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CITY HALL • ONE CITY HALL PLAZA • OAKLAND, CALIFORNIA 94612

City Council

(510) 238-3266
TDD 839-6451
PAX 238-6129

To: Office of the City Clerk

From: Vice Mayor Larry Reid, Council Member Noel Gailo, Council Member Dan Kalb Council
Member Lynette Gibson McElhaney, Council Member Desley Brooks

Date June 10, 2013

Re: ORDINANCE AMENDING ORDINANCE NO. 13134 C.M.S., WHICH SETS FORTH
THE COUNCIL'S GENERAL PURPOSE FUND (GPF) FINANCIAL POLICIES, TO
PERMIT THE USE OF EXCESS REAL ESTATE TRANSFER TAX REVENUES TO
PAY FOR ONE TIME EXPENSES

Special Memorandum

Office of the City Clerk,

Pursuant to Section 208 of the Oakland City Charter,

"Section 208.:

Meetings of the Council.

At 11:00 a.m. on the first Monday following January 1 following each General Municipal Election, the Council shall meet at the established Council meeting place, at which time and place the newly elected members of the Council shall assume the duties of their office; and at such meeting, and at its first meeting in January of each year, the Council shall elect a Vice-Mayor from among its members to serve for a one-year term. Thereafter, the Council shall meet regularly at the time and place fixed by resolution.

Special meetings may be held at the regular place of meeting and shall be called, and notice thereof given, by the City Clerk upon the written request of the Mayor, the City Administrator "*or three members of the Council*" and such notice shall state the special subject to be considered at the special meeting; and no other subject shall be there considered.....





CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

City Council

(510) 238-3266
TDD: (510) 238-7413
FAX (510) 238-6129

Please accept this Memorandum as a Notice of a Special Council Meeting to discuss the following item:

ORDINANCE AMENDING ORDINANCE NO. 13134 C.M.S., WHICH AMENDED COUNCIL'S GENERAL PURPOSE FUND (GPF) FINANCIAL POLICIES TO REVISE CURRENT COUNCIL FISCAL POLICY SET FORTH IN ORDINANCE NO. 13134 C.M.S. FOR USE OF ONE TIME REVENUES FROM REAL ESTATE TRANSFER TAX

This Meeting is being requested for:

Thursday, June 13th, 2013

Start Time: 4:30 pm-6:30 pm.

Place: Council Chambers, 3rd Floor

A full Report and Ordinance is attached to this Memorandum for distribution. This Call for a Special Meeting is in accordance and is in compliance with the Sunshine Act and Noticing for Special Meetings.

Respectfully Submitted:

Larry E. Reid
Vice Mayor

Noel Gallo
Council Member

Dan Kalb
Council Member

Desley Brooks

Lynette Gibson-McElhane



AGENDA REPORT

**TO: DEANNA J. SANTANA
CITY ADMINISTRATOR**

FROM: Vice Mayor Reid

SUBJECT: ORDINANCE AMENDING ORDINANCE NO. 13134 C.M.S., WHICH SETS FORTH THE COUNCIL'S GENERAL PURPOSE FUND (GPF) FINANCIAL POLICIES, TO PERMIT THE USE OF EXCESS REAL ESTATE TRANSFER TAX REVENUES TO PAY FOR ONE TIME EXPENSES

DATE: June 10, 2013

COUNCIL DISTRICT: CITY WIDE

RECOMMENDATION :

Approve and Accept an Ordinance Amending Ordinance 13134 C.M.S., Which Amended Council's General Purpose Fund (GPF) Financial Policies To Revise Current Council Fiscal Policy Set Forth In Ordinance No. 13134 C.M.S. For Use Of One Time Revenues From Real Estate Transfer Tax

REASON FOR URGENCY :

Adopting and Accepting an Amendment to Ordinance 13134 C.M.S., Which Amended Council's General Purpose Fund (GPF) Financial Policies To Revise Current Council Fiscal Policy Set Forth In Ordinance No. 13134 C.M.S. For Use Of One Time Revenues From Real Estate Transfer Tax, would allow additional flexibility in FY 2013-2015 Budget Discussions for a Balanced Budget Approach. If accepted, and the required 2 readings are necessary, this Amendment could be adopted concurrently with the adoption of the FY 2013-2015 Budget.

