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2009 APR 23 PM 7:04

CITY OF OAKLAND



CITY HALL • 1 FRANK H. OGAWA PLAZA • OAKLAND, CALIFORNIA 94612

Office of the City Administrator (510) 238-3301
Dan Lindheim
City Administrator

April 28, 2009

Public Works Committee
Oakland, California

Chairperson Nadel and Members of the Committee:

RE: A Report and Resolution Authorizing The City Administrator To Apply For, Accept And Appropriate Grant Funds In A Total Amount Of Up To \$4.5 Million From The United States Environmental Protection Agency , American Recovery And Reinvestment Act (ARRA) Funding, For The City's Brownfield Cleanup Revolving Loan Fund ("BCRLF")

SUMMARY

On February 17, 2009, President Barack Obama signed the American Recovery and Revitalization Act of 2009 (Public Law No. 111-05) (Recovery Act). Environmental Protection Agency (EPA) received \$100 million in Recovery Act appropriations for the CERCLA 104(k) Brownfields program of which 25% must be used at brownfields sites contaminated with petroleum. The EPA plans to make available approximately \$40 million in Recovery Act funding to supplement RLF capitalization grants previously awarded in a competitive process, including those awarded to the City of Oakland, under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The EPA issued an invitation to its existing BCRLF partners to apply for funds on April 10, 2009, with a submission deadline of May 1, 2009. The City plans to apply for up to \$3.5 million in Brownfield Cleanup Revolving Loan Funds (BCRLF) from the United States Environmental Protection Agency, Office of Brownfields and Land Revitalization (EPA).

FISCAL IMPACT

The City of Oakland submitted a supplemental BCRLF funding request for its existing program to the EPA program in the amount of \$1,000,000 in February 2009. The US EPA announced the availability of this additional Recovery Act-related funding on April 10, 2009, after the submission of that request. This new request will be submitted in the amount of \$3.5 million and

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has a submission deadline of May 1, 2009. The EPA has notified staff that the submission does not require a Council resolution; however, a draft resolution has been included for Council's consideration. Staff will create a description of projects in the pipeline and duplicate some of those already described in the current BCRLF Supplemental Funding Request (*Attachment A*), as part of the application.

BACKGROUND

The City signed a Cooperative Agreement with the EPA as a partner for their BCRLF program in 2001 and received initial loan pool funding in the amount of \$500,000. The City is authorized to review and approve eligible applications and make loans, with oversight of the terms of such loans by the EPA Region 9 office. Underwriting of the loans and fiscal review of grantees is provided at a 1% fee by the Oakland Business Development Corporation through its existing contract with the City.

On December 19, 2006 staff presented a report to Council on its BCRLF program and received authorization to reapply for additional funds without returning to Council. The City received additional supplemental money in the amount of \$385,000 in 2006 as part of that action. The current program allows the City to authorize 60% of funds towards loans at a low interest loan rate set by the City, and to award up to 40% of its funds as grants to eligible non-profits. The City has a current loan balance of just approximately \$500,000.

KEY ISSUES AND IMPACTS

The BCRLF funding allows the City to act as a partner to the EPA to provide low-interest loans and or grants to eligible parties for the cleanup of contaminated properties. The loan applicants must have completed an environmental assessment process and or be able to complete one within a year from the award of a loan or grant, and must be able to complete clean-up within three years. The EPA guidelines require that projects contribute to the creation of jobs, and the program requires the ongoing documentation of job creation through environmental jobs (cleanup activities); construction jobs and or permanent jobs.

The EPA requires the adherence of borrowers or grantees to the federally-designated living wage rates and documentation of this is a reporting requirement. The EPA encourages fund recipients to partner with job training programs, particularly those already engaged in EPA-supported job training programs, and others working towards goals of the Recovery Act in general.

The BCRLF supplemental funding awarded with Recovery Act funds has more flexibility than the existing program:

- Recovery Act BCRLF funds are not subject to the 20 percent cost share required by the existing BCRLF program;

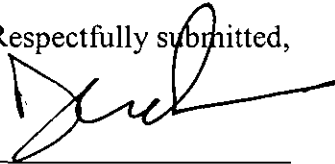
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- Recovery Act BCRLF funds do not require that RLF grantees use at least 60 percent of the supplemental funding award for loans;
- The Recovery Act BCRLF funds are not limited to \$200,000 per site, as per the current requirements. RLF grantees may petition EPA to waive the \$200,000 per site subgrant limitation, if such a waiver would promote the goals of the Recovery Act through increased job creation, retention, and economic development.

