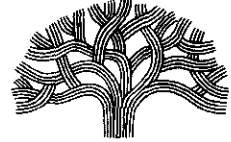


OFFICE OF THE CITY AUDITOR

CITY OF OAKLAND



2007 MAY 31 5:49
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May 31, 2007

HONORABLE CITY COUNCIL
CITY OF OAKLAND

**RE: PROPOSED ORDINANCE AMENDING OAKLAND MUNICIPAL CODE
TITLE 2.04 ("PURCHASING ORDINANCE") TO ADD SECTION 2.04 ____
AUTHORIZING THE CITY AUDITOR TO PURCHASE PROFESSIONAL
SERVICES NECESSARY TO CARRY OUT THE DUTIES OF THE OFFICE**

Dear President De La Fuente and Members of the Council:

SUMMARY

The Oakland City Charter Article IV, Section 403 empowers and requires the City Auditor to audit the books, accounts, money and securities of all departments and agencies of the City and such other matters as the Council may request. The full text of Section 403 is included in the attached proposed ordinance amendment. The change in the purchasing ordinance is being requested to ensure the independence of the City Auditor in executing her duties under the Charter.

The City Auditor must periodically enter into professional, technical or scientific service agreements to retain auditors, accountants and other qualified consultants to exercise the powers mandated by Oakland City Charter Article IV, Section 403. Currently the Purchasing Ordinance requires the Office of the City Administrator to approve the City Auditor's contracts, including those for audit services.

Generally Accepted Auditing Standards require that "in all matters relating to the audit work, the audit organization and the individual auditor, whether government or public, should be free both in fact and appearance from personal, external, and organizational impairments to independence" (Government Auditing Standards, Section 3.03).

To ensure the independence of the Office, the City Auditor needs contracting authority to purchase professional, technical, and scientific services to independently exercise the powers mandated by the Oakland City Charter Article IV, Section 403.

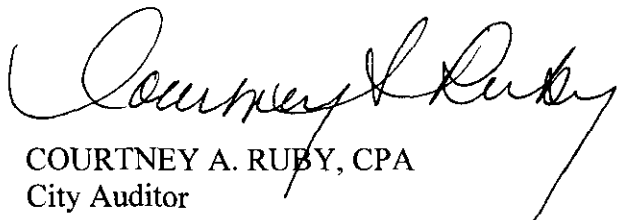
To maintain City Council oversight and ensure compliance with all City purchasing regulations, the proposed ordinance amendment includes several oversight provisions. The proposed ordinance limits the contracting authority of the City Auditor to the prior or concurrent appropriation and allocation of funds by the City Council in 1) the current two-year or mid-cycle adjusted budget for the City Auditor, including any budget adjustments allowed, or 2) an Appropriation Resolution as defined in section 2.04.010, or 3) a funding resolution specific to a particular contract(s).

Additionally, the proposed ordinance amendment requires the City Auditor to present to City Council, on an annual basis, a report listing all professional services contracts authorized by the City Auditor during the prior year. The ordinance also states that compliance with competitive process, personnel findings, purchasing programs and other purchasing requirements of the City must be adhered to when the City Auditor contracts for professional, technical, and scientific services.

ACTION REQUESTED BY THE CITY COUNCIL

The City Auditor requests that the City Council authorize the proposed ordinance amendment to Oakland Municipal Code Title 2.04 to add section 2.04___ authorizing the City Auditor to purchase professional services necessary to independently carry out the duties of the Office.

Respectfully submitted,



COURTNEY A. RUBY, CPA
City Auditor

INTRODUCED BY COUNCILMEMBER _____

DEFICTOR

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY

2007 MAY 31 PM 6:49

ORDINANCE NO. _____ C.M.S.

