stewardship. Creeks may include: **\$5,500,000**
 - Sausal Creek
 - Lion Creek
 - Palo Seco Creek

- Cinderella Creek
- Arroyo Viejo Creek
- Shepard Creek
- Glen Echo Creek
- Temescal Creek
- Coliseum Slough
- Horse Shoe Creek
- San Leandro Creek
- Peralta Creek
- Courtland Creek

B. **Acquisition of Watershed Protection Easements**, including acquisition of high-value, restorable habitat, watersheds of creek segments with presence of rainbow trout and other wildlife populations, and property of high aesthetic and water-quality protection values.

\$4,500,000

TOTAL

\$198,250,000

**PROPOSED ORDINANCE
PROPOSED ORDINANCE THAT WOULD PROVIDE THAT
LANDLORDS OF CERTAIN RESIDENTIAL RENTAL PROPERTIES
IN OAKLAND MAY EVICT TENANTS ONLY FOR
CAUSE AS SPECIFIED IN THE MEASURE**

CITY OF OAKLAND PROPOSED ORDINANCE MEASURE EE

EE MEASURE EE: Shall an ordinance be adopted providing: (1) Landlords of certain residential properties may evict tenants only for specified reasons, such as (a) Non-payment of rent, (b) Breach of lease, (c) Damaging premises, (d) Disorderly conduct, (e) Drug or other illegal activity, (f) Rehabilitation of unit, (g) Landlord or relative occupancy, except in certain circumstances where the tenant is disabled, elderly or catastrophically ill, and (2) For damages, penalties and attorneys' fees against violating landlords?	YES
	NO

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE EE

This proposed ordinance would provide that landlords of specified residential properties may evict tenants only for reasons specified in this measure.

Oakland law currently regulates rents. State law prohibits evictions for retaliatory or discriminatory reasons. Oakland law does not currently limit the grounds on which landlords can evict tenants, and landlords can evict tenants for no reason or any reason, unless it is to retaliate against the tenant or to raise the rent unlawfully to a new tenant.

This measure would prohibit landlords from evicting tenants in covered units except for the following reasons:

A tenant's:

- (1) non-payment of rent;
- (2) material violation of rental agreement;
- (3) willful damage to premises;
- (4) disorderly conduct;
- (5) drug or other illegal activity;
- (6) denial of landlord's access to unit; or
- (7) refusal to sign a rental agreement extension based on materially the same terms;

A landlord may also evict a tenant if the landlord:

- (1) seeks the unit as a residence, where the landlord had previously occupied the unit and has a written agreement with the tenant allowing re-occupancy;
- (2) seeks the unit as a residence for landlord or landlord's spouse, domestic partner, child, parent or grandparent;
- (3) withdraws the unit from the market under state law; or
- (4) seeks in good faith to perform code compliance and repairs that

cannot be made while the unit is occupied.

If a landlord evicts a tenant for repairs, the landlord must make the repairs without unreasonable delay and offer the tenant a similar unit, if one is available. When repairs are complete, the tenant has a first right to return at the old rent plus increases available under existing Oakland law for capital improvements.

For a landlord occupancy eviction, this measure would provide special protections for tenants who have resided in a unit for 5 years or more and are either:

- (1) 60 years or older,
- (2) disabled, or
- (3) catastrophically ill;

UNLESS the occupying landlord or landlord's relative is at least 60, disabled, or catastrophically ill, and the landlord has no other available unit. A landlord could not refuse to rent to someone to avoid that person potentially gaining age related rights under this measure.

The measure would apply to all residential rental units except:

- (1) hotels, motels and other places used for transient occupancy;
- (2) hospitals, and certain other health facilities;
- (3) nonprofit facilities for temporary living for homeless persons;
- (4) nonprofit substance abuse treatment facilities;
- (5) newly constructed units completed and first offered for rent after October 1980;
- (6) buildings with 3 units or less if one unit is owner-occupied;
- (7) units in trust for the developmentally disabled;
- (8) owner-occupied units sharing a kitchen or bath with tenants.

Tenants may recover damages – including treble damages in some instances – costs, and attorney's fees for violations of the measure.

The City Attorney may enforce the measure.

State law permits cities to enact laws limiting the grounds for residential evictions.

s/JOHN RUSSO
Oakland City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE EE

This measure will require just cause for eviction of tenants in certain residential rental units and special eviction protections for the elderly, disabled, and catastrophically ill. The current ordinance does not require property owners to give justification to terminate tenancy.

FISCAL IMPACT

The fiscal impact of the proposed measure is uncertain. The present ordinance, effective July 1, 2002, has not been in effect long enough to determine the actual workload and whether the workload will increase or decrease. This does not allow for a thorough comparison to be made between the present ordinance (Ordinance 12399) and the proposed ordinance (Resolution 77255) to determine whether that workload will increase or decrease.

Administrative costs for the Rent Adjustment Program may be decreased or increased under the proposed ordinance depending on whether or not the total number of petitions, notices and reports required to be filed under the current ordinance will be in addition to the ones in the proposed ordinance. If the current ordinance is amended and eliminates some of the notices, petitions and reports, the workload may decrease. We do know that if the current ordinance is amended to accommodate the proposed ordinance, California Civil Code 1946, commonly known as the "30 day" notice, would no longer be needed, which may decrease the workload. However there are provisions in the proposed ordinance which were not a requirement in the current ordinance such as establishing rules and regulations to implement application procedures and the maintenance of notices of termination of tenancy which could possibly offset the workload.

The City Attorney's Office has the discretion of enforcing the provision of bringing a claim for civil damage against landlords for non-compliance responsibility under both the present and proposed Rent ordinances. Since a determination cannot be made on the number of claims or whether the City Attorney will exert its authority to enforce all of the claims, the fiscal impact cannot be determined.

s/ROLAND E. SMITH, CPA
City Auditor

ARGUMENT IN FAVOR OF MEASURE EE

All Oakland residents should support Measure EE. Measure EE protects our hard working neighbors from being evicted just to raise the rent. Measure EE stops the eviction of seniors from their long time homes, neighborhoods, and the city they love.

Under Measure EE, working families will no longer have their lives suddenly uprooted by eviction notices that force them to vacate for no reason. Children will no longer be forced to change schools mid-year. Measure EE provides the sense of security and fairness that all Oaklanders deserve.

Measure EE is critical for maintaining our city's diversity. We are a community where people of all races, ethnicities and incomes live and work together. But allowing working families, immigrants, seniors and the disabled to be forced out of their homes for no reason jeopardizes this. Our neighborhoods must not be for sale to the highest bidder.