RECOMMENDATIONS

It is recommended that the City Council adopt the attached resolution to apply for up to \$3.5 million from the U.S. Environmental Protection Agency, Office of Brownfields and Land Revitalization, through Recovery Act funding for its Brownfield Cleanup Revolving Loan program, in addition to the \$1 million BCRLF grant the City applied for in February 2009.

Respectfully submitted,



Dan Lindheim
City Administrator

Attachment A: February 2009 City of Oakland US EPA BCRLF
Request for Supplemental Funding

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CITY OF OAKLAND

CITY OF OAKLAND BROWNFIELDS PROGRAM

250 FRANK H. OGAWA PLAZA, 3rd FLOOR • OAKLAND, CA

February 12, 2009
David R. Lloyd, Director
EPA Office of Brownfields and Land Revitalization
1200 Pennsylvania Avenue NW (MC: 5105T)
Washington, DC 20460

Subject: Request for Supplemental Funding for BF: 96960801

Dear Mr. Lloyd:

The City of Oakland respectfully requests Brownfield Cleanup Revolving Loan Fund (BCRLF) supplemental funding of \$1 million to provide loans over the next 4-18 months for environmental remediation. The EPA and the City first executed the EPA Assistance Agreement (BL98968501) in September 2000. Then, in December 2005, the EPA approved the City's Transition request to transfer the remaining BCRLF funds into the new program guidelines (BF96960801).

As shown in the tables below, the City of Oakland BCRLF balance is under \$400,000; this amount has been committed for BCRLF loans and will be depleted in nine months. Developers continue to shift their focus from construction to environmental cleanup in order to position themselves for the eventual market upswing. We have identified nine projects that will need over \$2 million in BCRLF funding over the next 4-18 months. We are requesting \$1 million, the maximum grant allowed per this BCRLF Supplemental Funding Request.

CONSIDERATIONS

1. The RLF grantee must have made at least one loan or subgrant AND have significantly depleted existing available loan and/or subgrant funds.

To date, the City of Oakland has executed two BCRLF loans and one BCRLF subgrant/loan combination totaling \$470,000. Total administrative costs for these three loans are less than \$10,000.

Table 1a: Previous BCRLF Subgrants and Loans

2001	BCRLF Funds		\$500,000
Oct. 2004	Willow Park	Lead remediation to restore park use	(\$200,000)
June 2006	BCRLF Supplemental Funds		\$385,000
Nov. 2006	785 Seventh Street	Mixed use on former metal plating site	(\$150,000)
Nov. 2006	Edes Ave. Habitat For Humanity	26 affordable housing units on former industrial site	(\$120,000)

2. Demonstrated need for supplemental funding, including the numbers of sites and communities that may benefit from supplemental funding.

The City of Oakland Brownfields Program continues to discover brownfield opportunity sites through our aggressive and ongoing marketing efforts. The City has noticed that developers are paying more attention to the BCRLF program and other brownfield loan programs such as CALReUSE because traditional bank loans are difficult to secure in today's financial climate. In addition, developers are shifting their energy from construction to brownfield remediation in order to be in a position to build immediately once the economy recovers. As the list and Table 1b below show, the City's priority has not changed since its original BCRLF Statement of Intent – our focus continues to be existing or former commercial/industrial uses in many of our lowest-income neighborhoods.

Three Caltrans SURPLUS sites should be ready for remediation within 9-12 months. The City of Oakland, in collaboration with the State through the California Urban Communities Collaborative, has identified three large Caltrans sites for remediation and development. All three have known petroleum and HazMat contamination. Caltrans should complete Phase II assessments for each of these sites within 9-12 months. Once the assessments are completed, the City of Oakland wants to move quickly to work with the private sector to remediate these sites and get them ready for development. The three SURPLUS sites include:

1. Seventh and Brush Streets (West Oakland)
This site represents a destination opportunity project because of its location immediately adjacent to a major freeway off ramp and its central location between Downtown, West Oakland and Jack London Square. We envision green commercial and R & D on the 1-acre site. The site is located one half mile from the Downtown Oakland BART station.
2. Seventh and Union Streets (West Oakland)
This 2.5 acre site is part of the West Oakland Transit Village and represents a green opportunity for transit-oriented high-density residential mixed-use. The site is one block from the West Oakland BART station, and already zoned for transit-oriented development.
3. Phoenix Iron Works (West Oakland)
This site is a former iron foundry with known PSB's due to industrial activities for over 100 years. Once remediated, the property will be ideal for commercial industrial/green manufacturing, or green residential if a higher level of cleanup is conducted.

