

09 MAR 26 PM 3:49

CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

(510) 238-3601
FAX: (510) 238-6500
TDD: (510) 839-6451

March 31, 2009

HONORABLE REDEVELOPMENT AGENCY AND CITY COUNCIL
Oakland, California

President Brunner and Members of the City Council and Redevelopment Agency:

SUBJECT: Corrected Copy of Councilmember Kernighan's Proposed Amendment to Measure OO – Kids First! Ballot Measure (Option D-2), Entitled A Resolution Submitting On The City Council's Own Motion, To The Electors, At The Next Special Municipal Election That Is Held At Least 88 Days But No More Than 150 Days After The Passage Of This Resolution, A Measure (1) To Amend Charter Section 1300 On Kids First! Oakland Fund For Children And Youth Adopted By The Voters On November 4, 2008 (Measure OO) To, Among Other Things, Set Aside Three And One-Half Percent (3.5%) Of The Actual Unrestricted General Purpose Fund (Fund 1010) City Revenue For Programs For Children And Youth And (2) Direct The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With Applicable Legal Requirements

Summary

Attached is the corrected copy of Councilmember Kernighan's Proposed Amendment to Measure OO – Kids First! Ballot Measure that Councilmember Kernighan distributed on the floor at the March 17, 2009 City Council meeting. The corrected copy includes with strike throughs Measure OO language that the Councilmember's proposed amendment would delete. The corrections make no changes in the language of the amendment proposed by Councilmember Kernighan.

Background

During the discussion of Item 16 at the March 17, 2009 City Council meeting, Councilmember Kernighan passed out an Option D-2, sometimes referred to as the compromise amendment. Councilmember Kernighan asked this Office to review the amendment to assure that the original language of Measure OO was faithfully included in the amendment and that any deleted language appeared with strike throughs.

Correction of Typographical Errors

We have reviewed the document that was distributed on the floor and was included in the 10-day agenda packet for the March 31, 2009 Council meeting. We found four instances in which Measure OO language that the amendment would delete, did not appear in the hand out with strikethroughs. The corrected copy of Councilmember Kernighan's proposed amendment corrects these typographical errors:

1. Page 3, section 1300, first paragraph, line 2 –

The amendment language passed out on the floor stated that the set aside of 3.5% of the unrestricted general purpose fund would be effective on July 1, 2009 and continue through June 30, 2021. Measure OO states that the initial set aside of 1.5% of the total revenues would be effective on July 1, 2009 and continue through June 2011. "2011" was inadvertently deleted although it should have appeared with strikethroughs. The corrected language reads as follows:

through June 30, ~~2011~~2021

2. Page 3, section 1300, first paragraph, line 3 –

The amendment passed out on the floor stated 3.5%. Measure OO stated 1.5%. "1.5%" was inadvertently deleted although it should have appeared with strikethroughs. The corrected language reads as follows:

equal to ~~1.5%~~ 3.5%

3. Page 3, section 1300, first paragraph, line 4 –

The amendment passed out on the floor states actual unrestricted general purpose fund revenues. Measure OO states annual total revenues. "Total" was inadvertently deleted although it should have appeared with strikethroughs. The corrected language reads as follows:

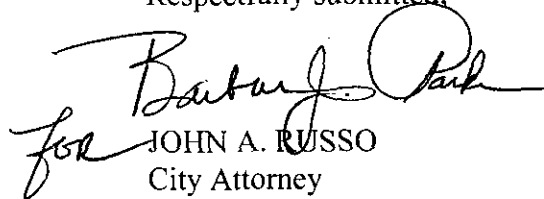
~~total~~ actual unrestricted general purpose fund (Fund 1010) revenues

4. Page 3, section 1300, third paragraph –

The amendment passed out on the floor did not include this paragraph which is in Measure OO. It should have appeared with strikethroughs since it would be deleted if the amendment passes. The corrected language reads as follows:

~~Notwithstanding any other provision of law, effective July 1, 2011, the Fund shall receive revenues in an amount equal to 2.5% of the City of Oakland's annual total revenue and appropriated as specified in this Act each year, together with any interest earned on the Fund and any amounts unspent or uncommitted by the Fund at the end of any fiscal year. The actual funds deposited in the Fund pursuant to this Act shall only come from unrestricted revenues of the City of Oakland.~~

