

**CITY OF OAKLAND**  
**AGENDA REPORT**

2011 NOV 21 PM 1:03

TO: Office of the City Administrator  
ATTN: Deanna J. Santana  
FROM: Community and Economic Development Agency  
DATE: December 6, 2011

RE: A Report And Resolution Authorizing The City Administrator To:

1) Apply, Accept And Appropriate Grant Funding From The State Of California Natural Resources Agency, Department Of Water Resources: Local Levee Assistance Program In An Amount Not To Exceed Ten Million Dollars (\$10,000,000.00) To Assist With The Brooklyn Basin Development Project ; And

2) Designate Oakland Harbor Partners ("Sub-Grantee") As The Primary Sub-Grant Recipient, Project Manager, And General Contractor For The Grant, If Received; And

3) Authorize The City Administrator Or Her Designee To Work With Oakland Harbor Partners (OHP) To Secure The Grant And Utilize The Funding To Meet The BCDC Permit, State Lands Commission And City Of Oakland Project And Contracting Requirements

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**SUMMARY**

Staff is seeking approval from the City Council to authorize the City Administrator, on behalf of the City of Oakland, to apply, accept and appropriate grant funds from the State of California Natural Resources Agency, Department of Water Resources: Local Levee Assistance Program in an amount not to exceed Ten Million Dollars (\$10,000,000.00). Additionally, consistent with the City's existing Development Agreement with Oakland Harbor Partners (OHP) for the Oak to Ninth Project now called the Brooklyn Basin Development, and the City's commitment to Public-Private partnerships, staff request that the City Council wave the City's competitive bidding requirements and designate OHP as the Primary Sub-Grantee for the purposes of general Grant Management, Project Management and General Contracting responsibilities. The City will maintain its primary role as the Grant Recipient and be responsible for the transmission of all grant reports and disbursement requests from the Sub-Grantee.

Grant funds, if received, will be used to design and engineer new riprap, planting and shoreline infill construction to address future land elevation needs relative to sea level rise, as recommended and approved by BCDC upon approval of the project. The project would rebuild

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and improve the existing shoreline along with project site with varying treatments, including marsh habitats, the riprap, and bulkhead walls. These infrastructure improvements are unique to the waterfront development and given the complexity and the Bay Conservation and Development Commission (BCDC) Permit, State Lands Trust Agreement, and the City of Oakland Development Agreement, staff is recommending that Oakland Harbor Partners team is uniquely qualified to receive this financial support. These specialized improvements are in addition to needed improvement and replacement of the existing infrastructure, including roadway, telephone, storm, sewer, natural gas and water systems which are inadequate for the proposed project. Those systems will also be upgraded as part of the master development. Overall all major infrastructure systems will be needed to be addressed as part of the master development.

The Brooklyn Basin Development, previously known as the Oak to Ninth Avenue Project, is a fully entitled master development project bound by Embarcadero Road, the Oakland Estuary, Fallon Street and 10<sup>th</sup> Avenue. The Final Revised Environmental Impact Report (FEIR) was certified by the City Council on January 20, 2009. On January 20, 2011, the San Francisco Bay Conservation and Development Commission (BCDC) approved the BCDC Staff recommendation to grant a permit to Oakland Harbor Partners, the master developers, subject to certain special conditions. Among these conditions was that the Project would result in shoreline stabilization by the installation of edge containment structures like sea walls or other retaining structures. Nothing contained in this application will impact the obligations of either the City or OHP contained in the BCDC Permit, the State Land Commission legislation and the Development Agreement with the City of Oakland. Likewise, the obligations of each party will not be affected should the City be awarded funding pursuant to these applications.

The California Natural Resources Agency Grant is only available to local eligible agencies, such as the City of Oakland. Given the economic development importance of this project for either a master planned mixed-use community or as the site of the Lawrence Berkeley National Laboratory (LBNL) Second Campus, staff is recommending that the City of Oakland be the applicant for the grant and work with OHP to fund a portion of this key mitigation requirement for the development of the public open space areas. The Grant Application is due to the State on December 8, 2011.