Measure EE protects tenants who work hard and play by the rules. Measure EE protects our neighbors who have been fighting to improve our city. Measure EE makes Oakland a safe place for all, regardless of income.

There is no place like home. Our home is at the core of our sense of well being. Nobody should be forced out of their home without good cause. This basic principle of fairness currently does not apply to thousands of Oakland residents. Measure EE rectifies this. Measure EE says that renters should not be evicted without just cause.

**VOTE YES ON EE FOR FAIRNESS! VOTE YES ON EE FOR FAMILIES!
VOTE YES ON EE FOR OUR FUTURE!**

s/ROY BENFORD

President, Oakland Coalition
Of Congregations

s/JUDITH M. GOFF ROVEDA

Executive Secretary Treasurer
Alameda County Central Labor Council

s/CHARLIE BETCHER

United Seniors, President

s/MARVIN KEITH CARSON

Board of Supervisors
Alameda County

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE EE

Oakland law already protects tenants from unjust eviction. Owners of property in Oakland already are prohibited from evicting tenants to raise rent.

This ordinance is not about protection of renters from unjust rent increases. Measure EE expands the rights of tenants to sublet their apartment without the permission of the owner.

Measure EE does not provide significant protection for seniors, the disabled or minorities. Measure EE allows tenants the right to sublet to their friends or others without the owner's permission.

Oakland police officers oppose this measure as do neighborhood watch organizations.

To remove a tenant involved in illegal activity such as drug dealing, stalking or disruptive behavior would require an expensive jury trial where other tenants would be required to testify publicly.

The fastest way to ruin a neighborhood is to make it difficult to remove a bad tenant. Measure EE makes it virtually impossible to remove a tenant at any time for any reason.

Vote NO on Measure EE.

s/ROBERT F. VALLADON, JR., President

Oakland Police Officer's Association

s/NICHOLAS PENLAND

Board Member, NAACP, Oakland

s/DICK SPEES

Oakland City Council Member

s/ANN D. THOMPSON

Senior Activist

s/STEVEN EDRINGTON

Oaklanders for Safe Neighborhoods

ARGUMENT AGAINST MEASURE EE

This new ordinance of about ONE thing. It allows tenants the right to sublet an apartment or house without the owner of the property having any effective right to screen or approve the new subtenant.

This ordinance contains radical provisions similar to the one proposed some years ago by Uhuru House and was sensibly rejected by Oakland voters.

As a practical matter, here is how this new law would work (not one word of which can be changed without a vote of the people).

Mrs. Jones is retired and owns a fourplex. She lives in one of the apartments and rents out an apartment to Mary and Jane. The rental agreement prohibits subletting. Mary moves out and without permission from Mrs. Jones sublets the apartment to Rick. Mrs. Jones has no right to refuse the new subtenant. Rick has loud parties, people are coming and going at all hours. The neighbors complain. Under the new ordinance there is nothing Mrs. Jones can do.

Mrs. Jones would have to jump through new legal hoops, hire a lawyer and prove in court that Rick is involved in illegal activity or damaging the property. While Rick might be obnoxious and a disruption to Mrs. Jones and to the entire neighborhood, proving in court they are involved in illegal activity would be near impossible.

Rick can stay in the apartment forever and there is nothing Mrs. Jones can do about it.

Please vote no on this extreme, poorly written ordinance. Please join Oakland beat officers, housing providers and neighborhood watch leaders and reject this ordinance.

s/SHANNON REEVES

s/ORA LEE BROWN

East Oakland Community Activist

s/JOSEPH J. HARABURDA

Oakland Metropolitan Chamber
of Commerce

s/STEVEN EDRINGTON

Oaklanders for Safe Neighborhoods

REBUTTAL TO ARGUMENT AGAINST MEASURE EE

The official opponents of Measure EE include a prominent Republican, a corporate leader, and the head of a major landlord lobby. It's no wonder such figures oppose a measure that protects seniors, working families, and neighborhood residents from the forces of unregulated greed.

Our opponents claim that the entire problem with Measure EE is that it would prevent landlords from enforcing lease provisions that prohibit subletting. This is NONSENSE. Section 6(A)(2) of the Ordinance specifically grants landlords the right to evict tenants who "substantially violate a material term of the tenancy." A no-sublet clause is a material term. Landlords will retain the right to promptly evict unauthorized subletters under Measure EE.

Don't be deceived! The Republican Party, real estate speculators, and corporate interests will flood your mailboxes with similar lies about Measure EE. These groups hope that a deluge of phony horror stories and scenarios (like the one they published in this Voter's Handbook) will lead Oaklanders to vote against a measure that serves the community's interests.

Don't let special interests and their high-priced campaign consultants ruin Oakland's future. Reject the scare tactics that have also been used against such causes as Medicare, environmental protections, and civil rights. Help reverse the tide of unfair evictions that is forcing working families, disabled people, seniors and people of color from their homes. Join religious leaders, the Central Labor Council, community leaders, senior groups, and housing advocates in voting YES on EE.

s/LARRY JONES, Police Officer

Oakland Police Department

s/REVEREND SCOTT POWERS

Associate Pastor

Montclair Presbyterian Church

s/SHEILA M. QUINTANA, President

Oakland Education Association

The Teachers' Union

FULL TEXT OF MEASURE EE

WHEREAS, the laws of the State of California and the Housing Element of the General Plan of the City of Oakland prohibit arbitrary discrimination by landlords, and

WHEREAS, the right to occupancy of safe, decent, and sanitary housing is a human right, and

WHEREAS, the City of Oakland's prolonged affordable housing crisis disproportionately impacts low income and working class households, senior citizens, people of color, and people with disabilities, and thereby increases homelessness and crime, harms neighborhood stability and cohesion, and damages business prospects for small businesses, and

WHEREAS, recent state laws that eliminate limits on rent increases upon the vacation of rental units provide added economic incentive to evict tenants, such that the number of no cause evictions has increased markedly in recent years, and

WHEREAS, the absence of a local law prohibiting a landlord from evicting a tenant without good cause is a significant barrier to implementation and enforcement of the Oakland Residential Rent Arbitration Ordinance, and

WHEREAS, residential tenants, who constitute approximately 65% of the residents of Oakland, suffer great and serious hardship when forced to move from their homes, and

WHEREAS, basic fairness requires that a landlord must not terminate the tenancy of a residential tenant without good, just, non-arbitrary, non-discriminatory reasons, and

WHEREAS, the good cause eviction protections enacted in San Francisco, Berkeley, Hayward, and other California cities, have aided community stability and reduced urban problems associated with arbitrary disruption of stable households, and

WHEREAS, the general welfare of all citizens of Oakland would be enhanced if no cause evictions were prohibited,

THEREFORE, the electorate of the City of Oakland hereby enacts this ordinance, prohibiting a landlord from terminating a tenancy without good or just cause:

Section 1. Title.

