


Revised by Finance Committee on November 12, 2008

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

INTRODUCED BY COUNCILMEMBER

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APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE SECTIONS  
2.04.017, PAY-GO GRANTS-POLICY AND REQUIREMENTS, AND  
2.04.018, PAY-GO FUNDED PURCHASE OF SERVICES, GOODS AND  
MATERIALS-CONDITIONS FOR EXEMPTION FROM COUNCIL  
APPROVAL, TO CODIFY THE CITY COUNCIL PAY-GO POLICY**

**WHEREAS**, the City Council adopted Resolution No. 80777 C.M.S. on July 17, 2007, establishing the following policy for the expenditure of pay go funds ("Pay-go Policy"):

**Capital Improvements:**

- a) To pay or augment funding for a City of Oakland capital improvement project including planning and pre-construction services for projects such as, but not limited to, feasibility studies and design, landscaping, architectural and engineering services and all services and materials needed to construct a capital improvements such as, but not limited to, contractor services, lumber concrete, gravel, plants and other landscape materials, fountains, benches, banners, signs, affixed artwork and any other design and decorative elements of the project; and
- b) To provide a grant to a public school, including a school chartered by the State of California or Oakland Unified School District, or other public entity for use on a capital improvement project within the City of Oakland, including planning and pre-construction services for projects such as, but not limited to, feasibility studies and design, landscaping, architectural and engineering services and all services and materials needed to construct a capital improvements such as but not limited to, contractor services, lumber, concrete, gravel, plants and other landscape materials, fountains, benches, banners, signs, affixed artwork and any other design and decorative elements of the project; and

**Furniture, Equipment:**

- c) To pay for or augment funding for purchase of furniture and equipment, including computer equipment and software, to be used by participants in a program operated by the City of Oakland; and

- d) To provide a grant to a public school, including a school chartered by the State of California or Oakland Unified School District, or another public entity to be used for furniture and equipment, including computer equipment and software, to be used by participants in a program operated by the public school or public entity; and

**WHEREAS**, the City Council intended the Pay-go Policy to “operate as restrictions” on pay-go expenditures or grants and to apply to all pay-go expenditures and grants of the Mayor and City Council; and

**WHEREAS**, the City Council wishes to re-affirm, clarify and codify the Pay-go policy restrictions on the use of pay-go funds in the Oakland Municipal Code and will delete Pay-go Policy provisions in Resolution No. 80777 C.M.S.;

**NOW, THEREFORE**, the Council of the City of Oakland does ordain as follows:

**Section 1. Amend Oakland Municipal Code, Title 2.04, Purchasing System:**  
The City Council hereby amends Oakland Municipal Code Title 2.04, Sections 2.04.017 to add the City Council Pay go Policy, and renumbers Sections 2.04.017 and 2.04.018 as follows:

**2.04.017 Pay-go Expenditure Policy**<sup>1</sup>

**The pay-go purposes stated in this section shall operate as restrictions on pay-go expenditures or pay-go grants, regardless of the pay-go account funding source and shall apply to any and all pay-go expenditures or grants made by the Mayor and each City Councilmember. Pay-go funds may be used for capital improvements, furniture and equipment in accord with the following restrictions:**

**Capital Improvements:**

- a) **To pay or augment funding for a City of Oakland capital improvement project including planning and pre-construction services for projects such as, but not limited to, feasibility studies and design, landscaping, architectural and engineering services and all services and materials needed to construct a capital improvements such as, but not limited to, contractor services, lumber concrete, gravel, plants and other landscape materials, fountains, benches, banners, signs, affixed artwork and any other design and decorative elements of the project. “Capital improvements” as used in this section shall not include: 1) food, clothing or entertainment, 2) services, personnel or banners, except as authorized in this section, 3) operating expenses, or 4) any of the foregoing as payment for an in-kind exchange/purchase of capital improvements; and**

<sup>1</sup> The Pay-go Policy originally stated in Resolution No. 80777 C.M.S. is set forth in non-bold, underscored text. Clarifying amendments to the original policy are set forth in **bold, underscored** text. Current Pay-go provisions in the Oakland Municipal Code are set forth in unmodified text.

- b) To provide a grant to a public school, including a school chartered by the State of California or Oakland Unified School District, a parent group associated with such school, or other public entity for use on a capital improvement project within the City of Oakland, including planning and pre-construction services for projects such as, but not limited to, feasibility studies and design, landscaping, architectural and engineering services and all services and materials needed to construct a capital improvements such as but not limited to, contractor services, lumber, concrete, gravel, plants and other landscape materials, fountains, benches, banners, signs, affixed artwork and any other design and decorative elements of the project. "Capital Improvements" as used in this section shall not include: 1) food, clothing or entertainment, 2) services, personnel or banners, except as authorized in this section, 3) operating expenses, or 4) any of the foregoing as payment for an in-kind exchange/purchase of capital improvements. "Public school" and "public entity" shall only include government entities and shall not include private non-profits of any type.
- c) to provide a grant to a non-profit organization located in Oakland to pay for capital improvements on City-owned property for public purposes such as, but limited to, beautification, landscaping, safety and repair. Costs for design and other capital improvements related to project planning and design services, labor, equipment and materials, such as benches or other street furniture, tree wells, trees, plants or other landscaping, signs, banners or other markers, posts and equipment integral to the improvement, are pay-go eligible. Pay-go recipient non-profit organizations and their members must obtain all necessary construction, encroachment and other land use permits for the work and enter into appropriate agreements for the ongoing maintenance of the improvements. Grants made under this section are subject to the same "Capital Improvement" restrictions set forth in sections a and b above.

