ATTACHMENT 4

TEXT OF PROPOSED CHARTER AMENDMENT
MEASURE X

Section 604 –Oakland Police Commission

SECTION 604

(a) Creation and Role.

1. There is hereby established the Oakland Police Commission (hereinafter, Commission) which shall oversee the Police Department in order to ensure that its policies, practices, and customs conform to constitutional policing and best practices and are responsive to all of Oakland's communities. The Commission shall establish a Community Police Review Agency (hereinafter, Agency) which shall have functions as set forth below.

2. The Commission is an independent Department of the City and shall not be represented by the City Attorney for matters within its functions and duties. With respect to its employees, including those of the Agency, the Commission shall, subject to Article IX of this Charter, have the sole power to appoint, assign, reassign, discipline and remove. The Commission shall have the functions and duties regarding the Oakland Police Department enumerated in this Section.

(b) Functions and Duties.

The Commission and the Agency shall assume the functions, duties, and staffing of every agency, board, or administrator of the City that heretofore had the responsibility of investigating or adjudicating cases of alleged police misconduct, imposing appropriate discipline, or advising on community policing. Those entities shall continue in existence until their functions are transferred to the Commission and Agency.

1. The Chief of Police shall submit an annual report to the Commission including the following:

   Police activities including but not restricted to: police involved shootings; in-custody injuries and deaths; civil lawsuits based on allegations of police misconduct; use of force incidents; trends and patterns in police stops, field investigations, detentions and arrests, that take into account, at a minimum, demographics based on age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, or national origin.

2. The Commission shall report annually to the Mayor, the City Council and to the public to the extent permissible by law, the information contained in the Chief's report along with information pertaining to the following: policing practices, policies and customs; Department personnel practices, policies and customs; Department risk management practices; Department financial/efficiency/performance audits; crime and violence

trends; police/community relations and service quality; such other matters as are relevant to the functions and duties of the Commission.

3. Upon the notice of vacancy of the office of Police Chief, the Commission shall prepare a list of four candidates and transmit the names to the Mayor. The Mayor shall appoint one person from the list.
4. Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Commission or the Mayor, acting jointly or separately of each other. A minimum of five Commissioners shall be required to cast affirmative votes to take such action.
5. The Commission shall conduct public hearings at least once a year on police policies, practices, and customs.
6. All policies, procedures, and customs of the Police Department shall be subject to the approval of the Commission.
7. The Commission shall review the budget of the Police Department to determine whether budgetary allocations are aligned with the policies, procedures, and customs approved by the Commission. The Commission shall notify the City Council of any needed changes in the budget.
8. The Commission shall require that the Police Department provide its officers adequate treatment when appropriate for stress management, post-traumatic stress disorder, and other mental and emotional job-related health issues.
9. The Commission shall require that the Oakland Police Department implement a fair, objective, unbiased promotional matrix.
10. The chair of the commission shall be a voting member of the Oakland Police Force Review Boards.
11. Within two years of its first meeting, the Commission shall determine what methodology to use to measure its own effectiveness and shall produce a report on its effectiveness and recommendations for improvement. Thereafter, the Commission shall submit such reports bi-annually.

(c) Appointment, Terms, Vacancies, Removal.

The Commission shall consist of seven regular members and three alternate members all of whom shall be Oakland residents. To the extent practicable, appointments shall be broadly representative of the communities of interest, neighborhoods, and diversity in economic, ethnicity, race, age, and sexual orientation; and persons with disabilities. No current or former sworn police officer or officer of an employee association representing sworn police officers is eligible to serve as a Commissioner.

1. There is hereby established a Selection Panel. Within ninety days of the enactment this Section, each District City Council member shall appoint a person from his or her District, the At-Large Council member shall appoint one (1) person, and the Mayor shall appoint two (2) people to the Selection Panel. The Selection Panel shall reflect the diversity of Oakland, and one member, one of the two appointed by the Mayor, shall be a person between the ages of 18 and 25. No police officer or member of an employee association representing sworn police officers is eligible to be a member of the Selection Panel. The Selection Panel will conduct outreach to the community; will solicit applications from those willing to serve on the Police Commission; will review the applications, and interview applicants to serve as regular or alternate members of the Commission.

2. Within one hundred and twenty days (120) of its formation the Selection Panel shall submit a slate of seven (7) regular members and three (3) alternate members to the City Council.

3. With the exception of the first group of Commissioners, the term for each Commissioner shall be three years.

4 Each year the Selection Panel shall re-convene to designate replacements for Commissioner vacancies as needed and shall submit the names of such designated persons to the City Council for acceptance or rejection. If the City Council does not accept or reject the submission within sixty (60) days the person shall be deemed appointed.

5. Each year the Mayor and each Council member may replace her/his assigned person(s) on the Selection Panel. Selection Panel members can serve up to 5 years.

