To: Honorable Mayor and Members of the City Council

From: Board of Library Trustees

Submitted by: Donna Corbeil, Director of Library Services, Acting as Secretary, Board of Library Trustees

Subject: Delegate to the Board of Library Trustees Acceptance Authority for All Gifts to the Library and to Require Annual Reporting to Council on Gifts Received in Excess of $1,000 Aggregate Value

RECOMMENDATION
Adopt a Resolution:
1. Delegating to the Board of Library Trustees authority to accept any gifts of funds, goods, or services made to the Library up to $200,000 that do not include unduly restrictive conditions on their use; and
2. Delegating to the Board of Library Trustees authority to accept all gifts from the Library Foundation constituting payments toward the Foundation’s branch library capital campaign pledge, and
3. Mandating annual reporting from the Board of Library Trustees of gifts in excess of $1,000 in aggregate in an informational report to be presented before the Council on a regular Meeting agenda.

FISCAL IMPACT OF RECOMMENDATION
None.

CURRENT SITUATION AND ITS EFFECTS
The Board of Library Trustees has in the past managed the acceptance and appropriation of all gifts, including substantial gifts, donations, and monetary awards designated for use by the Library. These practices are part of the regular budget management process, including quarterly budget reports, the annual budget appropriation, and are consistent with the Library’s gift policy and the directives that the Board of Library Trustees approves the disposition of Library funds.

3.04.070 Library fund--Created--Disposition.
There is created a fund to be known as the "library fund," which shall be kept separate and apart from other funds. All money or revenue collected or received for library purposes, whether by taxation, gift, devise, bequest or otherwise, shall be paid into the City treasury and deposited in said fund, and is to be used and applied only for the
purpose herein authorized; provided, however, if the payment into the City treasury of any money or property derived by donation or bequest be inconsistent with the terms of such donation or bequest, the Board of Trustees shall provide for the safety and preservation of the same and the application thereof to the use of such library in accordance with the terms and conditions of such donation or bequest. (Ord. 2278-NS § 5, 1939)

3.04.090 Powers and duties.
The Board of Library Trustees, by a majority vote of all its members, as herein provided, to be recorded in the minutes with the ayes and noes at length whenever there is a division, shall have power:
A. To make and enforce all rules, regulations and bylaws necessary for the administration, government and protection of such library, and all property belonging thereto or that may be loaned, devised, bequeathed or donated to the same;

Earlier this year, the City Council adopted the Open Government Ordinance. The Open Government Ordinance includes a section regarding City Council approval of all gifts of $1000 or more. Section 2.06.150 of the Ordinance states:

Any gift of funds, goods, or services worth more than $1000 in aggregate, which may be accepted or collected by the City or any of its functionaries or Legislative Bodies, for the purpose of carrying out or assisting any City function, shall be disclosed and approved on the Agenda of a regular Meeting of the City Council. (Ord. 7166-NS § 1 (part), 2011)

The Library currently manages gifts per the Board approved Gift Policy (BOLT Resolution AR10.11) which requires reporting to the Board on all new gifts – monetary and non-monetary gifts, inclusive of those with restrictions – prior to acceptance and acknowledgment. Gift fund balances, appropriation, and the acceptance of new gifts are included in quarterly fiscal reporting and as a component of the library budget development process. They are also reflected in Board reports and agendas which are posted and available to the public both online and in paper at the Library and at regular monthly Board meetings.

Based on Section 2.06.150, it was determined that the past gift acceptance practice needed to be re-examined; and if any variation to the Open Government Ordinance was deemed warranted in regards to the Library, such proposed revision should be presented to the City Council.

At the July 13, 2011 regular meeting of the Board, by Resolution 11-051 the Board voted to Request City Council Delegate to the Board of Library Trustees the Authority to Accept any Gifts of Funds, Goods or Services Made to the Library. Vote: Ayes: Trustees Burton, Franklin, Holcomb, Moore and Novosel. Noes: None. Absent: None. Abstentions: None.

