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OAKLAND

2012 MAY 10 12:12

# AGENDA REPORT

**TO:** DEANNA J. SANTANA  
CITY ADMINISTRATOR

**FROM:** Fred Blackwell

**SUBJECT:** Brownfields Loan Fund Close-Out  
and Grant

**DATE:** April 30, 2012

City Administrator

Date

Approval

5/7/12

City-Wide, District 3

## RECOMMENDATION

Staff recommends that the City Council approve the following resolutions:

1. A Resolution To Authorize The City Administrator To Execute A Close Out Agreement With The U.S. Environmental Protection Agency, Region 9, For The Brownfield Cleanup Revolving Loan Fund, Allowing The City Of Oakland Autonomy, While Committing To Follow EPA Eligibility And Environmental Standards, In The Execution Of Sub-Grants And/Or Loans To Private And Non Profit Entities For The Environmental Clean-up Of Contaminated Property; And
2. A Resolution To Authorize The City Administrator To Approve And Execute A Grant Agreement With The East Bay Asian Local Development Corporation In An Amount Up To \$260,000 For Environmental Clean-Up of Contaminated Lands For The Future Development Of Affordable Housing In West Oakland.

## EXECUTIVE SUMMARY

The City has had a Cooperative Agreement with the U.S. Environmental Protection Agency (EPA) Brownfield Cleanup Revolving Loan Fund (BCRLF) since 2003. Its first loans were made in 2006, with an amended Cooperative Agreement executed in that year with EPA. The BCRLF Cooperative Agreement has expired its five-year term, and staff request authorization for the City Administrator to execute a Close-out Agreement with EPA for the transfer of authority for remaining funds to the City (*Attachment A*).

Originally \$500,000 was allocated to the City of Oakland. Of this sum, \$200,000 was lent to Oakland Redevelopment Agency (ORA) for cleanup of Willow Park in West Oakland (Resolution No. 78891 C.M.S.). In 2006, the Oakland City Council approved a grant in the amount of \$120,000 to Habitat for Humanity (Resolution No. 80327 C.M.S.) for the cleanup of

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an Edes Avenue housing project site, and in that same action, a loan in the amount of \$150,000 was approved for remediation activities on a private site in West Oakland. The City retained \$30,000 for administrative use, approximately \$17,000 of which was spent on the *Oakland Brownfields Resource Guide* publication, EPA-required conference travel, marketing and promotion expenses, and technical assistance provided by the Environmental Services staff of the City's Public Works Agency.

In April 2012, the East Bay Asian Local Development Corporation (EBALDC) requested a grant in the amount of \$300,000 for environmental remediation (clean-up) of California Hotel (Phase II) and for environmental clean-up of its newly acquired housing site at Brush Street and West Grand Avenue in West Oakland (*Attachment B*). Staff recommends the City Administrator approve and execute a grant agreement with EBALDC in an amount not to exceed \$260,000 for clean-up activities. The final \$148,000 repayment installment from the ORA of the Willow Park loan, plus accrued interest in the amount of \$124,621.81, enables the City to have approximately \$272,621.81 available for further loans or grants. Staff recommends that up to \$260,000 of these funds be granted to EBALDC for two projects now underway. The EPA invites the City to re-apply in future cycles as a new grantee for the Revolving Loan Fund program.

### OUTCOME

The Council's actions to authorize the City Administrator to negotiate the Closeout Agreement with EPA will enable the City to administer, with autonomy, loan or grant funds from its existing balance of \$272,621.81.

The approval of the Brownfield Cleanup grant to EBALDC, pending underwriting and further application processing, will assist in the transformation of the California Hotel to a new use—affordable multi-family apartments with ground floor commercial—and expedite the revitalization of the San Pablo Corridor. It will also assist in the redevelopment of currently blighted property at Brush Street and West Grand Avenue through the new development of a mixed use project.

### BACKGROUND/LEGISLATIVE HISTORY

The City executed a Cooperative Agreement with the EPA (Resolution No. 75970 C.M.S.) for the BCRLF program. That Cooperative Agreement was re-negotiated in 2006, after which staff approved the first loans of the program. The RLF program funds were to run for five years only, from the time of the first loan approval, and consequently the RLF expired in December, 2011. As part of the expiration, the City was invited to continue to administer the program using existing revolved funds plus accrued interest, the total of which is currently \$272,621.81.

