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INTRODUCED BY COUNCILMEMBER _____

2017 OCT 12 PM 3:28

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL
ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.04 TO EXEMPT ACQUISITION (ACCESSION) AND DISPOSITION (DEACCESSION) OF CITY OF OAKLAND PERSONAL PROPERTY KNOWN AS THE OAKLAND MUSEUM OF CALIFORNIA COLLECTION, FROM THE PROVISIONS OF THE PURCHASING ORDINANCE, OAKLAND MUNICIPAL CODE CHAPTER 2.04, APPLICABLE TO PURCHASE, DISPOSITION AND DISPOSAL OF SURPLUS PROPERTY

WHEREAS, the Oakland Museum of California Foundation leases real property from the City of Oakland to operate the Oakland Museum of California; and

WHEREAS, the City of Oakland owns the museum collection displayed, managed and otherwise cared for by the Oakland Museum of California Foundation; and

WHEREAS, due to the unique character and qualities of the City's museum collection, the City Council wishes to establish requirements and procedures for the acquisition and sale, auction, trade, transfer, destruction or other disposition of the collection that comport with the standards of the American Alliance of Museums (formerly the American Associations of Museums) and Association of Art Museum Directors; and

WHEREAS, the City Council will amend the Oakland Municipal Code, Title II to add the new Chapter 2.05, *Oakland Museum of California Collection Acquisition and Disposition/Disposal Procedures*, to establish requirements and procedures for the acquisition and sale, auction, trade, transfer, destruction or other disposition of the collections that comport with the standards of the American Alliance of Museums and Association of Art Museum Directors; and

WHEREAS, it is necessary to amend the City's purchasing ordinance codified in Oakland Municipal Code, Chapter 2.04 to clarify that the requirements and procedures for the acquisition and disposition of the City's museum collection are set forth in Oakland Municipal Code, Chapter 2.05;

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

SECTION 1. Oakland Municipal Code Chapter 2.04 is hereby amended, by underscoring to indicate new text and by ~~striketrough~~ to indicate deleted text, to exempt

City of Oakland museum collection from the City's general requirements for purchasing and disposition and disposal of City personal property set forth therein, as follows:

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2.04.015 - Scope of the purchasing ordinance.

The provisions of this chapter shall apply to City contracts for public works projects, public works construction projects, procurements and purchases (as defined in Section 2.04.010), and to services including, but not limited to, contracts for services that are professional, technical or scientific in nature as well as contracts for any other services.

However, this chapter has not applied to and shall not apply to: 1) agreements for grants awards given by the City of Oakland to support nonprofit and similar organizations providing service programs to the public at large, nor shall it apply to 2) pay-go grants to non-City entities which are governed by Chapter 2.07, or to acquisition, sale or disposition of museum collections of the Oakland Museum of California that are governed by Oakland Municipal Code, Chapter 2.05, .

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2.04.120 - Surplus supplies and equipment—Disposal or destruction.

- A. Authority of Purchasing Supervisor. All using departments shall submit to the Purchasing Supervisor, at such times and in such form as Purchasing Supervisor shall prescribe, reports showing all supplies that are no longer used or that have become obsolete or worn out. The Purchasing Supervisor shall have authority to sell at public auction after advertising for one day in the official newspaper of City all supplies that cannot be used by any department or that have become unsuitable for City use, or to exchange or trade in the same for new supplies. However, the sales of such supplies may be made to other public bodies at the fair market value.
- B. Authority of City Administrator. Except as otherwise prohibited by law, the City Administrator may authorize the abandonment, destruction or donation to public bodies, charitable, civic or nonprofit organizations, of City property which has no commercial value or of which the estimated cost of continued care, handling, maintenance or storage would exceed the estimated proceeds of sale. Such determination shall be made in writing and countersigned by the Director of Finance and Management and City Administrator.
- C. Donation of Property. Except as otherwise prohibited by law, the donation to public bodies, charitable or nonprofit civic organizations, of surplus supplies or any other surplus property owned by the City (excluding real property) that has a value exceeding its continued care, handling, maintenance or storage, may be authorized only by resolution or ordinance of the City Council upon a finding by the City Council that such property is surplus to City needs and that the donation is in the best interests of the City.
- D. Sale of Property. Sale by means other than public auction of surplus supplies or any other surplus property owned by the City (excluding real property) may be authorized only by resolution or ordinance of this City Council upon a finding by the City Council

that such sale is in the best interests of the City. However, such sales shall be authorized only at or above the fair market value of the property as determined by the City Administrator.

E. Accession/Deaccession of listed holdings of the Oakland Museum of California owned by the City of Oakland governed by Chapter 2.05. The procedures and requirements set forth in this section shall not apply to the acquisition, sale, auction, trade, transfer, destruction or other disposition of City of Oakland personal property, such as art works, historical artifacts, photographs and natural science specimens, including all listed holdings of the Oakland Museum of California, that are owned by the City of Oakland and held in trust for the public. All such transactions involving said property shall be governed by Oakland Municipal Code, Chapter 2.05.

SECTION 2. Unmodified Provisions. Any and all provisions of Oakland Municipal Code, Chapter 2.04, except those provisions modified herein, shall remain in full force and effect.

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. 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.

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IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN
AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.04 TO EXEMPT ACQUISITION (ACCESSION) AND DISPOSITION (DEACCESSION) OF CITY OF OAKLAND PERSONAL PROPERTY KNOWN AS THE OAKLAND MUSEUM OF CALIFORNIA COLLECTIONS, FROM THE PROVISIONS OF THE PURCHASING ORDINANCE, OAKLAND MUNICIPAL CODE CHAPTER 2.04, APPLICABLE TO PURCHASE AND TO DISPOSITION AND DISPOSAL OF SURPLUS PROPERTY

This ordinance will amend Oakland Municipal Code, Title II, Chapter 2.04, *Purchasing System*, to exempt the City's museum collections from the City's general requirements and procedures for the purchase, sale and disposal of supplies, goods, materials and other personal property set forth therein. This amendment will also include a reference to new Oakland Municipal Code, Chapter 2.05, which will govern the purchase, sale and disposal of the City's museum collections maintained by the Oakland Museum of California.