REASON FOR SUPPLEMENTAL OR REPLACEMENT

In June 2009, the City Council adopted Ordinance 12946, which amended the City's financial policies to provide policies on the use of one-time revenues. As adopted, this amendment not only restricted one-time revenues to be used for one-time expenditures, it provided a very restrictive formula that required that specific percentages be allocated to increasing the reserve, paying down negative balances, or funding capital improvements.

Item: _____
City Council (or Committee)
Meeting Date

In October 2012, the City Council amended the Ordinance to provide greater flexibility to the City Council in directing one-time revenues to one-time expenditures, and removed the specific formula. Passage of this amendment was necessary to allow the City Council to use one-time revenues in the FY 2012-13 budget. While this amendment applied to most one-time revenues, it did not amend the provisions pertaining to Real Estate Transfer Tax. As a result, while the City now anticipates receiving "excess" RETT in FY 2013-15 and in the coming years, it is still restricted by the Ordinance to use those funds first to increase the GPF reserve to 10%, and then only to certain specified uses in designated percentages, with no flexibility for the City Council to use such funds for what it determines to be high priority one-time expenditures.

This draft Amendment to the Ordinance does the same thing that the October 2012 action did - it provides greater flexibility to the City Council in the use of excess RETT, while still ensuring that such funds are only used for one-time expenditures and not to fund ongoing operations.

OUTCOME :

Adopting the amended ordinance will create greater flexibility for the City Council regarding the FY 2013-2015 budget by expanding allowable uses for one time revenues, while maintaining compliance with public finance best practices

COST SUMMARY/IMPLICATIONS

Adopting the amended ordinance will not increase City costs as it will not create any new City functions or services. In the absence of the proposed amendment, the City would not be flexible to use one time revenue funds, in excess of the anticipated Real Estate Transfer Funds collected, applicable to the FY 2013-2015 adopted budget.

FISCAL/POLICY ALIGNMENT

The proposed amendment is consistent with the adopted Mayor-Council Priorities related to Government Solvency and Transparency, as it responsibly expands the allowable uses of one time revenues consistent with public finances best practices.

Respectfully submitted,

Vice Mayor Larry E. Reid

Item: _____
City Council (or Committee)
Meeting Date

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER _____

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE AMENDING ORDINANCE NO. 13134 C.M.S., WHICH SETS FORTH THE COUNCIL'S GENERAL PURPOSE FUND (GPF) FINANCIAL POLICIES, TO PERMIT THE USE OF EXCESS REAL ESTATE TRANSFER TAX REVENUES TO PAY FOR ONE TIME EXPENSES

WHEREAS, Ordinance No. 13134 C.M.S., passed October 2, 2012, restricts the use of excess Real Estate Transfer Tax revenues first to increase General Purpose Fund (GPF) reserves from seven and one-half percent (7.5%) to ten percent (10%) of budgeted General Purpose Fund appropriations, and then in specified percentages to reduce negative fund balances, reduce liabilities for the Police and Fire Retirement System (PFRS), pre-fund Other Post-Employment Benefits (OPEB), and replenish the Capital Improvements Reserve Fund; and

WHEREAS, the City Council wishes to use excess Real Estate Transfer Tax funds for one time purposes in the Fiscal Year 2013-2015 budget and provide the City Council with greater flexibility in allocating such funds to one time expenditures; and

WHEREAS, it is necessary to amend Ordinance No. 13134 C.M.S. to use excess real estate transfer tax revenues for the aforementioned purposes;

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

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

Section 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in bold type, additions are indicated by underscoring and deletions are indicated by ~~strike-through~~ type; portions of Ordinance No. 13134 C.M.S. not cited or not shown in underscoring or strike through are not changed).