## **FISCAL IMPACT**

The approval of this resolution will authorize the Community & Economic Development Agency to accept and appropriate grant funds in an amount not to exceed \$10,000,000. Per the requirements of the BCDC permit and the Development Agreement between the City of Oakland and Oakland Harbor Partners, the City will not be responsible for any cost associated with the installation, maintenance or repair of any improvements associated with this grant.

A local cash match is not required of the applicant agency for the receipt of this State grant.

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Funding will be appropriated and deposited into the following Fund Code: Fund (2136) (State Water Resources Board), Organization: (88559) (Business Development), with Project to be determined. Grant Administration costs which may be incurred by the City are eligible for reimbursement within the grant regulations. If received, staff will further identify a Fund, Organization, and Project for the dedication of fiscal administration funds to CEDA Fiscal Department; Contract Compliance, and Public Works Agency staff oversight of the Project, to be determined.

## BACKGROUND

OHP has been issued all necessary entitlements to redevelop the Brooklyn Basin area, a 64.2 acre waterfront property, from an underutilized, maritime and industrial area into a mixed-use development with residential, retail/commercial, open space/public parks and renovated marina uses and a wetland restoration area. The project has the required approval of the Port of Oakland Commission, California State Lands Commission, Bay Conservation and Development Commission, the Oakland Planning Commission and the Oakland City Council. The project site is bounded by Embarcadero Road, Fallon Street, Tenth Avenue and the Estuary.

The master development project includes interconnected parks and open space. Additionally the project will provide a continuous public pedestrian trail along the entirety of the project's waterfront and will link an existing Bay Trail segment. The requirement to address sea level rise in the design of the Brooklyn Basin (Oak to 9<sup>th</sup>) Project shoreline and public open space was a condition of BCDC staff during the BCDC permit review process. BCDC staff reviewed the proposed shoreline improvements which included new riprap, planting and fills to address future sea level rise and recommended that BCDC approve the project with the shoreline features and future elevations as a requirement.

Staff is recommending that OHP be designated the Sub-Grantee, Project Manager and General Contractor for the Project. This recommendation is supported by the Development Agreement between the City of Oakland, Oakland Redevelopment Agency and Oakland Harbor Partners, signed on July 18, 2006. The Development Agreement includes city contracting and auditing requirements, especially including but not limited to Article IV "*Certain Additional Criteria and Obligations Applicable to the Development of Project.*" In Sections 4.5, 4.6, 4.7 and 4.9, Oakland Harbor Partners are required to comply with the City or Port contracting requirements. In addition, OHP is responsible for abiding by the California State Labor Code, including prevailing wage requirements

## KEY ISSUES AND IMPACTS

The Brooklyn Basin master development will require major infrastructure improvements; thus the predevelopment costs are extensive. Most of the shoreline along the project site is degraded by its historical industrial use. The project would rebuild and improve the existing shoreline along the project site with varying treatments, including marsh habitats, the riprap, and bulkhead walls. In addition, the existing infrastructure including roadway, telephone, storm, sewer, natural gas and water systems are inadequate for the proposed project. Brownfields remediation activities which are integrated and necessary as part of the qualified shoreline improvements, are eligible activities as part of this grant. These systems will also be upgraded as part of the master development.

Through Proposition 84, the California Natural Resources Agency is able to offer competitive funding for the Local Levee Critical Repair Program (LLCR) to repair and evaluate local levees and flood control facilities. The maximum grant amount is \$5,000,000 per application and only a local public agency can apply. While the City of Oakland is the applicant, staff will work closely with OHP to prepare the extensive application. The City may apply for two grants, each for \$5,000,000 for the Brooklyn Basin site. The developers are fully responsible for the funding of the improvements, including maintenance and replacement responsibilities. This grant provides an opportunity to fund a portion of these improvement costs.

