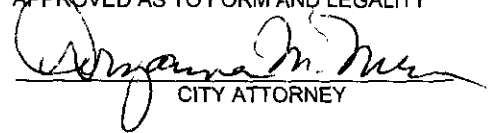


OFFICE OF THE CITY CLERK  
OAKLAND

2006 JAN 26 PM 5:19

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY

ORDINANCE NO. 12731 C.M.S.

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**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE TITLE 2, CHAPTER 2.04, ARTICLE 2.04.160, EXPENDITURES FROM RESTRICTED GIFT PROCEEDS, TO DELEGATE LIMITED AUTHORITY TO THE CITY ADMINISTRATOR TO, WITHOUT CITY COUNCIL ACTION, ACCEPT GIFTS AND DONATIONS AND TO APPROPRIATE AND EXPEND MONIES DERIVED FROM GIFTS AND DONATIONS, AND REPEALING OAKLAND MUNICIPAL ORDINANCE NO. 8144 C.M.S., ADOPTED JUNE 9, 1970, WHICH CONTAINS CONFLICTING AND OBSOLETE PROVISIONS**

**WHEREAS**, pursuant to Oakland Charter – Article XII, Section 1203, *Gifts and Trusts*, specifies the City Council is authorized to accept gifts and trust on behalf of the City and to control, manage, dispose of and otherwise administer the same in accordance with their terms; and

**WHEREAS**, Oakland Charter – Article VIII, Section 806, *Receipts and Expenditures*, specifies that:

All monies received by the City shall be deposited in the City Treasury, and no monies shall be disbursed from the treasury without the approval of the City Administrator or [his/her delegee]. No expenditure of City funds shall be made except for the purposes and in the manner specified by an appropriation of the Council . . .

**WHEREAS**, Council adopted Ordinance 8144 C.M.S., June 9, 1970, which authorized the City Manager and Directors of Museum, Parks and Recreation and Library to accept unrestricted gifts and donations for use by the respective department, but excluded authority to accept gifts and donations for construction of public improvements; and

**WHEREAS**, the City Council amended Section 2.04.160, *Expenditures from Restricted Gift Proceeds*, of the City's Purchasing Ordinance, Ordinance No. 7937 C.M.S., as amended, on October 4, 1973, authorizing the City Administrator to expend monies derived from gifts and donations to the City in accordance with any special conditions of the donor provided the City Council has accepted the gift/donation by resolution; and

**WHEREAS**, the City Council wishes to improve the City's efficiency in accepting, appropriating and utilizing gifts and donations in order to encourage the offering of such gifts and donations to the City and to facilitate their timely use by the City for the public's benefit; and

**WHEREAS**, to improve the City's efficiency in accepting, appropriating and utilizing gifts and donations, the City Council wishes to delegate authority to the City Administrator, within set dollar limits, to accept, appropriate and expend monies derived from restricted gifts and donations to the City of Oakland; and

**WHEREAS**, the City Administrator will comply with all Charter requirements for fiscal administration of such funds and otherwise apply proper and sufficient procedures and controls necessary to monitor and ensure fiscal and performance accountabilities;

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

**Section 1. Amendment to Title 2, Chapter 2.04, Section 2.04.160 of the Oakland Municipal Code.** Oakland Municipal Code Title 2, Chapter 2.04, Section 2.04.160 is amended to authorize the City Administrator to accept, appropriate and expend monies derived from restricted gifts and donations as follows:

**2.04.160 Acceptance, appropriation and expenditures from restricted gift proceeds.**

Notwithstanding any other provision of this article, the City Administrator is delegated limited authority to accept restricted gifts and donations to the city up to fifty thousand dollars, including money gifts, and to appropriate and expend monies derived from such gifts/donations, without City Council action, provided that: 1) the gift/donation does not create unbudgeted costs for the City, 2) the gift/donation is for a program or project that has been approved by the Council in the biennial or mid-cycle operating or Capital Improvement Program (CIP) budget, or by City Council legislation during the fiscal year, and 3) the gift/donations or proceeds therefrom are used in accord with restrictions and/or special conditions of the donor.

Notwithstanding the above, the City Administrator is authorized to expend monies derived from restricted gifts/donations that exceed fifty thousand dollars (\$50,000.00) without City Council action when the gift has been approved, accepted and appropriated by City Council resolution provided such expenditure is in accord with any restrictions or special conditions of donor.

All funds accepted hereunder shall be deposited into the City Treasury. The City Administrator will provide an annual report to Council on all gifts and donations accepted hereunder during the previous year.

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

**Section 3. Oakland Municipal Ordinance No. 8144 C.M.S. Repealed.** Oakland Municipal Ordinance No. 8144 C.M.S., adopted June 9, 1970, which authorized the City Manager,

Director of Museums, Director of Parks and Recreation, and Director of Library to accept certain unrestricted gifts and donations on behalf of the City of Oakland is hereby repealed.

**Section 4. 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 5. 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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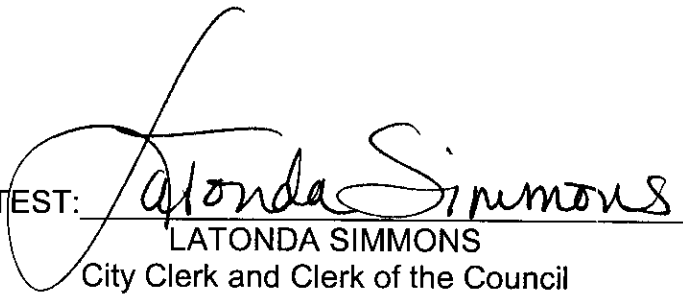
Introduction Date: **FEB 7 2006**

IN COUNCIL, OAKLAND, CALIFORNIA, **FEB 21 2006**, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND  
PRESIDENT DE LA FUENTE — 8

NOES-   
ABSENT-   
ABSTENTION- 

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