Other projects ready or near ready for BCRLF loans include:

4. Cryer Site Waterfront Trail Project (East Oakland)
The property is a former boatworks site with heavy metals, including barium, copper, lead and chromium. The site is a strong candidate for remediation because it's located on Oakland's Bay Trail and across from the new Union Point Park. A \$600,000 Land and Water Conservation grant and a \$500,000 California Parks and Recreation grant will fund renovation of the park and a portion of the estimated \$842,000 in remediation costs. The 1.2-acre site is located in the East Oakland Fruitvale District and represents a green opportunity to clean a heavily contaminated former industrial site and convert it into a public park along the waterfront.

5. **Park Village Apartments (East Oakland)**
The 84-unit senior affordable housing project was built in the early 1970's on the site of a former service station. The property owner wants to convert the units into market rate housing. EAH Housing, a non-profit housing developer, wants to purchase the site to preserve the affordable housing units. EAH has gained access to the site and soil testing has been conducted by the Alameda County Health Services. Studies indicate that \$250,000 in remediation funding is required.
6. **25th Street Mini Park (West Oakland)**
The 100 by 100 foot "mini park" closed due to illegal activities, and public safety and environmental health concerns. Soil testing showed lead in the topsoil, which will require \$50,000 to remove existing soil and replace with clean fill.
7. **Esposito Project (East Central Oakland)**
The former metal plating shop is already entitled for the development of 12 residential units. The project is seeking to leverage a CALReUSE Assessment Loan from the City of Oakland with a \$100,000 BCRLF loan for environmental cleanup. The area around the site is a rapidly improving mixed-income neighborhood adjacent to the Oakland Estuary.
8. **Wood Street (West Oakland)**
This project was entitled in 2005 as part of a Master Planned redevelopment of a 30-acre former Amtrak station. The entitlements include 170 units of affordable housing.
9. **Bakery Lofts (North Oakland)**
Bakery Lofts is a green renovation project involving the conversion of the Remar Bakery building, constructed in 1919, into residential mixed-use. 84 live/work units have been created, but \$100,000 in additional remediation is required to complete the project and provide an additional 61 live/work units.

Table 1b: Pipeline Brownfield Remediation Projects

		HazMat	Petro	Total
Esposito Project		\$100,000		\$100,000
Cryer Site Waterfront Trail		\$400,000		\$400,000
Seventh & Brush		\$200,000	\$100,000	\$300,000
Bakery Lofts	<i>See Demonstrated Need for Supplemental Funding... section for description of projects</i>	\$100,000		\$100,000
Seventh & Union Streets		\$150,000	\$150,000	\$300,000
Phoenix Iron Works		\$450,000		\$450,000
25th Street Mini Park		\$50,000		\$50,000
Wood Street			\$100,000	\$100,000
Park Village Apartments			\$250,000	\$250,000
Total Need:			71%	29%
Total Request:				\$1,000,000

3. Demonstrated ability to administer and revolve the RLF grant, and administer subgrant(s) and/or loan(s)

The City of Oakland BCRLF program is beginning to revolve, and continues to spur the redevelopment of sites which would otherwise remain underutilized and blighted. The City has demonstrated its ability in marketing (see attached Resources Guide, flyers and magazine advertisements), issuing and managing loans, and leveraging local and state funds to create grant and loan packages for assessment and remediation. Oakland has used a high percentage of BCRLF proceeds on loans, with less than 2% of program costs used for site oversight, marketing and underwriting costs. The City also has qualified environmental professionals on staff. Loan funds are managed using in-house Fiscal staff as well as the underwriting and processing expertise of the Oakland Business Development Corporation (www.OBDC.com), which is under contract to the City for such activities.

4. Demonstrated ability to use the RLF grant to address funding gaps for cleanup

The City of Oakland has selected cleanup and assessment projects that are unable to obtain affordable funding from the lending sector. Because private lenders are reluctant to take on the liability of financing brownfield projects due to tighter credit markets, City assistance is even more crucial than in previous years in covering brownfield redevelopment funding gaps.