## ANALYSIS

Land in the urban central city is often constrained by the presence or perception of contamination. Oakland has suffered the blight and decay of land and or underutilized buildings which cannot be redeveloped without the conduct of an environmental assessment and subsequent cleanup. The costs and uncertainty of costs for environmental cleanup cause disinvestment in Oakland's neighborhoods. Lenders are often reticent to lend on Brownfields, and a lack of financing for assessment and cleanup deters redevelopment of the properties. The availability of loan or grant financing is a valuable aspect of Oakland's incentives for redevelopment, especially given the lack of a Redevelopment funding program. Affordable housing development is especially hindered by the demise of the Redevelopment program, and is a worthy target for these funds. Staff recommends that the EBALDC request of total Brownfields cleanup funding in the amount of \$260,000 be provided, and that the remaining reserve of approximately \$2,621.81 be available for staff costs for the review of the project by staff from the Public Works Agency, Environmental Services Division.

## PUBLIC OUTREACH/INTEREST

In 2006-2007 staff re-published the *Oakland Brownfield Resource Guide* to educate the public and potential borrowers and grantees about Brownfields conditions, process and programs. In 2008 staff conducted a workshop on Community Engagement in Brownfields, held at the West Oakland Senior Center. Staff has marketed the BCRLF through program flyers, circulated at various public meetings and through the public counters of the Planning and Zoning and Building Services divisions.

## COORDINATION

Staff works with the Oakland Fire Department's Hazardous Material Supervisor, the Public Works Agency's Environmental Services Division, and the Department of Housing & Community Development for review and approval of the environmental conditions and proposed work program on project sites. Staff works with and makes referrals to the Oakland Business Development Corporation for the review of the financial aspects of loan applications, at a cost borne by the applicants.

## COST SUMMARY/IMPLICATIONS

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:  
Grant Agreement for EBALDC: California Hotel \$260,000  
(\$180,000) and W. Grand/Brush sites (\$90,000)

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Reserve for Loan Administration &PWA Environmental Services technical assistance	\$12,621.81
Total Project Costs	\$272,621.81

2. SOURCE OF FUNDING:

The remaining funds are from a combination of “revolved” loans and accrued interest from the BCRLF program, which was originally funded by EPA. Funding is available in Fund 2125 (U.S. EPA), Org 02981 (Economic Development), Program G183830 (Brownfield Cleanup Revolving Loan Fund). An administrative and technical assistance stipend has been reserved for the successful implementation of the Brownfields remediation portion of the projects receiving grant funds.

3. FISCAL IMPACT:

The present action does not have any direct new fiscal impact on the City.

**FISCAL/POLICY ALIGNMENT**

The grant of \$260,000 will expend the majority of the BCRLF funds, apart from retention of minor technical assistance staffing and administrative funds for staff management. The City may apply for additional grant from EPA in the future, should it want to continue this program.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** The approval of a \$260,000 grant to EBALDC will result in short-term construction employment, and eventually in permanent employment in the resulting ground floor commercial development, as part of the overall projects.

***Environmental:*** The project funds the remediation of contaminated soil in preparation for housing and commercial development. The San Pablo and West Grand corridors are particularly impacted by the presence of soil and groundwater contamination due to historic uses. Remediation will pave the way for revitalization of the area.

***Social Equity:*** The project benefits low-income residents by supporting the development of affordable housing, while also providing new and renovated commercial space for neighborhood-serving commercial uses.

CEQA

The California Hotel and West Grand/Brush Street projects are exempt from CEQA under Section 15300 (Infill Project less than five acres), Section 15301 (existing facilities), Section 15061(b)(3)(general rule), and 15304 (minor alterations to land) of the CEQA Guidelines.

For questions regarding this report, please contact Margot Lederer Prado, economic Development Specialist, at 238.6766, mprado@oaklandnet.com.