This ordinance shall be known as the Just Cause for Eviction Ordinance.

Section 2. Findings.

1. A public emergency exists in the City of Oakland due to the lack of adequate, safe, sanitary, and affordable housing. This emergency disproportionately impacts tenants of residential rental units, a majority of whom are people of color, working class families, the homeless, those of low income, and the elderly and disabled.
2. Just cause eviction protections would strengthen and effectuate existing rent control legislation in Oakland as landlords are able to use no cause evictions to evade the Oakland Residential Rent Arbitration Ordinance.

3. Oakland presently has no just cause protections for tenants. As a result, any residential tenant may be subjected to eviction at anytime and without reason.
4. Without just cause protections, many tenants are afraid to demand their right to a safe, inhabitable home.
5. Furthermore, Oakland is experiencing extreme housing market pressures from neighboring Santa Clara and San Francisco counties, resulting in a decrease in the vacancy rate and an increase in residential rental prices.
6. This situation has been exacerbated by the Costa-Hawkins law, which, by eliminating controls on rents upon the voluntary vacation of a rental unit, has provided added economic incentive to evict tenants. From January 1999 through December 2000, the effective date of full implementation of the Costa-Hawkins law, Sentinel Fair Housing has reported a 300% increase in the eviction of Oakland tenants. This trend has continued to date.
7. Without the institution of just cause protections, Oakland's housing emergency will continue, and will contribute to increases in homelessness, crime, neighborhood instability, and harm to small businesses.
8. Many municipal jurisdictions in California, including Berkeley, Hayward, and San Francisco in the Bay Area, have effectively utilized just cause protections to preserve affordable housing. Such protections have helped abate the urban problems associated with neighborhood instability, homelessness, and illegal activity in vacant units, providing concrete benefits for both landowners and tenants.
9. Just cause eviction protections are consistent with the Housing Element of the Master Plan of the City of Oakland, which states that residents have the right to decent housing in pleasant neighborhoods at prices they can afford.

Section 3. Purpose.

The purpose of this Ordinance is to defend and nurture the stability of housing and neighborhoods in the City of Oakland by protecting tenants against arbitrary, unreasonable, discriminatory, or retaliatory evictions, thereby maintaining diversity in Oakland neighborhoods and communities while recognizing the rights of rental property owners. This Ordinance is intended to address housing problems in the City of Oakland so as to preserve the public health, safety, and welfare, and to advance the housing policies of the City with regard to low and fixed income persons, people of color, students, and those needing special protections, such as long-term elderly and disabled tenants.

Section 4. Definitions.

A. LANDLORD. An owner of record, or lessor or sublessor of an owner of record, or any other person or entity entitled either to receive rent for the use or occupancy of any rental unit or to maintain an action for possession of a rental unit, or an agent, representative, or successor of any of the foregoing.

B. OWNER OF RECORD. A natural person, who is an owner of record holding an interest equal to or greater than thirty three percent (33%) in the property at the time of giving a notice terminating tenancy and at all times thereafter, until and including the earlier of the tenant's surrender of possession

of the premises or the execution of a writ of possession pursuant to the judgment of a court of competent jurisdiction; but not including any lessor, sublessor, or agent of the owner of record.

C. RENT. The consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in connection with, the use or occupancy of rental units and housing services. Such consideration shall include, but not be limited to, moneys and fair value of goods or services rendered to or for the benefit of the landlord under the rental agreement, or in exchange for a rental unit or housing services of any kind.

D. RENT BOARD. City of Oakland Housing, Residential Rent, and Relocation Board (HRRRB), aka Residential Rent Arbitration Board (RRAB), aka Rent Arbitration Board, aka Oakland Rent Board, aka Rent Board, established under Ordinance No. 9980 and subsequent amendments.

E. RENTAL AGREEMENT. An agreement, oral, written, or implied, between a landlord and a tenant for the use and/or occupancy of a rental unit.

F. RENTAL UNIT (aka UNIT, aka PREMISES). Any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant.

G. PROPERTY. A parcel of real property, located in the City of Oakland, that is assessed and taxed as an undivided whole.

H. TENANT. Any renter, tenant, subtenant, lessee, or sublessee of a rental unit, or any group of renters, tenants, subtenants, lessees, sublessees of a rental unit, or any other person entitled to the use or occupancy of such rental unit, or any successor of any of the foregoing.

I. SKILLED NURSING FACILITY. A health facility or a distinct part of a hospital that provides, at a minimum, skilled nursing care and supportive care to patients whose primary medical need is the availability of skilled nursing care on an extended basis. Such facility must provide 24-hour inpatient care, an activity program, and medical, nursing, dietary, pharmaceutical services. Additionally, the facility must provide effective arrangements, confirmed in writing, through which services required by the patients but not regularly provided within the facility can be obtained promptly when needed.

J. HEALTH FACILITY. Any facility, place or building that is organized, maintained, and operated for the diagnosis, care, and treatment of human illness, physical or mental, including convalescence and rehabilitation, and including care during and after pregnancy, or for any one or more of these purposes.

K. MAXIMUM LAWFUL RENT. The maximum rent which may lawfully be charged for such unit under the terms of the Oakland Residential Rent Arbitration Ordinance or successor ordinances intended to limit or regulate rent charged for residential rental units within the City of Oakland.

L. BUSINESS TAX DECLARATION. The annual declaration required to

be filed in connection with a landlord's obtaining or renewing a City of Oakland business license for rental units. Any failure by a landlord to file such a declaration, whether pursuant to an exemption or otherwise, shall not relieve a rental unit from being subject to the provisions of this ordinance.

M. CHILD/PARENT. A child/parent relationship is one in which a child is either a parent's biological child or adopted child, provided that such relationship was established prior to the child's eighteenth birthday and at least one year prior to the attempted eviction. At the time of attempted eviction, a child of an owner of record must be over the age of 18 or be emancipated.

N. TENANTS' RIGHTS ORGANIZATION. Any unincorporated tenant's association, incorporated tenants association, nonprofit housing and/or tenant's rights entity of any form.

Section 5. APPLICABILITY.

