

CITY OF OAKLAND
COUNCIL AGENDA REPORT

OFFICE OF THE CITY CLERK
OAKLAND

OCT 28 PM 12:07

TO: Oakland City Council Colleagues
FROM: Council President De La Fuente and Councilmember Jean Quan
DATE: November 9, 2004 (Finance and Management Committee)
RE: **RESOLUTION DIRECTING THE OAKLAND CITY ATTORNEY TO PURSUE AMENDMENTS TO THE 1982 TRUST AGREEMENT WITH BANK OF AMERICA IN ORDER TO CLARIFY THAT THE MAYOR AND INDIVIDUAL CITY COUNCILMEMBERS HAVE THE OPTION OF PROVIDING THE FUNDS RELATED TO THAT AGREEMENT (COMMONLY REFERRED TO AS MUNICIPAL IMPROVEMENT FUND "PAY-GO FUNDS") TO PROJECTS AT PUBLIC SCHOOLS IN OAKLAND.**

SUMMARY OF RESOLUTION

The City Council approves the budget for the City of Oakland and, therefore, has the authority to designate funds as "Pay-Go" funds for the Mayor and individual City Councilmembers. Historically, the Mayor and Councilmembers have used the Pay-Go funds for capital improvements on City property.

Several Members of the City Council have concluded that projects benefiting Oakland's public schools also benefit the City and, therefore, should be explicitly eligible for the City's "Pay-Go" funding.

"Pay-Go" funds come from a variety of sources. Each source of the funds determines how the City can use the funds. One source of funds is the former sale and lease-back of the Oakland Museum and Henry J. Kaiser Convention Center. These particular "Pay-Go" funds reside in a "Municipal Improvement Capital Fund" and are governed by a 1982 Trust Agreement administered by Bank of America.

Section 3 of the First Amendment to this Trust Agreement states, "*Moneys shall be disbursed by the Trustee from the Capital Fund solely to finance the acquisition, construction, lease or substantial improvement of equipment, facilities or other property (real or personal) to be owned, leased, held or controlled by the City for any of its municipal purposes...*"

The attached Resolution would direct the City Attorney to pursue immediately any amendments to the Trust Agreement needed to clarify that those funds can be used for projects at Oakland public schools.

FISCAL IMPACTS

Passing this Resolution would not require a change to the City of Oakland's budget.

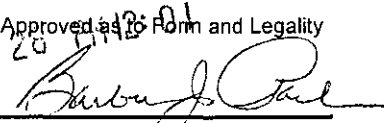
ACTION REQUESTED OF THE CITY COUNCIL

We are asking the City Council to consider this Resolution to direct the City Attorney to pursue immediately any amendments to the 1982 Trust Agreement necessary to clarify that the Mayor and City Council have the option to use these Pay-Go funds for capital improvement projects at any Oakland public school.

OFFICE OF THE CITY CLERK
OAKLAND

Approved by Form and Legality
OCT 20 11 18:01

OAKLAND CITY COUNCIL


City Attorney

RESOLUTION NO. _____ C. M. S.

INTRODUCED BY COUNCILMEMBER PRESIDENT IGNACIO DE LA FUENTE AND JEAN QUAN

RESOLUTION DIRECTING THE OAKLAND CITY ATTORNEY TO PURSUE AMENDMENTS TO THE 1982 TRUST AGREEMENT WITH BANK OF AMERICA IN ORDER TO CLARIFY THAT THE MAYOR AND INDIVIDUAL CITY COUNCILMEMBERS HAVE THE OPTION OF PROVIDING THE FUNDS RELATED TO THAT AGREEMENT (COMMONLY REFERRED TO AS MUNICIPAL IMPROVEMENT FUND "PAY-GO FUNDS") TO PROJECTS AT PUBLIC SCHOOLS IN OAKLAND.

WHEREAS, the City Council approves the budget for the City of Oakland and, therefore, has the authority to designate funds as "Pay-Go" funds for the Mayor and individual City Councilmembers; and

WHEREAS, the City Council has appropriated Pay-Go funds for the Mayor and City Councilmembers; and

WHEREAS, historically, the Pay-Go funds have been designated for capital improvements on City property; and

WHEREAS, the City Council has concluded that capital improvement projects benefiting Oakland's public schools also benefit the City and, therefore, should be explicitly eligible for the City's Pay-Go funding; and

WHEREAS, one source of Pay-Go funds has been governed by the 1982 Trust Agreement with Bank of America as the Trustee for deposit into a Municipal Improvement Capital Fund of proceeds from the sale and lease-back of the Oakland Museum and the Henry J. Kaiser Convention Center ("The 1982 Trust Agreement"); and

WHEREAS, the City Council wishes to clarify that the Mayor and individual City Councilmembers have the authority to use the Pay-Go funds governed by the 1982 Trust Agreement to benefit Oakland public schools; now, therefore, be it

RESOLVED that the City Council of Oakland directs the Oakland City Attorney to pursue immediately amendments to the 1982 Trust Agreement with Bank of America in order to clarify that the Mayor and individual Councilmembers have the option of providing the funds related to that Agreement (commonly referred to as Municipal Improvement Fund "Pay-Go" Funds) to capital improvement projects at any public school in Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____,

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN AND PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

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