CITY OF OAKLAND

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Public Ethics Commission

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January 14, 2010

Hon. John Russo
Oakland City Attorney
One Frank Ogawa Plaza
Oakland, CA 94612
ATTN: Mark Morodomi

Hon. Courtney Ruby
Oakland City Auditor
One Frank Ogawa Plaza
Oakland, CA 94612

RE: Referral Of Oakland Public Ethics Complaint Nos. 09-08, 09-09, 09-10 and 09-11 **(CONSOLIDATED)**

Dear Gentlepersons:

On January 4, 2010, the Oakland Public Ethics Commission ("Commission") considered a preliminary staff report and voted to refer the above Commission complaints to your respective offices for further review and consideration.

The specific issue arising from the complaints is whether the Oakland Museum Foundation and the East Bay Zoological Society breached a material term in their respective operating agreements with the City that prohibit the use of contracted funds for political purposes.

As further described in the attached staff report, both the Museum Foundation and the Zoological Society made substantial contributions ($30,000 each) to a campaign committee established to support Oakland Measure C in the July, 2009, special mail ballot election. The adoption of Measure C expressly allocates a portion of the City's Transient Occupancy Tax to the Oakland

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Museum and Zoo. The operating agreements contain the following relevant provisions:

> *"POLITICAL PROHIBITION. Subject to applicable law, funds received pursuant to this agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, or for publicity or propaganda designed to support or defeat legislation and ballot measures pending before federal, state or local government. The [FOUNDATION/SOCIETY] shall not use the property for political purposes, including, but not limited to, political fundraising or campaigning."*

The staff report identifies information that raises the question of whether the money used to make the contributions were "funds received pursuant to this agreement. . ."

The Commission respectfully requests your review of the facts and contract provisions to determine whether either of the entities breached their respective obligations under the operating agreements and, if so, to advise your City clients in accordance with your determinations.

Attached for your review is a copy of the Commission's preliminary staff report. This office would appreciate notification of any determination or disposition you make regarding this referral.

Please do not hesitate to contact me if you have any questions.

Very truly yours,

Daniel D. Purnell
Executive Director

cc: Alix Rosenthal
Joel Parrott
Lori Fogarty

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