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OFFICE OF THE CITY CLERK
OAKLAND

**REDEVELOPMENT AGENCY
AND THE CITY OF OAKLAND**
AGENDA REPORT

2010 JUN 10 PM 1:32

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: June 22, 2010

RE: A City Resolution Authorizing the City Administrator to Negotiate and Execute an Amendment to the Oakland Army Base Amended and Restated Memorandum of Agreement Among the City of Oakland, the Redevelopment Agency, and the Port of Oakland, to Extend the August 7, 2010 Deadline for the Agency and the Port to Fund the West Oakland Community Trust Fund

An Agency Resolution Authorizing the Agency Administrator to Negotiate and Execute an Amendment to the Oakland Army Base Amended and Restated Memorandum of Agreement Among the City Of Oakland, the Redevelopment Agency, and the Port of Oakland, to Extend the August 7, 2010 Deadline for the Agency and the Port to Fund the West Oakland Community Trust Fund

SUMMARY

In 2003, the Oakland Base Reuse Authority (OBRA), the City of Oakland, the Oakland Redevelopment Agency ("Agency") and the Port of Oakland ("Port") agreed to a process for creating and funding the West Oakland Community Trust Fund ("Community Fund") to help support economic development in West Oakland. The process, set forth in the Memorandum of Agreement for Oakland Army Base dated July 8, 2003 and amended and restated February 27, 2008 ("City-Port MOA"), stipulates that contributions to the Community Fund made on or before August 7, 2010 by developers of the Agency-owned portions of the former Oakland Army Base (OARB) will be matched by the Port, with up to a maximum contribution from the Port of \$2,000,000. If no Agency developer has paid into the Community Fund by August 7, 2010, the Port has no obligation to contribute to the Fund after that date. This report requests approval to amend the City-Port MOA and extend the deadline for the Agency and Port to fund the Community Fund.

FISCAL IMPACT

The Community Fund imposes minimal fiscal impact on the Agency. As proposed in the City-Port MOA, a total of \$4,000,000, shared equally between the Agency and the Port, would be contributed to the Community Fund. The Agency's \$2,000,000 contribution will be made by developers in contract with the Agency for the Army Base. They will pay approximately \$15,000 toward the Community Fund for each acre of land in the Army Base that they purchase or lease for development, based on 135 developable acres.

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The Community Fund will entail operating costs for auditing and other expenses. Staffing costs could be absorbed using existing staff resources, but the auditing may require consultant services that would be covered by the Community Fund itself.

BACKGROUND

When the OARB ceased military operation in 1999, OBRA worked with the Agency and community to develop a vision and direction for reuse of the OARB. The *Final Reuse Plan for Oakland Army Base*, the result of that process, defines the goals and conceptual reuse strategy for the OARB. In acknowledgement of the severe economic impact base closure had on the adjacent West Oakland community, the *Plan* contains a commitment to establish a community fund to assist with economic development in West Oakland.

On July 8, 2003, OBRA, the City, the Agency, and the Port entered into a Memorandum of Agreement, which outlined the process for funding the Community Fund. If the City established a Community Fund on or before the end of the Trust Period¹, at the time the Fund was fully endowed, the Port would pay 50 percent of the monies contributed to the Fund, up to a maximum contribution of \$2,000,000. If no Community Fund was established or it was not funded within one year after the Trust Period, the Port would have no obligation to pay the contribution.

On June 15, 2006, the parties to the City-Port MOA modified the MOA to set August 7, 2006 as the deadline for establishing the Community Fund and August 7, 2007 as the deadline for contributing to the Fund. Pursuant to the requirements of the MOA and by Council action in July 2006, the Community Fund account was established in August 2006. No funds, however, were contributed.

On February 28, 2008, City-Port MOA was amended and restated to remove OBRA as a party to the MOA, extend the deadline for contributions to August 7, 2010, clarify the process for funding, distinguish between Agency and Port sources of funding, and limit usage of Port contributions to the Fund to uses consistent with the public trust, as determined by the State Lands Commission.

(c) Community Trust Fund. The City established a Community Trust Fund prior to August 7, 2006. On or before August 7, 2010, the developers of the portions of the OARB owned by ORA will make contributions to the Community Trust Fund to be held in a discrete City trust account. Within thirty days (30) business days after any such contribution is made by such a developer, and provided that the contribution is made on or before August 7, 2010, the Port shall match the contribution, up to a maximum contribution from the Port of Two Million Dollars (\$2,000,000). The funds contributed by the Port shall be placed in a discrete City

¹ The Trust Period was defined as the three-year period beginning from the date the OARB was transferred from the Army to OBRA.

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trust account for the City's developer contributions, and used only for purposes consistent with the public trust, in accordance with Section 8 of the Oakland Army Base Public Trust Exchange Act (Chapter 664 of the California Statutes of 2005). The Parties hereby agree that the City Administrator shall (i) be the trustee with control and supervisory authority over the Port's contributions to the Community Trust Fund and (ii) use and administer the Port's contributions to the Community Trust Fund in strict compliance with the provisions of Section 8 of the Oakland Army Base Public Trust Exchange Act. If no City developer contributions have been made before August 7, 2010, then the Port shall have no obligation to pay the contribution described above; however, the Port, in its sole and absolute discretion, may elect to make a contribution in whatever amount it determines, up to a maximum contribution of Two Million Dollars (\$2,000,000) by September 6, 2010.