Respectfully submitted,


for JOHN A. RUSSO
City Attorney

Attorney Assigned:
Barbara J. Parker

09 MAR 26 PM 3:50

APPROVED AS TO FORM AND LEGALITY

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

Introduced by Councilmember _____

A Resolution Submitting On The City Council's Own Motion, To The Electors, At The Next Special Municipal Election That Is Held At Least 88 Days But No More Than 150 Days After The Passage Of This Resolution, A Measure (1) To Amend Charter Section 1300 On Kids First! Oakland Fund For Children And Youth Adopted By The Voters On November 4, 2008 (Measure OO) To, Among Other Things, Set Aside Three And One-Half Percent (3.5%) Of The Actual Unrestricted General Purpose Fund (Fund 1010) City Revenue For Programs For Children And Youth And (2) Direct The City Clerk To Fix The Date For Submission Of Arguments And Provide For Notice And Publication In Accordance With Applicable Legal Requirements

WHEREAS, The Kids First! Oakland Fund for Children and Youth was established by voter approved ballot Measure K in 1996 to set money aside for programs and services benefiting children and youth, such as after-school programs, mentoring programs, recreational programs, pre-school and job training programs; and

WHEREAS, it is critical to continue funding to services and programs that benefit Oakland's children and youth at a level that is fiscally responsible; and

WHEREAS, in 2008 the voters repealed Measure K and replaced it with Measure OO; and

WHEREAS, the Council wishes to amend City Charter section 1300, Measure OO; now therefore be it

RESOLVED: That the City Council of the city of Oakland does hereby submit to the voters at the next municipal election the following:

AN AMENDMENT TO THE OAKLAND CITY CHARTER TO PROVIDE FUNDING FOR THE KIDS FIRST! OAKLAND FUND FOR CHILDREN AND YOUTH IN THE AMOUNT OF 3.5% OF THE ACTUAL UNRESTRICTED GENERAL PURPOSE FUND (FUND 1010) CITY REVENUE

Be it ordained by the People of the City of Oakland:

Section 1. Title.

This Act shall be known and may be cited as “Kids First! —The Oakland Fund for Children and Youth Act.”

Section 2. Findings and Purpose.

The people of the City of Oakland hereby make the following findings and declare their purpose in enacting the Act is as follows:

- (a) Teens and young adults comprise too many of Oakland’s homicide victims every year. Many of these deaths are due to gun violence.
- (b) Many students in Oakland public schools do not graduate from high school. The percentage of Oakland students who do not graduate high school is much higher than the statewide average.
- (c) It is critical to address root problems before they start by providing support services for children and youth and their families, like after-school and community based programs that keep children and youth out of trouble, encourage parent involvement and teach non- violent conflict resolution.
- (d) The Kids First!--Oakland Fund for Children and Youth was established by a voter approved ballot measure in 1996. The measure set aside two and one-half percent (2.5%) a portion of the City’s actual unrestricted general purpose fund (Fund 1010) revenues every year for services benefiting children and youth, such as after-school programs, mentoring, recreational programs, job training and pre-school programs. The set aside supplemented a base line amount that the City already provided to fund programs for children and youth.
- (e) Kids First! The Oakland Fund for Children and Youth puts money into programs that work. The Center on Juvenile and Criminal Justice reported that Oakland has a 69 percent drop in juvenile crime from 1995 to 20005, making Oakland the city with the lowest juvenile crime rate out of the eight largest cities in California. This is because of programs funded through measures like Kids First!
- (f) In order to This Act will provide increase funding for after-school programs, sports and recreation programs, youth gang prevention and other programs for children and youth, the City of Oakland shall set aside three and one-half percent (3.5%) of the City’s actual unrestricted General Purpose fund (Fund 1010) revenues for the Oakland Fund for Children and Youth. to two and a half percent of all City revenue.
- (g) This Act will protect and expand the services that help keep Oakland children and

youth on the right track. Programs funded by this measure will provide after-school programs that give children and youth positive alternatives and safe places away from the negative influences of the streets.

~~(h) This Act makes the Oakland Fund for Children and Youth a permanent part of the Oakland City budget.~~

Section 3. Amendment to Article XIII of the City Charter of the City of Oakland.

Article XIII of the City Charter of the City of Oakland is hereby amended to read as follows:

ARTICLE XIII KIDS FIRST! OAKLAND CHILDREN'S FUND

Fund Revenue

Section 1300. Notwithstanding any other provision of law, effective July 1, 2009 and continuing through June 30, ~~2011~~ 2021, the KIDS First! The Oakland Fund for Children and Youth ("Fund") shall receive revenues in an amount equal to ~~1.5%~~ 3.5% of the City of Oakland's annual ~~total~~ actual unrestricted General Purpose Fund (Fund 1010) revenues and appropriated as specified in this Act each year, together with any interest earned on the Fund and any amounts unspent or uncommitted by the Fund at the end of any fiscal year. The actual funds deposited in the Fund pursuant to this Act shall only come from actual unrestricted General Purpose Fund (Fund 1010) revenues of the City of Oakland. For purposes of this Act, Fund shall mean the fund established pursuant to Measure K which was approved by the voters of Oakland in 1996 and which shall continue in existence.