## PROJECT DESCRIPTION

The Brooklyn Basin area is a 64.2 acre waterfront property, with full entitlements, BCDC approval and an executed City Development Agreement to turn an underutilized, maritime and industrial area into a mixed-use development with residential, retail/commercial, open space/public parks and renovated marina uses and a wetland restoration area. The California Natural Resources Agency Grant is only available to local eligible agencies, such as the City of Oakland. Given the economic development importance of this project for either a master planned mixed-use community or as the site of the Lawrence Berkeley National Laboratory (LBNL) Second Campus, staff is recommending that the City of Oakland be the applicant for the grant and work with OHP to fund a portion of this key mitigation requirement for the development of the public open space areas. The Grant Application is due to the State on December 8, 2011.

## SUSTAINABLE OPPORTUNITIES

**Economic:** There are many economic benefits of the project to the local economy. Jobs for residents may be available during construction, within the commercial businesses associated with the development, and as part of the ongoing maintenance of the parks, open space and landscaping areas within the project. In addition, the overall development will leverage other

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economic and business development opportunities and assist in funding major infrastructure investment required for the general area.

**Environmental:** The Project area has been historically used for industrial purposes. The project sponsors are responsible for remediating the soil to the standards required by the California State Department of Toxic Substance Control and the Regional Water Quality Control Board. The Project also provides public access and completion of a significant segment of the Bay Trail; this is a major environmental contribution to Oakland.

**Social Equity:** The State of California Natural Resources Agency, Department of Water Resources: Local Levee Assistance Program grant will assist the developers to fulfill the project approval requirements including the proposed parks, open space, Bay Trail development, retail and commercial business and workforce development, and housing opportunities for a variety of multifamily types and income ranges.

## DISABILITY AND SENIOR CITIZEN ACCESS

The Brooklyn Basin Development Project includes approximately 32 acres of parks and open space with recreational opportunities appropriate for senior citizens and people with disabilities. The San Francisco Bay Trail system is designed to focus on pedestrian and bicycle activities. The proposed public amenities within the project will be constructed to standards that can accommodate senior citizens and people with disabilities. There are no immediate issues pertaining to the benefits and impacts for the disability and senior citizen communities and compliance with the Americans with Disabilities Act (ADA) and the Older Americans Act, and other applicable laws.

## RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council:

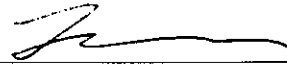
- 1) Approve the resolution to apply, accept and appropriate grant funding from the State of California, in the amount of up to \$10,000,000; and
- 2) Wave the Competitive Bidding requirements and designate Oakland Harbor Partners (OHP) as the sole Sub-Grantee because of the unique project requirements and contracting provisions required by the Development Agreement between the City of Oakland, Oakland Redevelopment Agency and Oakland Harbor Partners, signed on July 18, 2006; and
- 3) Authorize the City Administrator or her designee to work with Oakland Harbor Partners (OHP) to utilize the secured funding towards the requirements of the BCDC Permit, State Lands Commission and the Development Agreement between the City of Oakland, Oakland Redevelopment Agency and Oakland Harbor Partners.

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approved the resolution.

Respectfully submitted,



Fred Blackwell, Assistant City Administrator  
Community and Economic Development Agency

Reviewed By:

Gregory Hunter, Deputy Director  
Economic Development and Redevelopment

Prepared By:

Aliza Gallo, Economic Development Coordinator  
Economic Development Division

APPROVED AND FORWARDED TO THE  
CITY COUNCIL:




Office of the City Administrator

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FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

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APPROVED AS TO FORM AND LEGALITY