KEY ISSUES AND IMPACTS

Important considerations of the Community Fund are the impending August 7, 2010 deadline for contributions and the timing issues related to the sources of funding. One issue results from the framework for Agency contributions, which will be paid by the developer or developers of the Agency-owned portions of the OARB. The other issue results from the Agency's contribution(s) to the Fund being the trigger for the Port's payment(s).

Contributions to the Community Fund will be required of all OARB developers as a term of any disposition and development agreement (DDA), ground lease, or other development agreement, and timing and amounts would be negotiated as part of the DDA or lease agreement. Developer payments, however, would occur only after conveyance of the land. Although negotiations for the development of the OARB are underway, the timeframe for conveyance has yet to be resolved.

As indicated in the City-Port MOA, the Agency must make the initial Community Fund contribution before the Port transmits a matching contribution. Because the Agency's contribution determines when and how much the Port pays into the Fund, and depends on payments from the OARB developer or developers, the Port must wait at least until the Agency has conveyed land. If no Agency developer contribution has been made by August 7, 2010, the Port is under no obligation to contribute to the Fund after August 7, 2010.

In light of the unpredictable timeframe for development of the OARB, there will be no matching payments to the Community Fund unless the Agency and Port elect to amend the City-Port MOA and extend the deadline for contributions.

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PROGRAM DESCRIPTION

Based on recommendations by the West Oakland Community Advisory Group (WOCAG), staff developed the following general guidelines for when the Community Fund is implemented.

1. Timing and Method of Collecting Funds

The Agency would require developers to pay approximately \$15,000 for each acre of land that is purchased or leased for development in the Army Base. This requirement would apply to any and all business entities developing in the OARB.

Payment of this fee would be required as a term in any development agreement. Payment would be required at the time land is conveyed to the developer.

As City/Agency funds are collected, the Port will contribute a matching amount up to the maximum Port contribution of \$2,000,000.

2. Use of Funds

The Fund would be available for a variety of uses. Based on both WOCAG and staff recommendations, the Fund would target projects and programs that meet the following criteria:

- **Community Benefit.** Projects and programs that create business and employment opportunities for West Oakland residents; provide services and facilities for youth; improve open space and other public facilities in West Oakland; or provide other concrete community benefits.
- **Geographic Scope.** The Fund would support projects and programs located within the West Oakland District, which includes the area bounded by Interstates 580, 880, and 980.
- **Fund Restrictions.** Projects and programs that comply with the fund restrictions attached to Port funds.
- **Professional Management & Feasibility.** Projects and programs that are professionally managed by established organizations and that can demonstrate financial feasibility and a high likelihood of successful completion.
- **Not Redundant with Basic City Services.** Projects and programs that are not traditionally provided by general City services. For example, decorative banners would be a qualifying use, but basic streetlights or sidewalk repairs would not.

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3. Selection Process

Staff would issue an annual call for proposals, which would be marketed to the West Oakland community through WOCAG, the West Oakland Project Advisory Committee (WOPAC), the West Oakland Commerce Association (WOCA), and other local community groups, posting notices at key West Oakland locations, using local-serving news media and websites (including the City's website), and other community outreach. Proposals would be reviewed by WOCAG and would be scored based on the criteria described above. To assist WOCAG's review, staff would provide a technical appraisal of the proposals. Staff would forward WOCAG's recommendations to the Agency Board, which would make the final decision on awarding funds.

4. Disbursement of Funds

WOCAG recommended that funds be disbursed in the form of an interest-free loan with the possibility of forgiveness if a project or program is not expected to generate revenue but meets defined performance measures. The intent would be to allow the Fund to be replenished, to the extent possible, so that more projects and programs can be supported in the future. WOCAG recommended that awards be limited to a maximum of \$350,000 per project/program, in order to allow the Fund to be distributed among a wider array of applicants.

5. Administration

In order to prevent the misuse of funds, staff would monitor the progress of all approved projects and programs. All fund recipients would be required to meet a pre-set schedule of performance; provide regular status reports; and submit to annual auditing.

SUSTAINABLE OPPORTUNITIES

Economic: The Community Fund will have a direct and positive economic impact on the West Oakland community. The funding will be used in a variety of community-based efforts including business and employment opportunities and programs for youth.

Environmental: The Community Fund will have positive impacts on the environment by fostering and supporting community based projects and programs that improve the quality of life for the West Oakland community.

Social Equity: The Community Fund will provide access to funds on a more community based level, specific to West Oakland, with extensive opportunities for participation.

DISABILITY AND SENIOR CITIZEN ACCESS

This report does not include the approval of any specific projects or programs. Disability and senior access issues will be addressed when specific development plans are submitted for West

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Oakland Community Fund financing, and can be identified and incorporated into the proposals as a requirement for funding.