The City also continues to market the program in anticipation of loan payoffs and with the hope of receiving supplemental funding from the EPA for additional loans. Several of the nine candidates (Table 1b) for BCRLF supplemental funding have taken advantage of other City of Oakland brownfield programs, including the CALReUSE Assessment and Remediation Programs. For example, the BCRLF-recipient Willow Park project was completed with funding from the City and the Trust for Public Land. And the Edes Avenue Habitat for Humanity project for 26 affordable homes leveraged their BCRLF loan with a \$200,000 EPA site specific cleanup grant and a stop-gap loan from the Department of Toxic Control Substances (DTSC).

5. Community benefit from past and potential loan(s) and/or subgrants.

All BCRLF projects involve uses that benefit low-income communities by provide essential services and residential uses to Oakland residents. The City uses BCRLF loans to spur the redevelopment of highly visible sites that cause blight and health problems affecting low-income residents. The additional funding allows these sites to be remediated to a higher standard, which enables residential or mixed-use, and improves groundwater quality in the vicinity of the sites. Without loans, some of these sites would not be remediated at all in the foreseeable future. Also, given the visibility of these projects, and the economic and housing opportunities generated, the benefits are spread out through the entire city and region.

CONCLUSION

The City has a track record of distributing BCRLF and other loans efficiently and selecting projects that produce the most benefits to the local community and environment. The supplemental funding requested for this round will help finance the remediation of sites that will be used for housing, transit-oriented projects, parks and green industry.

If you have any questions or concerns, please feel free to contact Oakland's Brownfields
Administrative Manager, Margot Lederer-Prado at (510)238-6766 or mprado@oaklandnet.com.

Sincerely,

Margot Lederer Prado
Industrial Specialist
Business Development Services
City of Oakland

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APPROVED AS TO FORM AND LEGALITY:

DRAFT

DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO APPLY FOR, ACCEPT, AND APPROPRIATE GRANT FUNDS IN A TOTAL AMOUNT OF UP TO \$4.5 MILLION FROM THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY , AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING, FOR THE CITY'S BROWNFIELD CLEANUP REVOLVING LOAN FUND ("BCRLF")

WHEREAS, the City of Oakland (the "City") entered into a Cooperative Agreement in 2000 with the United States Environmental Protection Agency (the "EPA") to establish and administer the Brownfields Cleanup Revolving Loan Fund ("BCRLF") from which the City is authorized to make loans and subgrants to entities willing to undertake remediation and mitigation of hazardous substances on brownfields; and

WHEREAS, the City applied for Supplemental Funding for loans and subgrants in the amount of \$1million from the EPA in February 2009; and

WHEREAS, the City will apply for additional EPA BCRLF funds of up to \$3.5million, as provided to EPA through the Recovery Act, by May 1, 2009 and desires to have any such funds it receives appropriated and deposited in the proper City accounts; 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, and the requirements of the National Environmental Protection Act ("NEPA") must be addressed prior to funding of loans and grants; now, therefore, be it

RESOLVED: That the City Administrator is authorized to accept grant funds in a total amount of up to \$4.5million from EPA, and these funds are hereby appropriated to the BCRLF program; and be it

FURTHER RESOLVED: That these funds will be deposited in Environmental Protection Agency Fund (2125), Business Development Org: (88559), and EPA-Brownfield Cleanup Project (G183830); and be it

FURTHER RESOLVED: That the City Administrator or his designee is authorized to accept and review applications, and award grants and loans in accord with the BCRLF

guidelines, up to \$200,000 without returning to Council per Council action taken through Resolution No. 80329 C.M.S. (December 19, 2006); and be it

FURTHER RESOLVED: That City will require that all loan and grant recipients must carry out their Mitigation Projects in accordance with the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 104(k); Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (40 CFR Part 31); and all other applicable provisions of Federal, State and local law; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Administrator or his designee to negotiate terms, execute, modify, amend and extend agreements, allocate revenue, make expenditures and take all other actions necessary to carry out the basic purposes of this resolution; and be it

FURTHER RESOLVED: That the City Council has independently reviewed and considered this environmental determination and the City Council finds and determines, based on the information in the staff report accompanying this resolution, that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Sections 15301 (existing facilities) and 15304 (minor alterations to land) of the CEQA guidelines; and be it

FURTHER RESOLVED: That the City Administrator or his designee shall cause to be filed with the County of Alameda a Notice of Exemption for these projects; and be it

FURTHER RESOLVED: That the execution of any documents legally committing the City to fund these projects shall be expressly conditioned upon compliance with the requirements of NEPA, as certified by the City Administrator or his designee; 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, _____, 2009

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

DRAFT
ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California