6. Commission members are limited to no more than two terms.

7. To effect a staggering of terms among the Commissioners, duration of the first group of Commissioners shall determined by the Selection Panel as follows:
   - Three regular and one alternate members shall have an initial term of three years
   - Two regular and one alternate members shall have an initial term of two years
   - Two regular and one alternate members shall have an initial term of four years

8. A vacancy on the Commission shall exist whenever a member dies, resigns, ceases to be a resident of the City, is convicted of a felony, or is removed.

9. For vacancies occurring for reasons other than the expiration of a regular member's term, an alternate chosen by the Commission shall replace the regular member and assume the term of office of such member. A reserve candidate as chosen by the Commission shall replace the alternate and assume the remainder of his or her term.

10. Members of the Commission may be removed by a majority vote of the Commission only for conviction of a felony, substantial neglect of duty, gross misconduct in office, inability to discharge the powers and duties of office, absence from three

4. Commissioners and alternates shall receive a stipend of one hundred dollars for each Commission meeting they attend, adjusted annually to reflect inflation.

(f) Staffing

1. The Executive Director and the Director of the Agency shall be hired by the Commission. By an affirmative vote of at least five members, the Commission may terminate the Executive Director or the Director. The Commission shall periodically conduct a performance review of the Executive Director and the Director.

2. Staff, with the exception of the Executive Director and the Director, shall be civil service employees in accordance with Article IX of the City Charter. After the effective date of this Charter provision, the Commission Executive Director shall identify special qualifications and experience that the Policy Analyst and Operation Support Specialist candidates must possess. Candidates for future vacancies shall be selectively certified in accordance with the Civil Service Personnel Manual, as may be amended from time to time, except that said selective certification shall not be subject to discretionary approval by the Personnel Director.

3. No current or former member of the Oakland Police Department or official of an employee association representing sworn police officers is eligible for any staff position in the Agency or the Commission. The Executive Director and Agency Director shall have relevant experience in managing similar agencies where they have had the responsibility of advocating for the public interest.

4. The Executive Director and the Director shall be classified as Department heads.

(g) Investigations

1. The Agency shall receive review and prioritize all complaints determining which complaints require investigation or dismissal. The Agency shall forward a copy of each complaint received to the Internal Affairs Division of the Oakland Police Department within 24 hours of receipt. In prioritizing complaints, the Agency shall consider the following: date of the alleged misconduct and level of alleged misconduct, with priority given to incidents involving deaths, shootings and use of force; urgency for response to public concerns; availability of witness(es) and/or evidence; the prior history of either the complainant or the subject officer(s).

2. The Agency shall complete investigations of misconduct within six (6) months of the filing of the Complaint with the Agency. Within thirty (30) days of completion of the investigation, the Director of the Agency shall issue a written finding on the allegations to the Commission and the Chief of Police.

3. The Police Department shall respond to Agency requests regarding investigation within ten (10) business days.

4. The Agency shall forward to the appropriate prosecutor information and recommendations that may lead to the filing of criminal charges where applicable.

(h) Adjudication

Notwithstanding any other provision of the Oakland City Charter, the functions and duties of the Commission are as follows:

1. The Agency shall receive and investigate all public complaints, including those from non-sworn employees of the Oakland Police Department, regarding the conduct of Oakland police officers. The Agency shall make a finding regarding each complaint. All investigations and notifications to the police officer shall be completed within the time required by state law for the imposition of discipline. The Agency shall transmit sustained complaints to the Chief of Police, who shall notify the police officer of his or her rights to an administrative appeal. Upon completion of the appeal, if requested, the Chief of Police shall notify the Agency of his or her recommended discipline. If the discipline is less than that recommended by the Agency, the matter shall be submitted to the Commission for adjudication.
2. The Commission shall conduct an evidentiary hearing on any matter where there is a disagreement between the Chief of Police and the Agency regarding the finding of the Agency or the recommendation for discipline. If the Commission upholds a finding, it shall impose appropriate discipline or delegate its authority to impose discipline to the Chief of Police, who shall impose such discipline. The Commission shall have the discretion on its own motion to initiate an investigative hearing on any matter within its jurisdiction. Discipline imposed by the Commission or by the Chief of Police, shall be final and not subject to arbitration notwithstanding any other Section of this Charter or terms of any agreement between the City and any employee organization representing sworn officers made after the enactment of this Section of the Charter.

3. Both the Commission and the Agency shall have full access to the files and records of the Oakland Police Department.

4. The Commission shall have the power to issue subpoenas to compel the appearance of witnesses, and the production of books, papers, records, and documents, and take testimony on any pending matter. The Commission or the Agency may seek a contempt order as provided by the general law of the State for a person's failure or refusal to appear, testify, or produce subpoenaed documents.

5. The Agency may utilize dispute resolution methods other than formal administrative hearings, including, but not limited to voluntary conciliation, mediation, and referral to the Chief of Police for disposition without a hearing.

6. Complaints wherein the complainant is the subject of criminal prosecution may be investigated, but shall not be brought to a hearing while the prosecution is pending.