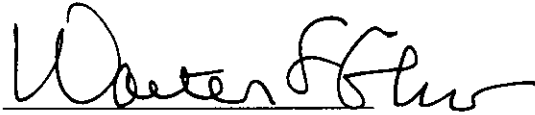
RECOMMENDATION AND RATIONALE

Staff recommends that the Agency Board authorize the Agency Administrator to negotiate and execute an amendment to the City-Port MOA to extend the deadline for the Agency and Port to fund the West Oakland Community Fund. There are no imminent sources of funding for the Fund before the August 7, 2010 deadline for contributions. Unless the deadline is extended, the Fund will lose up to \$2,000,000 in matching funds from the Port.

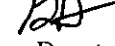
ACTION REQUESTED OF THE CITY COUNCIL

Staff requests the Agency to authorize the Agency Administrator to negotiate and execute an amendment to the Oakland Army Base Amended and Restated Memorandum of Agreement among the City of Oakland, the Redevelopment Agency, and the Port of Oakland, to extend the August 7, 2010 deadline for the Agency and the Port to fund the West Oakland Community Trust Fund.

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by: 
Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Reviewed by:
Al Auletta, Redevelopment Area Manager

Prepared by:
Hui Wang, Urban Economic Analyst III

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



Office of the Agency Administrator

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Community and Economic Development Committee
June 22, 2010



 City Attorney

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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

CITY RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE OAKLAND ARMY BASE AMENDED AND RESTATED MEMORANDUM OF AGREEMENT AMONG THE CITY OF OAKLAND, THE REDEVELOPMENT AGENCY, AND THE PORT OF OAKLAND, TO EXTEND THE AUGUST 7, 2010 DEADLINE FOR THE AGENCY AND THE PORT TO FUND THE WEST OAKLAND COMMUNITY TRUST FUND

WHEREAS, the Oakland Redevelopment Agency ("Agency") established the West Oakland Community Trust Fund (WOCTF) to assist with economic development in West Oakland, the neighborhood most directly impacted by the closure of the Oakland Army Base (OARB); and

WHEREAS, the Amended and Restated Memorandum of Agreement for Oakland Army Base ("City-Port MOA") among the City of Oakland ("City"), the Agency, and the Port of Oakland ("Port") provides that a total of \$4 million could be contributed to the WOCTF, with one half of the WOCTF funding to come from the Port and one half to come from the Agency and the City; and

WHEREAS, the one-half share of the funding attributable to the Agency and the City will be paid by future developers of the Oakland Army Base (OARB) property; and

WHEREAS, the City-Port MOA requires that the Port match contributions made by the OARB developers, up to a maximum of \$2,000,000, if such contributions are made on or before August 7, 2010, but the Port shall have no obligation to contribute to the WOCTF if no OARB developer contributions have been made by August 7, 2010; and

WHEREAS, OARB developers will contribute to the WOCTF only after entering into a development agreement with the Agency and land is conveyed; and

WHEREAS, the Agency does not anticipate entering into a development agreement for the OARB and conveying land prior to August 7, 2010; and

WHEREAS, the City and the Agency wish to negotiate with the Port to amend the City-Port MOA to extend the deadline for contributions to the WOCTF to allow time for the Agency to negotiate and enter into development agreements for the OARB; now therefore, be it

RESOLVED: That the Agency Administrator is hereby authorized to negotiate and execute an amendment to the City-Port MOA to extend the deadline for the Agency and the Port to fund the West Oakland Community Trust Fund.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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Approved as to form and legality



ORA Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. _____ C.M.S.

AGENCY RESOLUTION AUTHORIZING THE AGENCY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE OAKLAND ARMY BASE AMENDED AND RESTATED MEMORANDUM OF AGREEMENT AMONG THE CITY OF OAKLAND, THE REDEVELOPMENT AGENCY, AND THE PORT OF OAKLAND, TO EXTEND THE AUGUST 7, 2010 DEADLINE FOR THE AGENCY AND THE PORT TO FUND THE WEST OAKLAND COMMUNITY TRUST FUND

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WHEREAS, the one-half share of the funding attributable to the Agency and the City will be paid by future developers of the Oakland Army Base (OARB) property; and

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WHEREAS, OARB developers will contribute to the WOCTF only after entering into a development agreement with the Agency and land is conveyed; and

WHEREAS, the Agency does not anticipate entering into a development agreement for the OARB and conveying land prior to August 7, 2010; and

WHEREAS, the City and the Agency wish to negotiate with the Port to amend the City-Port MOA to extend the deadline for contributions to the WOCTF to allow time for the Agency to negotiate and enter into development agreements for the OARB; now therefore, be it

RESOLVED: That the Agency Administrator is hereby authorized to negotiate and execute an amendment to the City-Port MOA to extend the deadline for the Agency and the Port to fund the West Oakland Community Trust Fund.

IN AGENCY, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - KERNIGHAN, NADEL, QUAN, DE LA FUENTE, BROOKS, REID, KAPLAN, AND
CHAIRPERSON BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST:

LATONDA SIMMONS
Secretary of the Redevelopment Agency
of the City of Oakland, California