The provisions of this Ordinance shall apply to all rental units in whole or in part, including where a notice to vacate/quit any such rental unit has been served as of the effective date of this Ordinance but where any such rental unit has not yet been vacated or an unlawful detainer judgment has not been issued as of the effective date of this Ordinance. However, Section 6 and Section 7(A)-(E) of the Ordinance shall not apply to the following types of rental units:

A. Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code (CCC) by CCC § 1940(b).

B. Rental units in any hospital, skilled nursing facility, or health facility.

C. Rental units in a nonprofit facility that has the primary purpose of providing short term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.

D. Rental units in a nonprofit facility which provides a structured living environment that has the primary purpose of helping homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is restricted to a limited and specific period of time of not more than 24 months and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception.

E. Rental units in a residential property where the owner of record occupies a unit in the same property as his or her principal residence and regularly shares in the use of kitchen or bath facilities with the tenants of such rental units. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.

F. A rental unit in a residential property that is divided into a maximum of three (3) units, one of which is occupied by the owner of record as his or her principal residence. For purposes of this section, the term owner of record shall not include any person who claims a homeowner's property tax exemption on any other real property in the State of California.

G. A unit that is held in trust on behalf of a developmentally disabled individ-

ual who permanently occupies the unit, or a unit that is permanently occupied by a developmentally disabled parent, sibling, child, or grandparent of the owner of that unit.

H. Newly constructed rental units which are completed and offered for rent for the first time after the effective date of the initial Oakland Residential Rent, Relocation, and Arbitration Ordinance, provided that such new units were not created as a result of rehabilitation, improvement or conversion as opposed to new construction.

Section 6. Good Cause Required for Eviction.

A. No landlord shall endeavor to recover possession, issue a notice terminating tenancy, or recover possession of a rental unit in the City of Oakland unless the landlord is able to prove the existence of one of the following grounds:

- (1) The tenant has failed to pay rent to which the landlord is legally entitled pursuant to the lease or rental agreement and under provisions of state or local law, and said failure has continued after service on the tenant of a written notice correctly stating the amount of rent then due and requiring its payment within a period, stated in the notice, of not less than three (3) days. However, this Subsection shall not constitute grounds for eviction where tenant has withheld rent pursuant to applicable law.
- (2) The tenant has continued, after written notice to cease, to substantially violate a material term of the tenancy other than the obligation to surrender possession on proper notice as required by law, provided further that notwithstanding any lease provision to the contrary, a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet following a written request by the tenant, so long as the tenant continues to reside in the rental unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the tenant's written request, the tenant's request shall be deemed approved by the landlord.
- (3) The tenant, who had an oral or written agreement with the landlord which has terminated, has refused after written request or demand by the landlord to execute a written extension or renewal thereof for a further term of like duration and under such terms which are materially the same as in the previous agreement; provided, that such terms do not conflict with any of the provisions of this Chapter.
- (4) The tenant has willfully caused substantial damage to the premises beyond normal wear and tear and, after written notice, has refused to cease damaging the premises, or has refused to either make satisfactory correction or to pay the reasonable costs of repairing such damage over a reasonable period of time.
- (5) The tenant has continued, following written notice to cease, to be so disorderly as to destroy the peace and quiet of other tenants at the prop-

erty.

- (6) The tenant has used the rental unit or the common areas of the premises for an illegal purpose including the manufacture, sale, or use of illegal drugs.
- (7) The tenant has, after written notice to cease, continued to deny landlord access to the unit as required by state law.
- (8) The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession of the rental unit for his or her occupancy as a principal residence where he or she has previously occupied the rental unit as his or her principal residence and has the right to recover possession for his or her occupancy as a principal residence under a written rental agreement with the current tenants.
- (9) The owner of record seeks in good faith, without ulterior reasons and with honest intent, to recover possession for his or her own use and occupancy as his or her principal residence, or for the use and occupancy as a principal residence by the owner of record's spouse, domestic partner, child, parent, or grandparent.
 - (a) Where the owner of record recovers possession under this Subsection (9), and where continuous occupancy for the purpose of recovery is less than thirty-six (36) months, such recovery of the residential unit shall be a presumed violation of this Ordinance.
 - (b) The owner of record may not recover possession pursuant to this Subsection more than once in any thirty-six (36) month period.
 - (c) The owner must move in to unit within three (3) months of the tenant's vacation of the premises.
 - (d) When the owner seeking possession of a unit under Section 6(A)(9) owns a similar vacant unit, the owner's decision not to occupy said similar unit shall create a rebuttable presumption that they are seeking to recover possession in bad faith.
 - (e) A landlord may not recover possession of a unit from a tenant under Subsection 6(A)(9), if the landlord has or receives notice, any time before recovery of possession, that any tenant in the rental unit:
 - (i) Has been residing in the unit for 5 years or more; and
 - (a) is 60 years of age or older; or
 - (b) is a disabled tenant as defined in the California Fair Employment and Housing Act (California Government Code §12926); or
 - (ii) Has been residing in the unit for five (5) years or more, and is a catastrophically ill tenant, defined as a person who is disabled as defined by Subsection (e)(i)(b) and who suffers from a life threatening illness as certified by his or her primary care physician.
 - (f) The provisions of Subsection (e) above shall not apply where the landlord's qualified relative who will move into the unit is 60 years

of age or older, disabled or catastrophically ill as defined by Subsection (e), and where every rental unit owned by the landlord is occupied by a tenant otherwise protected from eviction by Subsection (e).

- (g) A tenant who claims to be a member of one of the classes protected by subsection 6(A)(9)(e) must submit a statement, with supporting evidence, to the landlord. A landlord may challenge a tenant's claim of protected status by requesting a hearing with the Rent Board. In the Rent Board hearing, the tenant shall have the burden of proof to show protected status. No civil or criminal liability shall be imposed upon a landlord for challenging a tenant's claim of protected status. The Rent Board shall adopt rules and regulations to implement the hearing procedure.
- (h) Once a landlord has successfully recovered possession of a rental unit pursuant to Subsection 6(A)(9), no other current landlords may recover possession of any other rental unit in the building under Subsection 6(A)(9). Only one specific unit per building may undergo a Subsection 6(A)(9) eviction. Any future evictions taking place in the same building under Subsection 6(A)(9) must be of that same unit, provided that a landlord may file a petition with the Rent Board or, at the landlord's option, commence eviction proceedings, claiming that disability or other similar hardship prevents him or her from occupying a unit which was previously the subject of a Subsection 6(A)(9) eviction. The Rent Board shall adopt rules and regulations to implement the application procedure.
- (i) A notice terminating tenancy under this Subsection must contain, in addition to the provisions required under Subsection 6(B)(5):
 - (i) A listing of all property owned by the intended future occupant(s).
 - (ii) The address of the real property, if any, on which the intended future occupant(s) claims a homeowner's property tax exemption.
 - (iii) A statement informing tenant of his or her rights under Subsection 6(C).
- (10) The owner of record, after having obtained all necessary permits from the City of Oakland on or before the date upon which notice to vacate is given, seeks in good faith to undertake substantial repairs that cannot be completed while the unit is occupied, and that are necessary either to bring the property into compliance with applicable codes and laws affecting health and safety of tenants of the building, or under an outstanding notice of code violations affecting the health and safety of tenants of the building.
- (a) Upon recovery of possession of the rental unit, owner of record shall proceed without unreasonable delay to effect the needed repairs. The tenant shall not be required to vacate pursuant to this

Section, for a period in excess of three months; provided, however, that such time period may be extended by the Rent Board upon application by the landlord. The Rent Board shall adopt rules and regulations to implement the application procedure.