BACKGROUND
The Berkeley Public Library regularly receives gifts of monetary donations and materials. The two most frequent donors are the Friends of the Berkeley Public Library
and the Berkeley Public Library Foundation. In addition, donations from individuals are received for specific programs and general library use, including most notably the individual branches and the Literacy program. The receipt and allocation of funds from individuals, these two library support organizations and others are brought before the Board of Library Trustees for consideration of acceptance and are included as part of the budget process.

At the December 9, 2009 regular meeting, the Board of Library Trustees adopted Resolution No. 09-120 in support of the Foundation’s Branch Library Capital Campaign to raise funds for furnishings, fixtures, equipment, and materials related to implementation of the Branch Library Improvement Program and approved a donor recognition plan.

At the April 14, 2010 BOLT meeting, Resolution No. 10-028 was approved, accepting the Berkeley Public Library Foundation Board of Directors’ resolution to undertake a major multi-year capital campaign for the Measure FF bond program in the amount of $3.5 million to fund the furniture, fixtures, equipment, and other expenses associated with the Branch Library Improvement Program.

RATIONALE FOR RECOMMENDATION
By delegating the responsibility of acceptance and appropriation of Library gift funds to the Board of Library Trustees, the Library will be better able to honor the intent and wishes of the grantor/donor and fulfill identified community needs in a timely manner. The Council’s delegation of authority to the Board of Library Trustees will ensure that public noticing of gifts occurs on a regular basis and annual reporting will ensure that the Council remains well-informed regarding gifts to the Library.

ALTERNATIVE ACTIONS CONSIDERED
No other alternative actions were considered.

CONTACT PERSON
Donna Corbeil, Director, Library services, 981-6195

Attachment:
1. Resolution
RESOLUTION NO. ##,### N.S.

DELEGATE TO THE BOARD OF LIBRARY TRUSTEES AUTHORITY TO ACCEPT ALL GIFTS TO THE LIBRARY AND TO REQUIRE ANNUAL REPORTING TO COUNCIL ON GIFTS RECEIVED IN EXCESS OF $1,000 AGGREGATE VALUE

WHEREAS, the Berkeley Public Library regularly receives gifts from two support organizations, the Berkeley Public Library Foundation and the Friends of the Berkeley Public Library, as well as many individuals and groups; and

WHEREAS, the Board of Library Trustees oversees the disposition of gift funds as part of their management of their authority regarding Library operations to ensure that gift funds are expended “in accordance with the terms and conditions of such donation or bequest”; and

WHEREAS, the Open Government Ordinance, pursuant to section 2.06.150, stipulates that, “Contributions to the City or any of its functionaries or Legislative Bodies, for the purpose of carrying out or assisting any City function, shall be disclosed and approved on the Agenda of a regular Meeting of the City Council”; and

WHEREAS, the Library has had a Gift Policy in place since 2008 that will be revised to reflect a requirement for annual reporting to the City Council and enhanced Board oversight of the acceptance of gifts; and

WHEREAS, on April 14, 2010, the Board of Library Trustees adopted a resolution (Resolution No. 10-028) accepting the Berkeley Public Library Foundation Board of Directors’ resolution to undertake a major multi-year capital campaign for the Measure FF bond program in the amount of $3.5 million to fund the furniture, fixtures, equipment, and other expenses associated with the Branch Library Improvement Program (“Branch Library Capital Campaign”); and

WHEREAS, on July 13, 2011 the Board of Library Trustees adopted a resolution (11-051) requesting the Council of the City of Berkeley delegate to the Library Board of Trustees the authority to accept all gifts made to the Library below $200,000 as well as all gifts from the Berkeley Library Foundation of any amount constituting payments toward the Branch Library Capital Campaign.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby delegates to the Board of Library Trustees the authority to accept: (1) any gifts of funds, goods, or services made to the Library up to $200,000 that do not include unduly restrictive conditions on their use and (2) all gifts from the Library Foundation constituting payments toward the Foundation’s Branch Library Capital Campaign pledge; and mandates annual reporting to the Council of gifts in excess of $1,000 in aggregate in an informational report to be presented before the Council on a regular meeting agenda.