

Presentation on to City Council, June 25, 2013  
On Behalf of Disaster and Fire Safety Commission  
Neil M. Goldstein

OFFICE OF THE CITY CLERK  
CITY OF BERKELEY

The Commission's action, recommending referring the procedures for the FRALS reimbursement funds to the City Auditor, was taken because the basis of those procedures was not clear to us. However, our concern was not the quality of the reports we got. Rather, we wanted to understand why the City Staff appeared to treat the FRALS reimbursement funds as not part of the Measure GG budget and therefore not available for purposes approved by the City Council.

Since that action was passed, we have gotten a lot of new information. Based on that information, a referral to the City Auditor may not be the best response. However, I believe I can restate the Commission's concerns in a way that will help promote a resolution.

One critical piece of information is the statement in the City Manager Report, and I quote, "The Fund ["Account 457"] can only be used for FRALS related costs." The rationale is entirely based on accounting principles, and again I quote: "Financial accounting procedures and best practices do not combine tax revenue accounts with non-tax revenue accounts." This policy was adopted by the Council in November, 2011, at the recommendation of City Staff. However, it may not have been understood at the time that the effect of relying on accounting principles to restrict the use of Account 457 funds would be to interfere significantly with the best use of Measure GG Funds. There is currently a large reserve in Account 457, which is unavailable but does not need to be, while FRALS expenses are still being charged to the general Measure GG account, Account 456. Matt Mitchell, the Chairman of the Commission's Measure GG Subcommittee has a more detailed presentation on the financial aspects of the current Account 457 procedures.

Based on the new information, I propose the following questions concerning current Account 457 procedures:

1. Is there any legal barrier to transferring funds received from Alameda County from Account 457 into Account 456? Those funds are intended to reimburse expenditures originally spent from Account 456, so that approach would merely be making Account 456 whole, and would greatly improve the availability of funds for disaster preparedness projects approved by the Council.
2. If there is a legal barrier to such a transfer, is there any legal barrier to the Council's revoking its own action, restricting the use of Funds received into Account 457 to FRALS expenses? This may require the Staff to adopt a creative accounting approach, such as having a new account to merge funds received from the two different sources, or creating a virtual account for that purpose, so there would be a unitary Measure GG budget. These approaches may not conform to some accounting ideal, but they serve the higher purpose of allowing the best use of funds for the purposes for which the residents of Berkeley allowed themselves to be taxed.

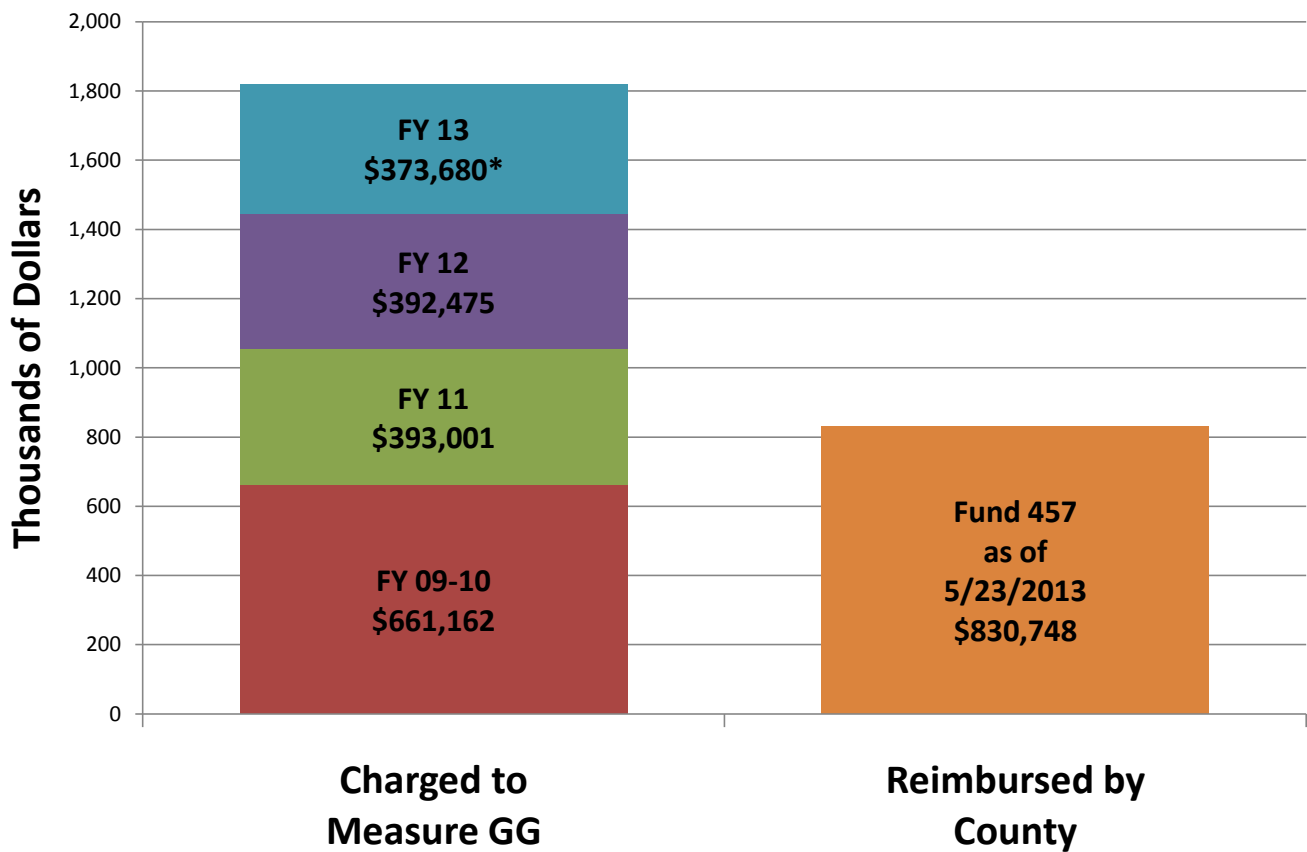
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Under the circumstances, I believe that it would satisfy the intent of the Commission's action if the Council would refer these questions to City Attorney. Based on the City Attorney's response, the Council would then be able to give informed instructions to the City Manager to revise the procedures for handling of the FRALS reimbursement funds.

There is one other limitation affecting the use of Account 457, which is the Council's action making those funds subject to "meet and confer" with BFFA Local 1227. Presuming that the use of Account 457 is limited either to FRALS expenses, as the City Manager recommends, or general Measure GG purposes, as the Commission proposes, those funds would be of limited or no benefit to the Union. If the Council believes that it cannot, or should not, revoke that action unilaterally, I believe that the Union might consider waiving the right to meet and confer with respect this one account, provided they get proper assurances that doing so would be treated as a waiver of any right to confer on any other aspect of the FRALS program, Measure GG, or their overall negotiations. However, even if that limitation is not resolved until a new labor agreement is reached with Local 1227, it should represent only a short term barrier to resolving the problems that the Commission is trying to bring to the Council's attention, provided that the other concerns are addressed.

Thank you for your consideration.

## FRALS Expenditures and Reimbursements



\*Projected

# MEASURE GG RESERVES

