  
City AttorneyFILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2014 MAY 29 AM 9:54

**OAKLAND CITY COUNCIL****RESOLUTION No. 85064 C.M.S.****RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO APPROPRIATE FEDERAL ASSET FORFEITURE FUND BALANCE (FUND NOS. 2117, 2910, AND 2912,) IN THE AMOUNT OF \$649,800, AS WELL AS STATE ASSET FORFEITURE FUND BALANCE (FUND NOS. 2914 AND 2916) IN THE AMOUNT OF \$248,100, IN ACCORDANCE WITH THE FEDERAL AND STATE ASSET FORFEITURE PROGRAM GUIDANCE**

**WHEREAS**, The Equitable Sharing Program (i.e., Asset Forfeiture Program) is a nationwide law enforcement initiative that removes the assets of criminals and criminal organizations in order to deprive wrongdoers of the proceeds of their crimes, recover property that may be used to compensate victims, deter crime, and foster cooperation among federal, state, and local law enforcement agencies; and

**WHEREAS**, federal law, the Controlled Substances Act, Section 881 (e) (3) of Title 21, United States Code, authorizes the Attorney General to share forfeited property with participating state and local law enforcement agencies, though it is not required. Separate forfeiture authorization is provided in federal law to the Department of Treasury under Title 31 United States Code 9703. At the State level, California Health and Safety Code Section 11489 allows for state or local government entities to seize property under California law; and

**WHEREAS**, an adoption of federal asset forfeiture occurs when a state or local law enforcement agency seizes property and requests one of the federal seizing agencies to adopt the seizure because the conduct that gave rise to the seizure was in violation of federal law. Similarly, state asset forfeiture occurs when a state or local government entity requests to seize property under California law when said property has been determined to be a vehicle for/or the result of criminal activity; and

**WHEREAS**, the City Council previously adopted Resolution No. 63299 C.M.S. in 1985, Resolution No. 65540 C.M.S. in 1988, and Resolution No. 73683 C.M.S. in 1997, which authorized the Oakland Police Department to apply for and accept federal and state seized property, making OPD an authorized participant in both Federal and State Asset Forfeiture Programs; and

**WHEREAS**, Department of Treasury Federal Asset Forfeiture Program participants share seized assets with OPD that are deposited into Fund 2117 and Department of Justice Federal Asset Forfeiture Program participants share seized assets with OPD that are deposited into Funds 2910 and 2912. California Asset Forfeiture Program participants share seized assets with OPD that are deposited into Funds 2914 and 2916; and

**WHEREAS**, the fund balance in Federal Asset Forfeiture Funds (2117, 2910, and 2912) is \$649,800 and State Asset Forfeiture Funds (2914 and 2916) is \$248,100; and

**WHEREAS**, Federal and State Asset Forfeiture Funds are to be used to supplement OPD's operating budget for the following permissible law enforcement activities, Buy/Bust Money (\$20,000), Communications Center Repairs (\$8,000), Rental Cars (\$127,450), Helicopter Maintenance and Fuel (\$397,000), Police Administration Building (PAB) 3<sup>rd</sup> Floor Repairs (\$65,750), PAB Door Security (\$25,000), and PAB Fire Alarm System (\$254,700); and

**WHEREAS**, Federal and State Asset Forfeiture Funds may not be used to supplant for salaries and benefits, or for non-law enforcement uses; now, therefore, be it


**RESOLVED:** That the City Council hereby authorizes the City Administrator, or designee, to appropriate and allocate current fund balance in funds 2117, 2910, 2912, 2914, and 2916 in the amount of \$897,900 to the Oakland Police Department's budget in accordance with federal and state asset forfeiture guidelines for permissible law enforcement uses; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to complete all requests and negotiations with Alameda County District Attorney's Office for use of OPD's 15% set aside of state asset forfeiture funds for drug and gang prevention and intervention programming.

**JUN 17 2014**

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

**PASSED BY THE FOLLOWING VOTE:**

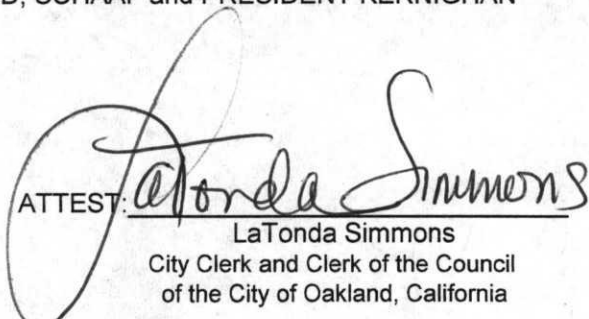
AYES - BROOKS, GALLO, KALB, KAPLAN, MCELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN 

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California