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CITY OF OAKLAND



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October 19, 2004

Honorable President Ignacio De La Fuente
And Members of the City Council
City Hall
Oakland, CA 94612

Re: **REPORT REGARDING AN ORDINANCE CONFIRMING
PROCEDURES FOR GRANTS FROM THE PAY-GO ACCOUNT
TO NONCITY ENTITIES**

Dear President de la Fuente and Members of the City Council:

SUMMARY

This proposed ordinance would clarify and formalize the process for the designation of grants by the Mayor and individual City Councilmembers from the City's Pay-go Account to noncity entities.

FISCAL IMPACT

Since this ordinance confirms and codifies past practice, there should be no fiscal impact.

BACKGROUND

It is the province of the full City Council to designate and authorize grants. The Mayor and City Councilmembers wish to clarify and confirm their individual authority to designate grants from the City's Pay-go Account, subject to (1) the

Item

23

City Council
October 19, 2004

City Administrator's (a) execution of any grant agreements and (b) determination that sufficient grant funds are available in the individual's Pay-go account; and (2) the City Attorney's (a) approval of grant agreements as to form and legality

KEY ISSUES AND IMPACTS

This ordinance would confirm that the Mayor and individual City Council members may designate grants from their respective balances in the Pay-go Account.

Section A of the ordinance specifies Councilmembers' and the Mayor's authority to designate grants to third parties. We have presented two options to the Council. Option 1 allows the City Administrator to execute and approve all grants without obtaining City Council authorization and approval of each grant. Option 2 limits the City Administrator's authority to execute and approve grants to a \$100,000; each grant in excess of \$100,000 must be authorized and approved by the City Council.

Section A memorializes that grants must comply with the terms, limitations and any other requirements of the funding source. For example, a funding source may require that the City execute a grant agreement or use the grant funds only for capital improvements. The trust agreement, which currently funds much of the Pay-Go Account, limits expenditures to property "*owned, leased, held or controlled by the City . . .*" Section 1 also confirms that the City Administrator will administer grants and execute grant agreements, and that *grants and grant agreements must be approved by the City Attorney as to form and legality.*

To assure that City maintains a separate record of grants, Section B requires that the City Manager maintain records of grants from the Pay-go Account and make an annual report to the City Council on the grants.

SUSTAINABLE OPPORTUNITIES

Since this ordinance confirms past practice, no new sustainable opportunities are implicated.

DISABILITY AND SENIOR CITIZEN ACCESS

Since this ordinance confirms past practice, no disabled or senior citizen access issues are implicated.

RECOMMENDATION

The City Attorney recommends that the City Council adopt the proposed ordinance and choose either Option 1 or 2 in Section A.

Respectfully submitted,



John Russo
City Attorney

Attorney Assigned:
Barbara J. Parker
Doryanna Moreno
Mark Morodomi

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APPROVED AS TO FORM AND LEGALITY
2004 OCT 17 PM 2:49
CITY ATTORNEY

INTRODUCED BY COUNCILMEMBER _____

ORDINANCE NO. _____ C.M.S.

ORDINANCE CONFIRMING PROCEDURES FOR GRANTS FROM THE PAY-GO ACCOUNT TO NONCITY ENTITIES

WHEREAS, the designation and authorization of grants is the province of the City Council; and

WHEREAS, the City Council wishes to clarify, confirm and codify the process for the awarding of these grants; and

WHEREAS, the City Council wishes to confirm the authority of the Mayor and individual City Councilmembers to designate grants from their respective balances in the City's Pay-go Account;

The Council of the City of Oakland does ordain as follows:

Section 1. Section 2.04.017 shall be added and shall include either Option 1 or Option 2 as determined by the City Council:

A.

[OPTION 1]

The Mayor and Individual Councilmembers may designate grants from their respective balances in the City's Pay-Go fund Account subject to the following requirements: (1) such grants may be made only for the purposes permitted by the funding source(s) of the Pay-Go Account; (2) such grants and grant agreements shall be authorized, administered, and executed by the City Administrator on behalf of the City of Oakland; (3) grant agreements must be approved as to form and legality by the City Attorney; and (4) grant agreements shall be required for all grants.

[OPTION 2]

1. Pay-Go Grants of \$100,000 or Less

23

The Mayor and Individual Councilmembers may designate grants up to and including \$100,000 from their respective balances in the City's Pay-Go Account subject to the following

ORACOUNCIL

OCT 19 2004

requirements: (1) such grants shall be made only for the purposes permitted by the funding source(s) of the Pay-Go Account;(2) such grants and any grant agreements shall be authorized, administered, and executed by the City Administrator on behalf of the City of Oakland; and (3) such grants and any grant agreements must be approved as to form and legality by the City Attorney.

2. Pay-Go Grants Exceeding \$100,000

Any grants from the Pay-Go Account that exceed \$100,000 must be submitted to the City Council for approval.

B.

The City Administrator shall maintain a separate record of Pay-Go grants, including the name of the person who designated the grant, the amount of the grant, the purpose of the grant, and the name, address and any other information sufficient to identify the grant recipient. No later than October of each year, the City Administrator shall provide an informational report to the City Council's Finance Committee and to the City Council regarding Pay-Go grants that were made during the prior fiscal year.

Section 2.

This ordinance shall be codified as Section 2.04.017 of the Oakland Municipal Code.

Section 3. Severability. If any article, section, subsection sentence, clause or phrase of this ordinance or exhibit hereto is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall become effective immediately on final adoption if it receives six (6) or more affirmative votes; otherwise it shall become effective upon the seventh (7th) day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, _____,2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN AND

PRESIDENT DE LA FUENTE

NOTES-
ABSENT-
ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

23

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OCT 19 2004