Section 3. Ordinance No. 13134 C.M.S. is hereby amended in its entirety as follows as follows:

A. General Purpose Fund Reserve Policy

1. Council hereby declares that it shall be the policy of the City of Oakland to provided in each fiscal year a reserve of undesignated, uncommitted fund balance equal to seven and one-half (7.5%) of the General Purpose Fund (Fund 1010) appropriations for such fiscal year (the "General Purpose Fund Reserve Policy").
2. Each year, upon completion of the City's financial audited statements, the City Administrator shall report the status of the General Purpose Funds Reserve to the City Council and on the adequacy of the of the 7.5% reserve level. If in any fiscal year the General Purpose Fund Reserve Policy is not met, the City Administrator shall present to Council a strategy to meet the General Purpose Funds Reserve Policy. Each year, the City Administrator shall determine whether the 7.5% reserve level requires adjustment and recommend any changes to the City Council.
3. The amounts identified as the General Purpose Funds Reserve may be appropriated by Council only to fund unusual, unanticipated and seemingly insurmountable events of hardship of the City, and only upon declaration of fiscal emergency. For the purposes of this Ordinance, "fiscal emergency" may be declared (1) by the Mayor and approved by the majority of the City Council, or (2) by a majority vote of the City Council.

B. Capital Improvements Reserve Fund

1. There is hereby established a fund in the Treasury of the City of Oakland to be known as the "Capital Improvements Reserve Fund."
2. On an annual basis, an amount equal to \$6,000,000 shall be held in the Capital Improvements Reserve Fund. Revenue received from one time activities, including the sale of Real Property, shall be deposited into the Capital Improvements Reserve Fund, unless otherwise provided in Sections D and E of this ordinance or otherwise directed by a majority vote of the City Council. Interest earnings on monies on deposit in the Capital Improvements Reserve Fund shall accrue to said fund and be maintained therein.
3. Monies on deposit in the Capital Improvements Reserve Fund may be appropriated by Council to funds unexpected emergency or major capital maintenance or repair costs to City-owned facilities and to fund capital improvement projects through the Five-Year Capital Improvement Program.
4. Each year, upon completion of the City's financial audited statements, the City Administrator shall report the status of the Capital Improvements Reserve Fund. If in any fiscal year the Capital Improvements Reserve Fund

threshold of \$6,000,000 is not met, the City Administrator shall present to Council a strategy to meet said threshold.

C. Prior to appropriating monies from the reserves established by this Ordinance, the Budget Office shall prepare an analysis of the proposed expenditure and the City Administrator shall present such analysis to the City Council. Upon review and approval of the proposed expenditure by the City Council, and appropriate fiscal emergency declaration necessary for the use of GPF reserve, the City Administrator will have the authority to allocate from the reserves. For the purposes of this Ordinance, "fiscal emergency" may be declared (1) by the Mayor and approved by the majority of the City Council, or (2) by a majority vote of the City Council.

D. Use of Excess Real Estate Transfer Tax (RETT) Revenues to Pay for One Time Expenses, Build up the Reserve, Pay Back Negative Internal Service Fund Balances, Establish Set-Asides for Other Post-Employment Benefits (OPEB) and Police and Fire Retirement System (PFRS) Liabilities, and Fund Capital Improvements Projects.

To ensure adequate levels of the General Purpose Fund reserves and to provide necessary funding for municipal capital improvement projects and one time expenses, the City shall require that excess Real Estate Transfer Tax revenues be defined and used as follows:

- 1) The excess Real Estate Transfer Tax (RETT) revenue is hereby defined as any annual amount collected in excess of the "normal baseline" collection threshold of \$40 million.
- 2) The excess Real Estate Transfer Tax collections, as described in this section, shall be used in the following manner:
 - a—to pay for one time expenses; to Replenish General Purpose Funds (GPF) reserves until such reserves reach to 10 percent of current year budgeted GPF appropriations; ;
 - b—~~After such reserves have been replenished, the order of use of the remaining excess collection is as follows: 50 percent to repay negative internal services funds balances; 30 percent set aside for to fund the~~ Police and Fire Retirement System (PFRS) liability until this obligation is met; 10 percent to to establish and fund a trust for Other Post-Employment Retirement Benefits (OPEB); and 10 percent to replenish the Capital Improvements Reserve Funds until it reaches \$10,000,000.
- 3) Use of the "excess" RETT revenue for purposes other than those established

above ~~my~~may only be allowed upon declaration of a fiscal emergency. For the purposes of this Ordinance, "emergency" may be declared (1) by the Mayor and approved by the majority of the City Council, or (2) by a majority vote of the City Council.