The annual amount of actual unrestricted General Purpose Fund (Fund 1010) revenues shall be estimated by the City Administrator and verified by the City Auditor. Errors in calculation for a fiscal year shall be corrected by an adjustment in the set aside depending upon whether the actual unrestricted General Purpose Fund (Fund 1010) revenues are greater or less than the estimate. Actual unrestricted General Purpose Fund (Fund 1010) revenues shall not include funds granted to the City by private agencies or by other public agencies and accepted and appropriate by the City.

~~Notwithstanding any other provision of law, effective July 1, 2011, the Fund shall receive revenues in an amount equal to 2.5% of the City of Oakland's annual total revenues and appropriated as specified in this Act each year, together with any interest earned on the Fund and any amounts unspent or uncommitted by the Fund at the end of any fiscal year. The actual funds deposited in the Fund pursuant to this Act shall only come from unrestricted revenues of the City of Oakland.~~

No less than 90% of the monies in the Fund shall be used to pay for eligible services for children and youth. No more than 10% of the monies in the Fund may be used for independent third-party evaluation, strategic planning, grant-making, grants management,

training and technical assistance, and communications and outreach to ensure effective public participation.

~~Not later than 90 days after the end of each fiscal year, beginning with fiscal year 2009 2010, the City Auditor shall complete a financial audit, and verify that the City of Oakland set aside for the Fund the correct amount of monies for that fiscal year, together with any interest earned on the Fund and any amounts unspent by the Fund at the end of that fiscal year. If the City Auditor finds that in any fiscal year the amount of funds set aside for the Fund is less than the prescribed percentage of all City of Oakland revenues, the City of Oakland shall provide monies to the Fund so that the correct amount is received by the Fund within the next two fiscal years.~~

Eligible Services

Section 1301. Monies in the Fund shall be used exclusively to:

1. support the healthy development of young children through pre-school education, school-readiness programs, physical and behavioral health services, parent education, and case management;
2. help children and youth succeed in school and graduate high school through after-school academic support and college readiness programs, arts, music, sports, outdoor education, internships, work experience, parent education, and leadership development, including civic engagement, service-learning, and arts expression;
3. prevent and reduce violence, crime, and gang involvement among children and youth through case management, physical and behavioral health services, internships, work experience, outdoor education, and leadership development, including civic engagement, service-learning, and arts expression;
4. help youth transition to productive adulthood through case management, physical and behavioral health services, hard-skills training and job placement in high-demand industries, internships, work experience, and leadership development, including civic engagement, service-learning, and arts expression.

Excluded Services

Section 1302. Monies in the Fund shall not be appropriated or expended for:

1. any service which merely benefits children and youth incidentally;
2. acquisition of any capital item or real property not for primary and direct use by children and youth;
3. maintenance, utilities or any similar operating cost of any facility not used primarily and directly by children and youth;

4. any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure.

Strategic Investment Plan

Section 1303. Appropriations from the Fund shall be made pursuant to a Three-Year Strategic Investment Plan, with the first Plan beginning July 1, 2010.

Grants Appropriations made by the Fund for fiscal year 2008-2009 shall be carried forward to fiscal year 2009-2010 subject to including-modifications recommended by the Planning & Oversight Committee, pursuant to performance review, and adjusted as needed to conform with the actual amount of the set-aside in fiscal year 2009-2010 based on the 3.5% of actual unrestricted General Purpose Fund (Fund 1010) formula set forth in this Act.

Each Three-Year Strategic Investment Plan shall be developed with the involvement of young people, parents, and service providers throughout the city, and the Oakland Unified School District, the County of Alameda, and the City of Oakland. Each Three-Year Strategic Investment Plan shall take into consideration the results and findings of the independent third-party evaluation.

Each Three-Year Strategic Investment Plan shall:

1. identify current service needs and gaps relative to addressing this measure's four outcome goals:
 - a. support the healthy development of young children;
 - b. help children and youth succeed in school and graduate high school;
 - c. prevent and reduce violence, crime, and gang involvement among young people;
 - d. prepare young people for healthy and productive adulthood.
2. describe specific three-year program initiatives that address the needs and gaps relative to each outcome goal, including:
 - a. target population
 - b. performance and impact objectives
 - c. intervention strategy
 - d. evaluation plan
 - e. funding allocations
3. describe how each three-year program initiative is aligned and coordinated with other public and private resources to achieve maximum service performance and youth impacts.

Each Three-Year Strategic Investment Plan shall be evaluated for its service performance and youth impact results by an independent third-party evaluator.

Open and Fair Application Process

Section 1304. All monies in the Fund shall be appropriated, pursuant to a Three-Year Strategic Investment Plan, to private non-profit and public agencies through an open and fair application process.