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 2.04
("PURCHASING ORDINANCE") TO ADD SECTION 2.04.
AUTHORIZING THE CITY AUDITOR TO PURCHASE PROFESSIONAL
SERVICES NECESSARY TO CARRY OUT THE DUTIES OF THE OFFICE**

Whereas, Oakland City Charter Article IV, Section 403 empowers and requires the City Auditor to "audit the books, accounts, money and securities of all departments and agencies of the City and such other matters as the Council may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City;" and

Whereas, Section 403 requires the City Auditor to "report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the City Administrator after reasonable time and opportunity;" and

Whereas, Section 403 requires the City Auditor to conduct surveys, reviews, and audits as the Auditor deems to be in the best public interest or as required by the Council or Mayor, and for those purposes "the public interest shall include, but not be limited to:

- (1) Reviewing and appraising the soundness, adequacy and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the organization.
- (2) Evaluating the city's internal controls to ensure that the City's assets and resources are reasonably safeguarded from fraud, waste, and mismanagement.
- (3) Ascertaining compliance with Council's resolutions and policies and the Mayor's Administrative Instructions and Directives, as well as applicable State and Federal laws and regulations.
- (4) Providing assistance to City Departments to enhance the effectiveness, efficiency and economy of their operations.
- (5) Preparing an impartial financial analysis of all ballot measures, pursuant to the provisions of the Municipal Code.
- (6) Preparing impartial financial analyses of proposed major expenditures prior to the approval of such expenditures. These analyses will be for informational purposes only and will include, but not be limited to, proposals, contracts, ventures, programs and construction projects. The proposed major expenditures selected for these financial analyses will be based on requests from Mayor/Council and/or deemed to be prudently advisable in the objective and professional judgment of the City Auditor.
- (7) Responding to requests for audit and reviews.
- (8) Submitting, at a public meeting of the full City Council, a quarterly report to the Council and

public on the extent of implementation of recommendations for corrective actions made in the City Auditor's report.

(9) The City Auditor shall conduct performance audits of each department as specified in the City budget.

The City Auditor shall be represented in all legal matters by the City Attorney except as provided otherwise in Section 401;" and

Whereas, the City Auditor must periodically enter into professional, technical or scientific service agreements to retain auditors, accountants and other qualified consultants to exercise the powers mandated by Oakland City Charter Article IV, Section 403; and

Whereas, the City Auditor should be empowered to perform independent audits, retain consultant services independent of City Administrator oversight and expedite consultant contracts needed to exercise the powers and meet the mandates of Oakland City Charter Article IV, Section 403;

Now, Therefore, The Council of the City of Oakland does ordain as follows:

Section 1. Section 2.04. _____, authorizing the City Auditor to purchase professional, technical and scientific services to exercise the powers mandated by Oakland City Charter Article IV, Section 403 is added to Title 2, Chapter 2.04. Purchasing System, as follows:

2.04. _____ City Auditor Authority.

A. City Auditor Purchase Authority. The City Auditor shall have the authority to bind the city by written contract in any amount without previous specific action of the Council or City Administrator to obtain professional, technical or scientific services needed to audit the books, accounts, money and securities of all departments and agencies of the City and such other matters as the Council may request; to report to the Council periodically the results of such audits and to advise and make recommendations to the City Administrator regarding accounting forms design, fiscal and statistical reports and the methods or procedures for maintaining the accounts and accounting system throughout all departments, offices and agencies of the City; to report to the Council instances of noncompliance with accepted accounting principles where recommendations for compliance have not been implemented by the City Administrator after reasonable time and opportunity; and to conduct surveys, reviews, and audits as the Auditor deems to be in the best public interest or as required by the Council or Mayor as specified in Oakland Charter Article IV, Section 403.

B. City Auditor Contracts Subject to Council Appropriation of Contract Funds. All contracts authorized by the City Auditor pursuant to this section shall be subject to the prior or concurrent appropriation and allocation of funds by the City Council in 1) the current two-year or mid-cycle adjusted budget for the City Auditor, including any budget adjustments allowed, or 2) an Appropriation Resolution as defined in section 2.04.010 above, or 3) a funding resolution specific to a particular contract(s).

C. Reports. The City Auditor shall present to the City Council, on an annual basis, a report listing all professional services contracts authorized by the City Auditor during the prior year.

D. Compliance With Competitive Process, Personnel Findings, Purchasing Programs and Other Purchasing Requirements. With the exception of the contract authority granted under this section 2.04. , all contracts entered into by the City Auditor pursuant to this section are subject to the competitive processes required under sections 2.04.050 and 2.04.051, below, and the personnel findings, purchasing programs and other purchasing requirements set forth or referenced in the remainder of this chapter.

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

SECTION 3. Severability. If any article, section, subsection sentence, clause or phrase of this ordinance or exhibit 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 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.

405728

IN COUNCIL, OAKLAND, CALIFORNIA, (DATE), 20(YEAR)

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