Respectfully submitted,



Fred Blackwell  
Assistant City Administrator

Reviewed by:  
Aliza Gallo, Economic Development Manager  
Office of Economic & Workforce Development

Prepared by:  
Margot Lederer Prado,  
Economic Development Specialist  
Office of Economic & Workforce Development

Attachments :

- (A) BCRLF Close-Out Agreement with U.S. Environmental Protection Agency
- (B) Letter Grant Request by East Bay Asian Local Development Corporation (EBALDC)

**CLOSEOUT AGREEMENT BETWEEN  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 9  
AND  
CITY OF OAKLAND  
FOR ASSISTANCE AGREEMENT BF 96960801**

**I. Introduction**

The agreement by and between the City of Oakland (City) and the U.S. Environmental Protection Agency (EPA) describes the closeout procedures for the EPA Brownfields Revolving Loan Fund (RLF) assistance agreement number BF 96960801 awarded under CERCLA 104(k). This agreement sets forth the terms and conditions for the continued management and use of the program income that is generated after the grant is closed. This agreement has been prepared in accordance with the provisions of 40 CFR Part 31.

As of the effective date of this signed agreement, EPA acknowledges that the City has met the substantive requirements of the RLF assistance agreement and will assume management of all requirements described in this agreement.

**II. Required Assistance Agreement Closeout Documents and Reports**

The following documents were provided to the EPA as of July 29, 2011 closeout agreement, the following documents and reports must be provided to the EPA point of contact for this grant:

1. Final Financial Status Report (SF-425)
2. Final Lobby and Litigation Certificate (EPA Form 5700-53)
3. Final Minority Owned Business/ Women Owned Business Enterprise Report (EPA Form 5700-52A)
4. Final Report for the Grant. This report shall serve as the Final Report providing the following information :
  - a. Contact information for the City: Margot Lederer Prado (510) 238-6766
  - b. A summary of all loans and/or sub-grants made under the grant, and the status of each loan.  
(See Attachment A)
  - c. A list of all cleanup reports and other cleanup documentation (i.e. No Further Action letters) completed as of the effective date of this agreement. EPA may request the City of Oakland provide copies of reports that were not received during the grant.
  - d. A budget summary for the grant, including: recipient name, site address, Assessor's Parcel Number, loan amount, repayment period, and % or total dollar amount repaid as of the effective date of this agreement. In addition, the City of Oakland will provide the amounts, by workplan task, that have been billed to the RLF.

- e. Property Profile Forms for all sites that have receive loans as of the effective date of this a agreement into the ACRES database (see EPA Staff David Gassman email of August 3, 2011. re ACRES data entry)

### **III. Program Income**

1. All accrued program income shall be considered "retained program income" in accordance with the 11 March 2010 letter from Mathy Stanislaus, Assistant Administrator, titled "Brownfields Revolving Loan Fund Cooperative Agreement Closeout Agreements". All retained program income must be managed separately and must be used for the continued operation of the RLF program.
2. Brownfields cleanup or assessments financed with retained program income must be consistent with Brownfields eligibility provisions and site eligibility limitations contained in the terms and conditions of the original assistance agreement BF 97955901.
3. As provided in 40 C.F.R. 31.25(h), all other federal requirements do not apply to the activities funded with the retained program income.
4. EPA encourages the City of Oakland to use the retained program income primarily for Brownfield cleanup loans. In addition, the retained program income may be used for the following:
  - a. Cleanup subgrant agreements.
  - b. Phase I and Phase II Assessments in accordance with EPA's All Appropriate Inquiry requirements, which includes the ASTM E1527-05 standard and any current updates.
  - c. Programmatic costs to manage and oversee work under this grant.
5. All assessment and cleanup work funded with retained program income must be performed in accordance with federal, state and local environmental rules and regulations. In addition, cleanup sites must be enrolled in a state voluntary cleanup program with either the California State Department of Toxic Substances, or the Regional Water Quality Control Board. In a situation where authority has been delegated, the cleanup must be enrolled in the voluntary cleanup program of the delegated authority.
6. Retained program income shall not be used for site inventory work or used as a cost share for either federal, state or local grants.

