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Office of the City Administrator
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City Administrator

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January 10, 2006

Finance and Management Committee
Oakland City Council
Oakland, CA

RE: **REDLINED COPY** -- ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 2, CHAPTER 2.04, ARTICLE 2.04.160, *EXPENDITURES FROM RESTRICTED GIFT PROCEEDS*, TO DELEGATE LIMITED AUTHORITY TO THE CITY ADMINISTRATOR TO, WITHOUT CITY COUNCIL ACTION, ACCEPT GIFTS AND DONATIONS AND TO APPROPRIATE AND EXPEND MONIES DERIVED FROM GIFTS AND DONATIONS, AND REPEALING OAKLAND MUNICIPAL ORDINANCE NO. 8144 C.M.S., ADOPTED JUNE 9, 1970, WHICH CONTAINS CONFLICTING AND OBSOLETE PROVISIONS

Dear Chairperson Quan and Committee Members:

Attached is a **redlined** version of the above-referenced ordinance. A clean version was included in the Committee's agenda package for January 10, 2006. The **redlined** version illustrates the proposed changes to the current Oakland Municipal Code Title 2, Chapter 2.04, Article 2.04.160, *Expenditures from Restricted Gift Proceeds*.

A copy of the previously printed, clean version of the proposed ordinance amendment is also attached for ease of reference and comparison.

Respectfully submitted,


DEBORAH A. EDGERLY
City Administrator

Item No. 3
Finance and Management Committee
January 10, 2006

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 2, CHAPTER 2.04, ARTICLE 2.04.160, EXPENDITURES FROM RESTRICTED GIFT PROCEEDS, TO DELEGATE LIMITED AUTHORITY TO THE CITY ADMINISTRATOR TO, WITHOUT CITY COUNCIL ACTION, ACCEPT GIFTS AND DONATIONS AND TO APPROPRIATE AND EXPEND MONIES DERIVED FROM GIFTS AND DONATIONS, AND REPEALING OAKLAND MUNICIPAL ORDINANCE NO. 8144 C.M.S., ADOPTED JUNE 9, 1970, WHICH CONTAINS CONFLICTING AND OBSOLETE PROVISIONS

WHEREAS, pursuant to Oakland Charter – Article XII, Section 1203, *Gifts and Trusts*, specifies the City Council is authorized to accept gifts and trust on behalf of the City and to control, manage, dispose of and otherwise administer the same in accordance with their terms; and

WHEREAS, Oakland Charter – Article VIII, Section 806, *Receipts and Expenditures*, specifies that:

All monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the City Administrator or [his/her delegee]. No expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council . . .

WHEREAS, Council adopted Ordinance 8144 C.M.S., June 9, 1970, which authorized the City Manager and Directors of Museum, Parks and Recreation and Library to accept unrestricted gifts and donations for use by the respective department, but excluded authority to accept gifts and donations for construction of public improvements; and

WHEREAS, the City Council amended Section 2.04.160, *Expenditures from Restricted Gift Proceeds*, of the City’s Purchasing Ordinance, Ordinance No. 7937 C.M.S., as amended, on October 4, 1973, authorizing the City [Administrator] to expend monies derived from gifts and donations to the City in accordance with any special conditions of the donor provided the City Council has accepted the gift/donation by resolution; and

WHEREAS, the City Council wishes to improve the City’s efficiency in accepting, appropriating and utilizing gifts and donations in order to encourage the offering of such gifts and donations to the City and to facilitate their timely use by the City for the public’s benefit; and

WHEREAS, to improve the City’s efficiency in accepting, appropriating and utilizing gifts and donations, the City Council wishes to delegate authority to the City Administrator, within set dollar

limits, to accept, appropriate and expend monies derived from restricted and unrestricted gifts and donations to the City of Oakland; and

WHEREAS, the City Administrator will comply with all Charter requirements for fiscal administration of such funds and otherwise apply proper and sufficient procedures and controls necessary to monitor and ensure fiscal and performance accountabilities;

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

Section 1. Oakland Municipal Code Title 2, Chapter 2.04, Section 2.04.160 is amended to authorize the City Administrator to accept, appropriate and expend monies derived from gifts and donations as follows:

2.04.160 Acceptance, appropriation and Expenditures from restricted gift proceeds.

Notwithstanding any other provision of this article, the City Administrator is authorized delegated limited authority to accept gifts/donations to the City, including money gifts, and to appropriate and expend moneys derived from such gifts/donations to the City in accordance with any special conditions of the donor attached to said gifts and donations when the gift with the special conditions has been approved and accepted by the City Council by resolution without City Council action, provided that the gift/donation does not create unbudgeted costs for the City and is for a program or project that has been approved by the Council in the biennial or midcycle operating or Capital Improvement Program (CIP) budget, or by City Council legislation during the fiscal year, as follows:

- 1) up to twenty-five thousand dollars (\$25,000.00) for non-restricted gift proceeds – i.e., monetary gifts or donations, or monetary proceeds from gifts or donations, with no special conditions, limitations or restrictions by the donor on use; and
- 2) up to fifty thousand dollars (\$50,000.00) for restricted gift proceeds – i.e., monetary gifts or donations, or monetary proceeds from gifts or donations, with special conditions, limitations or restrictions by the donor on use.