- (b) Upon completion of the needed repairs, owner of record shall offer tenant the first right to return to the premises at the same rent and pursuant to a rental agreement of substantially the same terms, subject to the owner of record's right to obtain rent increase for capital improvements consistent with the terms of the Oakland Residential Rent Arbitration Ordinance or any successor ordinance.
 - (c) A notice terminating tenancy under this Subsection 6(A)(10) must include the following information:
 - (i) A statement informing tenants as to their right to payment under the Oakland Relocation Ordinance.
 - (ii) A statement that "When the needed repairs are completed on your unit, the landlord must offer you the opportunity to return to your unit with a rental agreement containing the same terms as your original one and with the same rent (although landlord may be able to obtain a rent increase under the Oakland Residential Rent Arbitration Ordinance)."
 - (iii) A statement informing tenant of his or her rights under Subsection 6(C).
 - (iv) An estimate of the time required to complete the repairs, and the date upon which it is expected that the unit will be ready for habitation.
 - (11) The owner of record seeks in good faith, without ulterior reasons and with honest intent, to remove the property from the rental market in accordance with the terms of the Ellis Act (California Government Code Section 7060 et seq.).
- B.** The following additional provisions shall apply to a landlord who seeks to recover a rental unit pursuant to Subsection 6(A):
- (1) The burden of proof shall be on the landlord in any eviction action to which this order is applicable to prove compliance with Section 6.
 - (2) A landlord shall not endeavor to recover possession of a rental unit unless at least one of the grounds enumerated in Subsection 6(A) above is stated in the notice and that ground is the landlord's dominant motive for recovering possession and the landlord acts in good faith in seeking to recover possession.
 - (3) Where a landlord seeks to evict a tenant under a just cause ground specified in Subsections 6(A)(7, 8, 9, 10, 11), she or he must do so according to the process established in CCC §1946 (or successor provisions providing for 30 day notice period); where a landlord seeks to evict a tenant for the grounds specified in Subsections 6(A)(1, 2, 3, 4, 5, 6), she or he must do so according to the process established in CCP §1161 (or successor provisions providing for 3 day notice period).

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

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

- (1) Where the landlord owns any other residential rental units, and any such unit is available or will become available between the time of service of written notice terminating tenancy and the earlier of the surrender of possession of the premises or the execution of a writ of possession pursuant to the judgment of a court of competent jurisdiction, the landlord shall, as a condition of obtaining possession pursuant to Section 6, notify tenant in writing of the existence and address of each such vacant unit and offer tenant the right to choose any available rental unit and at the tenant's option: i) to enter into a temporary rental agreement; or ii) to enter into a new rental agreement. The landlord shall offer that unit to the tenant at a rent based on the rent that the tenant is currently paying, with upward or downward adjustments allowed based upon the condition, size, and other amenities of the replacement unit. Disputes concerning the initial rent for the replacement unit shall be determined by the Rent Board.
- (2) The following shall be considered rebuttably presumptive violations of

this Ordinance by the landlord:

- (a) Where the event which the landlord claims as grounds to recover possession under Subsection 6(A)(9) or (10) is not initiated within three (3) months after the tenant vacates the unit.
- (b) Where a landlord times the service of the notice, or the filing of an action to recover possession, so as to avoid offering a tenant a replacement unit.
- (c) Where the individual (a landlord or qualified relative) for whom the Subsection 6(A)(9) eviction occurred does not occupy a unit for a minimum of thirty-six (36) consecutive months.

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

- (1) In any action to recover possession of a rental unit pursuant to Section 6, a landlord must allege and prove the following:
 - (a) the basis for eviction, as set forth in Subsection 6(A)(1) through 6(A)(11) above, was set forth in the notice of termination of tenancy or notice to quit;
 - (b) that the landlord seeks to recover possession of the unit with good faith, honest intent and with no ulterior motive;
- (2) If landlord claims the unit is exempt from this Ordinance, landlord must allege and prove that the unit is covered by one of the exceptions enumerated in Section 5 of this Ordinance. Such allegations must appear both in the notice of termination of tenancy or notice to quit, and in the complaint to recover possession. Failure to make such allegations in the notice shall be a defense to any unlawful detainer action.
- (3) This Subsection (D) is intended as both a substantive and procedural limitation on a landlord's right to evict. A landlord's failure to comply with the obligations described in Subsections 7(D)(1) or (2) shall be a defense to any action for possession of a rental unit.

E. In the event that new state or federal legislation confers a right upon landlords to evict tenants for a reason not stated herein, evictions proceeding under such legislation shall conform to the specifications set out in this Ordinance.

Section 7. Remedies.

A. Remedies for violation of eviction controls.

- (1) A tenant who prevails in an action brought by a landlord for possession of the premises shall be entitled to bring an action against the landlord and shall be entitled to recover actual and punitive damages, costs, and reasonable attorney's fees.
- (2) Whenever a landlord or anyone assisting a landlord wrongfully endeavors to recover possession or recovers possession of a rental unit in violation of Subsection 6(A), the tenant or Board may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress), and whatever other relief the court deems appropriate. In the case of an award of damages for mental or emotional distress, said award shall only be

trebled if the trier of fact finds that the landlord acted in knowing violation of or in reckless disregard of this Ordinance. The prevailing tenant shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.

(3) The remedies available in this section shall be in addition to any other existing remedies which may be available to the tenant.

B. Violation of the Ordinance.

Any violation of the provisions of this ordinance or application thereof shall entitle the aggrieved tenant to actual and punitive damages according to proof and costs and attorney's fees.

C. Authorization of City Attorney to enforce the Ordinance.

The City Attorney shall have the authority to enforce provisions of this Ordinance; to bring actions for injunctive relief on behalf of the City, or on behalf of tenants seeking compliance by landlords with the Ordinance.