### **IV. Continued Post-Closeout Reporting Requirements**

1. Annual Reports are required for the first 5 years following the effective date of this closeout agreement, or sooner, if all retained income is expended before the end of the 5 year period. The annual report shall include at a minimum:
  - a. Contact information for the City of Oakland, including the name of the report author.
  - b. A summary of all loans and/or subgrants made under the grant, and the status of each loan for the reporting period.
  - c. A list of all cleanup reports and other cleanup documentation (i.e. No Further Action letters) completed during the reporting period.
  - d. A budget summary for the reporting period, including: recipient name, site address, Assessor's Parcel Number, loan amount, repayment period, and % or total dollar amount repaid

during the reporting period. In addition, the City of Emeryville will provide the amounts, by workplan task, that have been billed to the RLF for the reporting period.

e. Property Profile Forms for all new sites that received loans during the reporting period into the ACRES database.

#### **V. Continuing Records Retention Requirements**

The grant recipient must maintain adequate accounting records for how retained program income is managed and spent as well as all other appropriate records and documents related to the activities conducted using retained program income. All records and documents must be retained for a period of three years following the termination of this closeout agreement.

#### **VI. Termination of this Agreement**

Termination of this closeout agreement occurs when all retained program income has been expended. The City shall notify the EPA in writing when this occurs and certify that all funds have been expended in accordance with the terms and conditions of this closeout agreement. The notification should provide the relevant grant information specified in Section IV item 1.a. of this agreement. EPA has 90 days from receipt of this notification to submit any objections to the termination of this closeout agreement. If EPA does not object within this period, then the closeout agreement will terminate with no further action.

#### **VII. Modifications**

This closeout agreement can only be modified in writing by agreement of the EPA and the grant recipient. Oral or unilateral modification shall not be effective or binding.

#### **VII. Enforcement of this Agreement**

If the City expends retained program income in a manner inconsistent with this Closeout Agreement, the EPA may take actions authorized under 40 C.F.R. Section 31.43.

#### **IX. Severability**

If any of the provisions in this Closeout Agreement are invalidated by a court of law, the parties remain bound to comply with the provisions of this Closeout Agreement that were not found to be invalidated.

#### **X. Points of Contact**

1. The point of contact for the City of Oakland is:

Deanna Santana, City Administrator  
City of Oakland



1 Frank Ogawa Plaza  
Oakland CA 94612  
(510). 238.3302

2. The point of contact for EPA is:

Wallace Woo  
Brownfields Project Manager, US EPA  
75 Hawthorne Street  
San Francisco, CA 94105  
415.972.3270

**XI. Signatures**

This Closeout Agreement becomes effective on the date of signature of the EPA award official.

On behalf of the City of Oakland:

\_\_\_\_\_

Date: \_\_\_\_\_

Assistant City Administrator

On behalf of EPA:

\_\_\_\_\_

Date: \_\_\_\_\_

Clancy Tenley  
Assistant Director, Partnerships, Land Revitalization and Cleanup Branch  
Superfund Division  
US Environmental Protection Agency, Region 9  
75 Hawthorne Street, SFD-6  
San Francisco, CA 94105



EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION  
35 YEARS OF BUILDING HEALTHY NEIGHBORHOODS

Board of Directors

April 24, 2012

Natalia F. Lawrence  
*Chair*

Margot Lederer Prado, AICP  
Economic Development/Specialist  
Office of Economic Development  
250 Frank Ogawa Plaza, Suite 3315  
Oakland, CA 94612

Anita Rees  
*Vice Chair*

Ted Dang  
*Secretary*

John Benson  
*Treasurer*

Debra Chester

Dear Ms. Prado,

Karl Cusner

The East Bay Asian Local Development Corporation would like the City of Oakland's support in the remediation of two sites in the West Oakland neighborhood: West Grand & Brush street properties and California Hotel. These two sites both fall along the San Pablo Corridor which EBALDC is heavily invested in its economic and social revival.

Kitty Hoover

Roy Ikeda

Emily Lin

J. Hadiah McLeod

Thomas Mishima

West Grand X Brush street:

Felicia Scruggs-Wright

Dr. K.M. Tan

We are requesting \$100,000 for the remediation of the soils at the West Grand & Brush street site which will take place in February 2014. The remediation work will take place just before the construction of new affordable homes for 60 families.

Rosalyn Tonai

Joanne Tornatore-Pili

Vien Truong

California Hotel:

Executive Director  
Jeremy Liu

We are requesting \$200,000 for Phase II of the remediation work at California Hotel which will begin in January 2013. It will be used for the removal of building contaminants including lead and asbestos as well as possible soils contaminants. The remediation will occur during the process of reconfiguring the apartments to 137 studio, 1 & 2 bedroom units.