E. Use of One Time Revenues To Repay Negative Fund Balances in Internal Service and Other Funds; and Provide Criteria for Project Carryforwards and Encumbrances in the GPF.

- 1) From time to time, the City may receive "one time revenues", defined as financial proceeds that will not likely occur on an ongoing basis, such as sales of property or proceeds from the refinancing of debt, but not including additional Real Estate Transfer Tax revenues discussed in Section "D" above.
- 2) Fiscal prudence and conservancy requires that one time revenues not be used for recurring expenses, that outstanding negative balances in various City funds be paid off, and that municipal capital projects addressing health and safety issues be adequately funded. Therefore, upon receipt of one time revenues, such revenues shall be used in the following manner, unless legally restricted to other purposes: to pay for one time expenses, to payoff negative fund balances in the Internal Service Fund, to payoff negatives in all other funds, or shall remain as fund balance in the appropriate fund.
- 3) Use of the "one time revenues" for purposes other than those established above may only be allowed upon declaration of a fiscal emergency. For the purposes of this Ordinance, "emergency" may be declared (1) by the Mayor and approved by the majority of the City Council or (2) by a majority vote of the City Council.

F. Criteria for Project Carryforwards and Encumbrances in the General Purpose Fund.

Previously approved but unspent project appropriations ("carryforwards"), as well as funding reserved to pay for purchases or contracts that are entered into in the current year but are not paid for until the following year ("encumbrances"), draw down funding from reserves. Fiscal prudence requires that such drawdowns be limited in the General Purpose Fund (GPF). Therefore:

- 1) Funding for non-operating projects and purchases shall be restricted within the General Purpose Fund; capital purchases and projects in particular shall not be funded from the General Purpose Fund.
- 2) In cases when non-capital, operating projects and purchases must be funded

in the General Purpose Fund, these shall be included in an annual budget and supported with new annual revenues.

- 3) Carryover of unspent project carryforwards and encumbrances in the GPF from one year into the next, with no new funding, will be allowed only on an exception basis.
- 4) In the beginning of each fiscal year, before project carryforwards and encumbrances are carried over from the prior year, and no later than August 1:
 - The Budget Director shall liquidate all unspent project carryforwards and encumbrances in the GPF and advise affected City departments of said action.
 - The Budget Director shall provide a report of all unspent project carryforwards and encumbrances to the City Council for review and direction.
- 5) Departments may request to retain some or all of the liquidated GPF carryforwards and encumbrances only if and when such balances are deemed essential to the delivery of city projects, programs and services, and only if the liquidation of such balances would be in violation of legislative or legal requirements, could lead to health or safety issues, and/or would greatly impact essential City projects, programs and services.
- 6) A request to retain some or all of the liquidated GPF carryforwards or encumbrances must be submitted in writing to the Budget Director within five (5) working days of receiving an advisory from the Budget Office about said liquidations, and must detail specific reasons necessitating such a request, including but not limited to those stated in item (3) above.
- 7) The Budget Director, upon review of a department's request, shall recommend an action to the City Administrator within five (5) working days of receiving the department's request.
- 8) The City Administrator, in consultation with the Budget Director, shall make a final determination of any and all requests for exceptions by departments, by August 20, and all requesting departments should be so notified by August 30.

Section 4. This ordinance shall be effective immediately if passed by the affirmative vote of at six (6) or more City Council members; if this ordinance is passed by the affirmative vote of five (5) City Council members, it will be effective seven (7) days after final passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

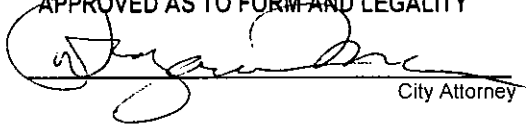
ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____

FILED
OFFICE OF THE CITY CLERK
OAKLAND
INTRODUCED BY COUNCILMEMBER _____
2013 JUN 10 PM 4:08

APPROVED AS TO FORM AND LEGALITY

City Attorney

OAKLAND CITY COUNCIL
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KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

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

DATE OF ATTESTATION: _____