D. It shall be unlawful for a landlord to refuse to rent or lease or otherwise deny to or withhold from any person any rental unit because the age of a prospective tenant would result in the tenant acquiring rights under this Ordinance. Any person who refuses to rent in violation of the Subsection shall, in addition to any other penalties provided by state or federal law, be guilty of a misdemeanor.

E. It shall be unlawful for a landlord or any other person who willfully assists the landlord to endeavor to recover possession or to evict a tenant except as provided in Subsection 6(A).

Section 8. Non-Waiverability.

The provisions of this ordinance may not be waived, and any term of any lease, contract, or other agreement which purports to waive or limit a tenant's substantive or procedural rights under this ordinance are contrary to public policy, unenforceable, and void.

Section 9. Partial Invalidity.

If any provision of this ordinance or application thereof is held to be invalid, this invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or applications, and to this end the provisions and applications of this ordinance are severable.

PROPOSED ADVISORY MEASURE

ADVISORY VOTE ONLY – AN ADVISORY MEASURE BY WHICH THE PEOPLE OF OAKLAND INSIST THAT ALL NEW REVENUES RECEIVED FROM BALLOT MEASURES GG, HH, AND II WILL BE SPENT ON VIOLENCE PREVENTION PROGRAMS. THIS MEASURE DOES NOT INCREASE TAXES

CITY OF OAKLAND ADVISORY MEASURE FF	
FF MEASURE FF: ADVISORY VOTE ONLY. Shall all new revenues received from Ballot Measures GG, HH, and II be spent on violence prevention programs?	YES
	NO

CITY ATTORNEY'S BALLOT SUMMARY OF MEASURE FF

This measure is merely advisory. This measure states that the people of Oakland insist all new revenues received from Ballot Measures GG, HH and II, if approved by the voters on November 5, 2002, be spent on violence prevention programs.

As set forth in the measure, violence prevention programs include:

- 100 new police officers to form new crime reduction teams and foot and bicycle patrols to work in neighborhoods impacted by the recent rise in crime, including officers to work with State and local authorities to ensure that released offenders strictly comply with the terms of their parole or probation;
- \$300,000 annually for 5.8 years for additional staff to work with victims of domestic violence;
- \$300,000 annually for 5.8 years for programs to assist ex-offenders upon their return into the community;
- \$300,000 annually for 5.8 years to expand the successful youth offender program, Pathways to Change; and
- \$300,000 annually for 5.8 years to expand after school programs in collaboration with the Department of Parks and Recreation and the Oakland Unified School District.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE FF

Measure FF is not a tax. Measure FF is an advisory measure concerning the expenditure of any new City surcharge revenues that the Oakland voters approve in the November 2002 election (Measures GG, HH and II). The purpose of Measure FF is to indicate City voters' general opinion as to whether any new revenues the City receives from the imposition of several tax surcharges that the voters approve in the November 2002 election, shall be used to fund the violence prevention programs set forth in the measure.

Section 9603(c) of the California Elections Code governing the purpose and effect of such an advisory vote states:

"... advisory vote means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body."

The opinion the voters express on this advisory measure, while of interest to the City Council, would not in any manner legally control the City Council's use of any revenue the City receives from the imposition of the proposed surcharges. The City Council may use the revenues from any surcharges the voters approve in the November 2002 election for any general fund purpose.

s/JOHN RUSSO
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE FF

This measure is **NOT** a tax. It is an advisory measure that states that the people of Oakland insist that all new tax surcharge revenues received from Resolutions Number 77326, 77327 and 77328, if approved by the voters on November 5, 2002, will be spent on the following violence prevention programs.

1. 100 new police officers to form crime reduction teams and patrols. Also, to work with State and local authorities to ensure that released offenders comply with their parole or probation terms. \$68,200,437 for 5.8 years.
2. \$300,000 annually for 5.8 years for additional staff to work with victims of domestic violence. \$1,740,000 for 5.8 years.
3. \$300,000 annually for 5.8 years for programs to assist ex-offenders upon their return into the community. \$1,740,000 for 5.8 years.
4. \$300,000 annually for 5.8 years to expand the successful youth offender program, Pathways to Change. \$1,740,000 for 5.8 years.
5. \$300,000 annually for 5.8 years to expand after school programs in collaboration with the Department of Parks and Recreation and Oakland Unified School District. \$1,740,000 for 5.8 years.

FISCAL IMPACT

New tax surcharge revenues received may not be sufficient to fund the new police officers program and the violence prevention programs at the stated budget levels. Program funding will be reduced, if needed, according to the new tax surcharge revenues received.

s/ROLAND E. SMITH, CPA
City Auditor

ARGUMENT IN FAVOR OF MEASURE FF

Measure FF insists that all revenues raised by Measures GG, HH and II be spent on specific violence prevention programs.

Under California law, general tax revenues may not be earmarked for special programs but the voters may state what they want done with the money. This is what Measure FF does. Although the funds will be put in the general fund, the mayor and the city council have pledged to use the money in the following ways:

1. **Hire 100 new police officers.** Compared to cities our size, Oakland has far fewer police officers and hundreds of thousands more calls for service. We simply need more community police officers visible on our streets. The funds raised by GG, HH and II will put foot and bike patrols in our most troubled neighborhoods, add new officers to monitor the 7,000 probationers and 3,000 parolees living in Oakland and increase the number of officers working to prevent violent crime.
2. **Hire additional staff to work with victims of domestic violence.** Over half of all domestic violence calls to the police department are repeat calls. We must provide more support for families in domestic crisis.
3. **Support programs to assist parole and probations upon their return to Oakland.** More counseling and job training are critical.
4. **Expand Oakland's successful Pathways to Change.** Young offenders will be matched with community-based leaders to help them turn their lives around, using counseling, drug abuse treatment and job training.
5. **Expand after school programs.** This element of our Violence Prevention Program will provide quality after-school programs that will combine academic enrichment, cultural and recreational activities. Success will be achieved through partnerships with the schools, local youth groups and the Department of Parks and Recreation.

For more information, see www.jerrybrown.org

VOTE YES ON FF

s/JERRY BROWN

Mayor of Oakland

s/ROBERT L. JACKSON, Pastor

Acts Full Gospel Church

s/HENRY L. GARDNER

Former City Manager

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE FF

The proponents of measure FF know that no one in Oakland would choose to support a proposal that adds 100 new police officers at the expense of anti-violence programs, school programs, and assistance for parolees.