Furniture, Equipment:

- ed) To pay for or augment funding for purchase of furniture and equipment, including computer equipment and software, to be used by participants in a program operated by the City of Oakland, excluding the rental or lease of furniture or equipment for a party, festival, street fair, or other social gathering event. "Furniture" and "Equipment" as used in this section shall not include: 1) food, clothing or entertainment, 2) services, personnel or banners, except as authorized in this section, 3) operating expenses, or 4) any of the foregoing as payment for an in-kind exchange/purchase of furniture or equipment; and
- de) To provide a grant to a public school, including a school chartered by the State of California or Oakland Unified School District, or another public entity to be used for furniture and equipment, including computer equipment and software, to be used by participants in a program operated by the public school or public entity, excluding

the rental or lease of furniture or equipment for a party, festival, street fair, or other social gathering event. "Public school" and "public entity" shall only include government entities and shall not include private non-profits of any type. "Furniture" and "Equipment" as used in this section shall not include: 1) food, clothing or entertainment, 2) services, personnel or banners, except as authorized in this section, 3) operating expenses, or 4) any of the foregoing as payment for an in-kind exchange/purchase of furniture or equipment; and

ef) To pay for Cable, DSL or other telecommunications or internet services needed to facilitate the use of equipment purchased with pay go funds.

#### **2.04.0187 Pay-go grants—Policy and Requirements.**

~~A. Policy—Permissible Pay-Go Grants. The City will establish by resolution or ordinance the policy stating the purposes for which pay-go grants may be designated.~~

~~BA. Requirements Applicable to Pay-Go Grants to Non-City Entities. 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 and subject to the restrictions in Section 2.04.017 above; (2) such grants and grant agreements shall be authorized, administered and executed by the City Administrator on behalf of the city; and (3) grant agreements shall be required for all grants.~~

~~GB. City Administrator Must Maintain Separate Record of Pay-Go Grants and Make Annual Report to City Council Identifying Prior Fiscal Year's Grants. 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.~~

#### **2.04.0198 Pay-go funded purchase of services, goods and materials—Conditions for exemption from Council approval.**

A. The City Administrator is authorized to purchase services (professional or otherwise), goods, materials or equipment for capital improvement projects, in any amount, designated by the Mayor or individual Councilmembers from their respective balances in the city's pay-go fund account without review or action by the City Council subject to each of the following requirements:

1. Such purchases may be made only for the purposes permitted by the funding source(s) of the pay-go account, subject to the restrictions in Section 2.04.017 above; and

2. Such purchases shall be paid for only with pay-go funds or by a combination of

pay-go and private funds, such as funds raised by community groups or individuals for a park or other community project; and

3. Such purchases shall be subject to all city of Oakland contracting laws, programs and policies such as, but not limited to, living wage, prevailing wages, equal benefits, local and small local business enterprise and nondiscrimination or City Council waiver by resolution shall be obtained as necessary by each of these programs or policies.

B. City Administrator Must Maintain Separate Record of Pay-Go Purchases and Make Annual Report to City Council Identifying Prior Fiscal Year's Purchases. The City Administrator shall maintain a separate record of pay-go purchases including the name of the person who designated the purchase, the amount of the purchase, the purpose of the purchase, and the name, address and any other information sufficient to identify the consultant, contractor or vendor. 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 purchases that were made during the prior fiscal year.

**Section 2. Remaining Provisions Unchanged.** Except as amended herein, all provisions, articles, sections, subsections, sentences, clauses or phrases of Oakland Municipal Code Title 2, 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 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 on final adoption; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 20\_\_\_\_

**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

NOTICE AND DIGEST

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE SECTIONS 2.04.017, *PAY-GO GRANTS-POLICY AND REQUIREMENTS*, AND 2.04.018, *PAY-GO FUNDED PURCHASE OF SERVICES, GOODS AND MATERIALS-CONDITIONS FOR EXEMPTION FROM COUNCIL APPROVAL*, TO CODIFY THE CITY COUNCIL PAY-GO POLICY**

This ordinance will codify the City Council's Pay-go policy on the use of pay-go funds in the Oakland Municipal Code to authorize use of such funds for City of Oakland, public school and public entity capital improvements, furniture and equipment and private improvements in the public right-of-way, by amending Oakland Municipal Code, Title 2.04, *Purchasing System*, to add the Pay-go policy to Section 2.04.017 and renumber Sections 2.04.017 and 2.04.018.