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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RESOLUTION AUTHORIZING THE CITY TO ACCEPT AND APPROPRIATE A GRANT OF UP TO TEN MILLION DOLLARS (\$10,000,000.00) FROM THE STATE OF CALIFORNIA NATURAL RESOURCES AGENCY, DEPARTMENT OF WATER RESOURCES, FOR IMPROVEMENTS OF THE EXISTING SHORELINE WITHIN THE BROOKLYN BASIN; AND AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO DESIGNATE OAKLAND HARBOR PARTNERS (OHP) AS THE PRIMARY SUB-GRANTEE AND TO AUTHORIZE THE CITY ADMINISTRATOR TO WORK WITH OAKLAND HARBOR PARTNERS TO SECURE THE GRANT, UTILIZE THE FUNDING TO MEET THE REPORTING AND CONTRACTING REQUIREMENTS OF THE STATE AND THE DEVELOPMENT AGREEMENT

**WHEREAS**, on June 20, 2006 and July 18, 2006, the City of Oakland and the Oakland Redevelopment Agency approved Resolution 2006-0047 C.M.S. and Ordinance 12760 C.M.S. authorizing a Development Agreement with Oakland Harbor Partners (OHP) for the Oak to Ninth Mixed Use Development Project; and

**WHEREAS**, on January 20, 2009, the Oakland City Council approved Resolution 2009-81769 C.M.S. approving revisions to the analysis in the Oak to Ninth Project EIR and recertified the revised EIR, and readopted the CEQA findings and Statement of overriding considerations and Mitigation Monitoring and Reporting Program as revised; and

**WHEREAS**, the Oak to Ninth/Brooklyn Basin Project will provide substantial benefits to the City through job generation, commercial, housing, parks, open space; and

**WHEREAS**, the Oak to Ninth/Brooklyn Basin Project requires substantial infrastructure for its development; and

**WHEREAS**, the California Natural Resources Agency, Department of Water Resources, is offering grants under its Local Levee Assistance Program that will provide a substantial advancement of the development of the shoreline in the Oak to Ninth/Brooklyn Basin Development Project area; and

**WHEREAS**, the City desires to designate OHP as the sub-grantee for the grant funds due to the unique eligibility requirements and qualifications of the firm; and

**WHEREAS**, the requirements of the California Environmental Quality Act ("CEQA"), the CEQA guidelines as prescribed by the Secretary of Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; now, therefore, be it

**RESOLVED**: That the City Administrator is authorized to apply for and accept grant funds in an amount up to \$10,000,000.00 from the California Department Natural Resources Agency, Department of Water Resources, and upon acceptance these funds shall be appropriated to the Oak to Ninth/Brooklyn Basin Project; and be it

**FURTHER RESOLVED**: That pursuant to and subject to all of the terms and provisions of California Public Resources Code 75032 application by the City of Oakland be made to the California Department of Water Resources to obtain funding for the Oak to Ninth /Brooklyn Basin Project, that the City Administrator is hereby authorized and directed to prepare the necessary data, make investigations, sign certifications required as part of the application , and sign and file such application with the California Department of Water Resources.

**FURTHER RESOLVED**: That these funds will be deposited in Fund Number: 2136 (State Water Resources Board); Organization 88559 (Business Development), with a Project Number to be determined; and be it

**FURTHER RESOLVED**: That the City Council hereby designates OHP as sub-grantee for the grant, and authorizes the City Administrator to negotiate and execute a subgrant agreement with OHP for the funding should the City's grant application be successful; and be it

**FURTHER RESOLVED**: That the City Council hereby authorizes the City Administrator or her designee to negotiate terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures and take all other necessary actions with respect to the grant, subgrant, and project consistent with this Resolution and its basic purposes; and be it



**FURTHER RESOLVED:** That the City Administrator shall work with OHP as sub-grantee to ensure compliance with all State and local contracting regulations and reporting; and be it

**FURTHER RESOLVED:** That all documents shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

**PASSED BY THE FOLLOWING VOTE:**

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

NOES --

ABSENT--

ABSTENTION --

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