Planning & Oversight Committee

Section 1305. The Children's Fund Planning and Oversight Committee ("Planning and Oversight Committee") established pursuant to Measure K which was approved by the voters of Oakland in 1996 shall continue to operate. Each City Councilmember shall appoint two Oakland residents, one of whom shall be a resident not older than 21 years, to serve as members of the Planning & Oversight Committee. The appointees shall demonstrate a strong interest in children and youth issues; and possess sound knowledge of, and expertise in, children and youth policy development and program implementation. Effective July 1, 2009, the Mayor shall only be permitted to appoint one (1) Oakland resident and shall therefore remove two of his previous appointments no later than June 30, 2009.

The Planning & Oversight Committee shall be responsible for:

1. preparing Three-Year Strategic Investment Plans;
2. soliciting funding applications from private non-profit and public agencies through an open and fair application process;
3. submitting to the Oakland City Council for its adoption Three-Year Strategic Investment Plans and funding recommendations;
4. submitting to the Oakland City Council for its adoption annual independent evaluation reports;
5. receiving City Auditor annual reports on the Fund's Financial Statement and the Base Spending Requirement.

Base Spending Requirement

Section 1306. ~~Monies in the Fund shall be used exclusively to increase the total amount of City of Oakland expenditures for services to children and youth that are eligible to be paid from the Fund as defined in this section.~~ The City of Oakland shall not reduce the amount of expenditures for eligible services in any fiscal year paid from sources other than the Fund below the Base Spending Requirement.

The Base Spending Requirement is the amount required based on the application of the base year percentage to the total audited actual City unrestricted General Purpose Fund

(fund 1010) expenditures in a fiscal year.

The Base Year Percentage is defined ~~as~~ by the ratio of ~~audited-actual~~ unrestricted General Purpose Fund (Fund 1010) expenditures- appropriations for eligible services for children and youth paid from sources other than the Fund to total City ~~audited actual~~ unrestricted General Purpose Fund (Fund 1010) appropriations expenditures in a fiscal year 1995-1996.

The base year is defined as the ~~fiscal year beginning July 1, 2008 and ending June 30, 2009.~~

~~Not later than October 1, 2009 the City Auditor shall calculate and publish the Base Year Percentage, and shall specify by City Department each eligible service, budget expenditure amount, and funding source included in the calculation of the base year eligible services.~~

~~Not later than 90 days after the end of each fiscal year beginning with fiscal year 2009-2010, the City Auditor shall verify that the City of Oakland expended funds each year for eligible services in an amount no less than the amount required under the Base Spending Requirement, except to the extent that the City of Oakland ceases to receive federal, state, county, or private foundation funds that the funding agency required to be spent only on those services.~~

If the City Auditor finds that in any fiscal year the amount of funds expended for eligible services is less than the Base Percentage Requirement, the City of Oakland shall increase expenditures for eligible services within the following two years so that the correct amount of funds is expended.

Monies from the Fund shall not be appropriated for services that substitute for or replace services included in the City Auditor's Base Spending Requirement, except to the extent that the City of Oakland ceases to receive federal, state, county, or private foundation funds that the funding agency required to be spent only on those services.

Within 180 days following the completion of each fiscal year's external audit through 2020-2021 the City Auditor shall calculate and publish the actual amount of City of Oakland spending for children and youth services (exclusive of expenditures mandated by state or federal law).

Section 4. Severability.

If any provision of this Act or any application thereof to any person or circumstance is held invalid, such invalidity shall not affect any provision or application of this Act that can be given effect without the invalid provision or application. To this end, the

provisions of this Act are severable.

Section 5. Reauthorization

Section 1307. This section may be extended for an additional twelve years beginning July 1 2021 by a simple majority vote of the City Council. If the City Council does not itself extend this section, then the City council shall place the question of whether to extend this section on the November 2020 ballot for a vote of the electorate. This process will be repeated every twelve years or until reauthorization is rejected by a vote of the electorate.

and be it,

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Charter Amendment, and said date shall be posted in the Office of the City Clerk; and be it

FURTHER RESOLVED: That in accordance with the Elections Code and Chapter 3 of the Oakland Municipal Code, the City Clerk shall provide for notice and publication as to said proposed Charter Amendment in the manner provided for by law; and be it

FURTHER RESOLVED: That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

FURTHER RESOLVED: That the City Clerk hereby is directed to obtain printing, supplies and services as required; and be it

FURTHER RESOLVED: That the City Clerk hereby is authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland; and be it

FURTHER RESOLVED: That the City Clerk and City Administrator hereby are authorized and directed to take any and all actions necessary under law to prepare for and conduct the election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the election, consistent with the requirements of the law.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009
PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LAFUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,
 REID AND PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

Attest: _____

La Tonda Simmons
City Clerk and Clerk of the Council
Of the City of Oakland, California