For monetary proceeds from or monetary gifts/donations that exceed the above limits, restricted or otherwise, the City Administrator is authorized to expend such monies in accordance with any special conditions without City Council action, when the gift has been approved, accepted and appropriated by City Council resolution.

Section 2: Remaining Provisions Unchanged. Except as amended herein, all provisions, articles, sections, subsections, sentences, clauses or phrases of Oakland Municipal Code 2.04, shall remain unchanged and in full force and effect.

Section 3. Oakland Municipal Ordinance No. 8144 C.M.S. Repealed. Oakland Municipal Ordinance No. 8144 C.M.S., adopted June 9, 1970, which authorized the City Manager, Director of Museums, Director of Parks and Recreation, and Director of Library to accept certain unrestricted gifts and donations on behalf of the City of Oakland is hereby repealed.

Section 4: Severability: If any article, section, subsection sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

Section 5: Effective Date: This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

352274

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND
 PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
 LATONDA SIMMONS
 City Clerk and Clerk of the Council
 of the City of Oakland, California

APPROVED AS TO FORM AND LEGALITY
[Signature]
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 2, CHAPTER 2.04, ARTICLE 2.04.160, EXPENDITURES FROM RESTRICTED GIFT PROCEEDS, TO DELEGATE LIMITED AUTHORITY TO THE CITY ADMINISTRATOR TO, WITHOUT CITY COUNCIL ACTION, ACCEPT GIFTS AND DONATIONS AND TO APPROPRIATE AND EXPEND MONIES DERIVED FROM GIFTS AND DONATIONS, AND REPEALING OAKLAND MUNICIPAL ORDINANCE NO. 8144 C.M.S., ADOPTED JUNE 9, 1970, WHICH CONTAINS CONFLICTING AND OBSOLETE PROVISIONS

WHEREAS, pursuant to Oakland Charter – Article XII, Section 1203, *Gifts and Trusts*, specifies the City Council is authorized to accept gifts and trust on behalf of the City and to control, manage, dispose of and otherwise administer the same in accordance with their terms; and

WHEREAS, Oakland Charter – Article VIII, Section 806, *Receipts and Expenditures*, specifies that:

All monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the City Administrator or [his/her delegee]. No expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council . . .

WHEREAS, Council adopted Ordinance 8144 C.M.S., June 9, 1970, which authorized the City Manager and Directors of Museum, Parks and Recreation and Library to accept unrestricted gifts and donations for use by the respective department, but excluded authority to accept gifts and donations for construction of public improvements; and

WHEREAS, the City Council amended Section 2.04.160, *Expenditures from Restricted Gift Proceeds*, of the City's Purchasing Ordinance, Ordinance No. 7937 C.M.S., as amended, on October 4, 1973, authorizing the City [Administrator] to expend monies derived from gifts and donations to the City in accordance with any special conditions of the donor provided the City Council has accepted the gift/donation by resolution; and

WHEREAS, the City Council wishes to improve the City's efficiency in accepting, appropriating and utilizing gifts and donations in order to encourage the offering of such gifts and donations to the City and to facilitate their timely use by the City for the public's benefit; and

WHEREAS, to improve the City's efficiency in accepting, appropriating and utilizing gifts and donations, the City Council wishes to delegate authority to the City Administrator, within set dollar

limits, to accept, appropriate and expend monies derived from restricted and unrestricted gifts and donations to the City of Oakland; and

WHEREAS, the City Administrator will comply with all Charter requirements for fiscal administration of such funds and otherwise apply proper and sufficient procedures and controls necessary to monitor and ensure fiscal and performance accountabilities;

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

Section 1. Oakland Municipal Code Title 2, Chapter 2.04, Section 2.04.160 is amended to authorize the City Administrator to accept, appropriate and expend monies derived from gifts and donations as follows:

2.04.160 Acceptance, appropriation and expenditures from gift proceeds.

Notwithstanding any other provision of this article, the City Administrator is delegated limited authority to accept gifts/donations to the City, including money gifts, and to appropriate and expend moneys derived from such gifts/donations in accordance with any special conditions of the donor without City Council action, provided that the gift/donation does not create unbudgeted costs for the City and is for a program or project that has been approved by the Council in the biennial or midcycle operating or Capital Improvement Program (CIP) budget, or by City Council legislation during the fiscal year, as follows:

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LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