That's why they list the police officers as just one of five features of the advisory. But the advisory itself tells a different story. It recommends that \$67 million of the new tax money go to hiring police officers, while only \$4 million go to other programs.

Is hiring new police really 17 times more important than EVERYTHING ELSE IN THE CITY?

We like the argument in favor of Measure FF! – we just hate Measure FF. We know the city needs new community policing officers. We want additional staff to work with victims of domestic violence, more counseling and job training for probationers, expansion of Pathways to Change, and after school programs.

The City has cut \$26 million from its general fund this year, and promises to put back \$4 million to these programs. That's progress?

When everyone in Oakland has a good education, crime goes down!

When everyone in Oakland has a stable job at a decent wage, crime goes down!

When everyone in Oakland has adequate mental health care, crime goes down!

Oakland needs a police force improved by the reintroduction of the Community Policing program and a new emphasis on preventing crime BEFORE it happens.

Measure FF DOES NOT PROVIDE WHAT OAKLAND NEEDS.

s/SHANNON F. REEVES, President

Oakland Branch NAACP

s/KENNETH MOSTERN, Organizer

Green Party

ARGUMENT AGAINST MEASURE FF

Don't support knee-jerk reactions to violence.

Crime is up everywhere, not just in Oakland, because the economy is down. We know what reduces crime. Education, well-paying jobs and mental health care reduce crime. No increase in police will stop the recent increase in homicides. Police come after the fact. We need a more comprehensive strategy, if the motivation for the tax increase is really to stop the increasing homicides.

Do we need police? Of course. But in a year when basic services in the city were cut \$26 million, can we honestly say that 100 new police officers is the only thing we should be spending money on? Then why is 96% of this so-called "crime reduction program" targeted at hiring police officers, with only 4% going to violence prevention and none going to jobs or education?

Not one of the newly hired police officers will be a community policing officer, a beat officer who walks a neighborhood – that excellent program has been cut, apparently for good.

Councilmember Nadel presented an alternative plan of 57 new community policing officers, funding for violence prevention programs, and the creation of a special employment program for 43 at-risk Oakland residents to be trained as gardening, street repair, illegal dumping pick-up and tree maintenance crews for two 2-year terms.

When crime is up, it's tempting to address violence with violence. Research shows that unemployment and lack of housing are the key obstacles to ex-offender success. If you believe that we need more police but a better balance of funding for other jobs and services as well, vote against this advisory.

s/NANCY J. NADEL

City Councilmember

s/WILSON RILES, President

Oakland Community Action Network

s/JORDAN SU, Community Organizer

People United for a Better Oakland (PUEBLO)

s/KIMBERLY MIYOSHI

Children's Advocate

s/KENNETH MOSTERN, Organizer

Green Party of Alameda County

REBUTTAL TO ARGUMENT AGAINST MEASURE FF

Measure FF is a well thought out program. It specifically calls for helping young people, victims of domestic violence and parolees. And yes, FF insists that the temporary surcharges on parking, utilities and hotels also pay for an additional 100 police for a city that is totally understaffed in this basic service. The facts are absolutely clear: Oakland has far fewer police than cities its size and receives dramatically more calls for service.

I understand the feelings of the opponents to FF who would like to put money from the police department into education and mental health. But they miss one big fact: other local authorities have these responsibilities: the elected school board handles education; the elected Alameda supervisors take care of mental health.

Only the city government is charged with policing our streets and neighborhoods. And, as your mayor, I am telling you that the criminals far outnumber the police. Oakland simply needs more community police visible in our neighborhoods and street corners.

Please, for a safer city, VOTE YES ON FF.

s/JERRY BROWN

Mayor

**PROPOSED MUNICIPAL CODE AMENDMENT
MEASURE PROVIDING FOR CERTAIN AMENDMENTS
TO THE CITY'S BUSINESS TAX ORDINANCES THAT WILL
ASSURE THAT BUSINESSES ARE SUBJECT TO THE SAME TAX
TREATMENT REGARDLESS OF LOCATION IN OR OUTSIDE
OF THE CITY OF OAKLAND**

CITY OF OAKLAND MEASURE JJ	
JJ MEASURE JJ: Shall the Oakland Municipal Code be amended to ensure that businesses, regardless of location, are subject to equal business tax treatment by 1) Reducing eligible manufacturers' tax liability by providing a raw materials' deduction, 2) Clarifying Oakland manufacturers' right to an additional tax deduction for business activity occurring outside of Oakland, 3) Clarifying that businesses with administrative headquarters in Oakland will be taxed under the applicable business category for each business activity at the headquarters?	YES
	NO

CITY ATTORNEY'S BALLOT SUMMARY OF MEASURE JJ

The measure would amend the City's manufacturing tax so that all businesses engaged in manufacturing, regardless of business location, receive a tax deduction for the cost of raw materials used in their manufacturing process. The amendments would also clarify that Oakland manufacturers are not subject to taxation on business activities conducted outside of Oakland.

This measure would also clarify that businesses with administrative headquarters in the City of Oakland pay taxes based on all business activity conducted within the City of Oakland.

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE JJ

The City of Oakland business tax ordinance for many years has required that businesses pay taxes on various types of business activities if they do business in the City.

If adopted, this measure would amend two provisions of the business tax ordinance to ensure that businesses receive the same tax treatment regardless of their location in or outside of the City. The United States and California Constitutions require that cities impose the same tax treatment on businesses regardless of their location inside or outside of a city.

First, the measure would amend the City's manufacturing tax (Municipal Code Section 5.04.390). Under the current ordinance, local manufacturers may deduct the value of raw materials from their gross receipts. The amendments would extend such deduction to all businesses engaged in manufacturing regardless of business location. This would reduce eligible manufacturers' tax liability. The amendments also would clarify that Oakland manufacturers are not subject to taxation on business activities conducted outside of Oakland.

Second, this measure would amend Oakland's administrative headquarters tax (Municipal Code Section 5.04.400). Currently, some businesses with administrative headquarters in Oakland may pay taxes based only on payroll and may not pay gross receipts taxes on revenue from some of their other business activities at the administrative headquarters location. The amendment would clarify that businesses with administrative headquarters in the City of Oakland will pay taxes on all business activities at the administrative headquarters.

s/JOHN RUSSO
City Attorney

CITY AUDITOR'S IMPARTIAL FINANCIAL ANALYSIS OF MEASURE JJ

There are two parts to this measure.

First Part: The first part of this measure will amend Section 5.04.390 of the Oakland Municipal Code, which presently taxes manufacturers differently, depending on whether they are located within the City of Oakland or outside it. This measure will tax all manufacturers the same way.

Presently, manufacturers that are located within the City of Oakland have the ability to deduct from their tax base the value of raw materials used in the manufacturing process. On the other hand, these manufacturers are taxed on all their sales, and not on just those sales that are made within the City.

The opposite is true for manufacturers that are located outside the City of Oakland. They do not have the ability to deduct from their tax base the value of raw materials used in the manufacturing process. However, they are taxed on only the sales made within the City of Oakland.

Second Part: The second part of this measure will amend section 5.04.400 of the Oakland Municipal Code. This amendment will clarify that businesses with administrative headquarters in the City of Oakland will be taxed for each business activity taking place at the administrative headquarters location.

Presently, some businesses that have administrative headquarters in the City of Oakland are not taxed on those activities that are other than administrative activities. For example, some businesses that engage in both administrative and revenue-producing activities do not pay taxes on the revenue-producing activities if the number of employees who perform administrative activities exceed those who perform revenue-producing activities. This amendment will provide that all revenue-producing activities will be taxed.

FISCAL IMPACT

Based on data available within City offices, we estimate that the City will lose approximately \$947,000 in revenue annually through passage of the first part of the measure. However, it is difficult to make such estimates with precision, and the actual results may vary from our estimates.

There was not enough data available for us to estimate the impact of the passage of the second part of the measure.

s/ROLAND E. SMITH, CPA
City Auditor

ARGUMENT IN FAVOR OF MEASURE JJ

This measure will not increase city tax revenues. In fact, it will result in a slight decrease. The reason Measure JJ is on the ballot is because the business tax structure of the city was challenged in a lawsuit and the city agreed to alter its business tax provisions so as to treat companies with business outside the city and within the city on the same terms.

This rewriting of our business tax laws results in a modest decrease for some companies, but a slight increase for a few corporations. Because of these very minor changes, state law under the Howard Jarvis Initiative requires Oakland voter approval.

Please vote YES on JJ to keep essentially the same level of revenue coming into the city and thereby avoid even further cuts in city programs. In these hard economic times, the city is facing deficits and cannot afford to have this measure defeated.

It is hard to explain but simply put, we had to rewrite our business tax law under pressure of a lawsuit and the only way we could accomplish this is to put a revised version of our business tax law on the ballot for your approval.

Please vote YES on JJ. It is important for our city.

s/JERRY BROWN

Mayor of Oakland

s/HENRY L. GARDNER

Former City Manager

NO ARGUMENT AGAINST MEASURE JJ WAS SUBMITTED.

FULL TEXT OF MEASURE JJ

WHEREAS, the City Council of the City of Oakland desires to amend Section 5.04.390 of the Oakland Municipal Code in order to provide that all businesses manufacturing or processing and selling products in Oakland receive a deduction for raw materials; and

WHEREAS, the City Council of the City of Oakland desires to amend Section 5.04.400 of the Oakland Municipal Code in order to clarify that businesses with Administrative Headquarters in the City of Oakland will be taxed for each business activity taking place at the Administrative Headquarters location; and

NOW, THEREFORE, BE IT RESOLVED:

That the City Council of the City of Oakland does hereby submit to the voters at the November 5, 2002 special election the text of the proposed ordinance, which shall be as follows:

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

SECTION 2. Section 5.04.390 of the Municipal Code is hereby amended in its entirety to read as follows:

5.04.390 Manufacturer.

- A. Every person manufacturing or processing in Oakland any goods, wares, merchandise, articles or commodities at a location within or outside of the City of Oakland and selling such items at retail and/or wholesale in the City of Oakland shall pay an annual business tax of sixty dollars (\$60.00) per year or fractional part thereof for the first fifty thousand dollars (\$50,000.00) or less of gross receipts less the value of raw materials, plus one dollar and twenty cents (\$1.20) for each additional one thousand dollars (\$1,000.00) of gross receipts less the value of raw materials or fractional part thereof in excess of fifty thousand dollars (\$50,000.00), or the value of the partially completed product at the time it enters the manufacturing process within the city.
- B. Subject to the Apportionment provisions set forth in Section 5.04.570 of this Municipal Code, whenever the process of manufacturing process goods, wares, merchandise, articles or commodities at a location within the City of Oakland does not result in a finished product, or its results in a finished product, but does not result in gross receipts, the following alternate method of calculating business tax under this section shall be used:

Each person taxed under this subsection shall pay a business tax of sixty dollars (\$60.00) per year or fractional part thereof for the first fifty thousand dollars (\$50,000.00) or less of all expenses incurred in the manufacturing process at the business location within the city,

plus one dollar and twenty cents (\$1.20) for each additional one thousand dollars (\$1,000.00) or fractional part thereof in excess of fifty thousand dollars (\$50,000.00) on the total of all expenses incurred in the manufacturing process at the business location within the city, including, but not limited to payroll, utilities, depreciation, and rent.

SECTION 3. Section 5.04.400 of the Municipal Code is hereby amended to read as follows:

5.04.400 Administrative headquarters.

- A. Every person conducting or carrying on the operation of an administrative headquarters shall pay a business tax of sixty dollars (\$60.00) per year or fractional part thereof for the first fifty thousand dollars (\$50,000.00) or less of gross payroll plus, one dollar and twenty cents (\$1.20) for each additional one thousand dollars (\$1,000.00) of gross payroll or fractional part thereof in excess of fifty thousand dollars (\$50,000.00), of all persons employed by the business at such administrative headquarters.
- B. "Administrative headquarters" means a location where the principal business transacted consists of providing administrative or management related services such as, but not limited to, recordkeeping, data processing, research, advertising, public relations, personnel administration, legal and corporate headquarters services, to other locations where the operations of the same business are conducted which lead more directly to the production of gross receipts.
- ~~C. A business shall be taxed as an administrative headquarters if the number of employees engaged in administrative activities exceeds the total number of employees engaged in activities at the same location which would be otherwise taxable under this chapter. The gross payroll on which the business tax is to be computed shall include those employees engaged in those activities otherwise taxable under this chapter.~~
- ~~D.C.~~ "Gross payroll" means and includes the total gross amount of all salaries, wages, commissions, bonuses, or other money payment of any kind which a person received from or is entitled to receive from or be given credit for by his or her employer for any work done or personal service rendered in any trade, occupation or profession, including any kind of deductions before "take home" pay is received; but shall not mean or include amounts paid to traveling salespersons or other workers as allowance or reimbursement for traveling or other expenses incurred in the business of the employer, except to the excess of such amounts over such expenses actually incurred and accounted for by the employee to the employer.