Therefore, we are requesting a total of \$300,000 for the remediation of both sites.

Sincerely,

Jeremy Liu  
Executive Director

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

K. J. Kim  
City Attorney

2012 MAY 10 12:12  
RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

**RESOLUTION TO AUTHORIZE THE CITY ADMINISTRATOR TO EXECUTE A CLOSE OUT AGREEMENT WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 9, FOR THE BROWNFIELD CLEANUP REVOLVING LOAN FUND, ALLOWING THE CITY OF OAKLAND AUTONOMY, WHILE COMMITTING TO FOLLOW EPA ELIGIBILITY AND ENVIRONMENTAL STANDARDS, IN THE EXECUTION OF GRANTS AND/OR LOANS TO PRIVATE AND NON-PROFIT ENTITIES FOR THE ENVIRONMENTAL CLEAN-UP OF CONTAMINATED PROPERTY**

**WHEREAS,** Oakland has an abundance of brownfields sites within the City limits, defined as sites which are blighted, vacant or underutilized sites due to the real or perceived presence of contaminants; and

**WHEREAS,** the high cost of environmental site assessment, cleanup and related legal and insurance issues are major barriers in the reuse of these sites; and

**WHEREAS,** to encourage development of brownfields sites, the City of Oakland has had a Cooperative Agreement with the United States Environmental Protection Agency to operate a Brownfields Cleanup Revolving Loan Fund program, providing loans for environmental cleanup of such sites and designates; and

**WHEREAS,** The City of Oakland's Brownfields Cleanup Revolving Loan Fund Cooperative Agreement with United States Environmental Protection Agency expired in December, 2011; now, therefore be it

**RESOLVED:** That the City of Oakland hereby authorizes the City Administrator to execute a Closeout Agreement with the United States Environmental Protection Agency; and be

**FURTHER RESOLVED:** That the City of Oakland has independently reviewed and considered this environmental determination, and the Council finds and determines that this action complies with CEQA because this action on the part of the City is exempt from CEQA pursuant to Section 15061(b)(3) (general rule) of the CEQA guidelines.

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

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

# OAKLAND CITY COUNCIL

K. Jain  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

2012 MAY 10 12:13  
Introduced by Councilmember \_\_\_\_\_

**A RESOLUTION TO AUTHORIZE THE CITY ADMINISTRATOR TO APPROVE AND EXECUTE A GRANT AGREEMENT WITH THE EAST BAY ASIAN LOCAL DEVELOPMENT CORPORATION IN AN AMOUNT UP TO \$260,000 FOR ENVIRONMENTAL CLEAN-UP OF CONTAMINATED LANDS FOR THE FUTURE DEVELOPMENT OF AFFORDABLE HOUSING IN WEST OAKLAND**

**WHEREAS**, The City of Oakland (the "City") received funds from the United States Environmental Protection Agency (the "EPA") that have been used to establish and administer the Brownfields Cleanup Revolving Loan Fund ("BCRLF") from which the City is authorized to make grants to entities to undertake remediation and mitigation of hazardous substances on brownfields; and

**WHEREAS**, The City of Oakland (the "City") seeks to authorize funding for the East Bay Asian Local Development Corporation ("EBALDC") for brownfields cleanup of the California Hotel (Phase 2) and the West Grand/Brush Street mixed use affordable developments (the "Property"), pending completion of underwriting and other eligibility qualifications; and

**WHEREAS**, certain hazardous substances have been identified in the soil at the Property, and a plan to remediate has been developed; and

**WHEREAS**, EBALDC is eligible to receive grants under the BCRLF Transition program because it is a nonprofit entity and the Property to be remediated is not listed, nor proposed to be listed, on the EPA's National Priorities List; and

**WHEREAS**, the City Council agrees to grant EBALDC Two Hundred and Sixty Thousand dollars (\$260,000.00) in BCRLF Funds for the Mitigation Project on the Property; pending completion of underwriting and other eligibility criteria, 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 hereby authorized to execute a grant in an amount up to \$260,000 to the EBALDC, so long as EBALDC has carried out the Mitigation Project 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 or local laws; and be it

**FURTHER RESOLVED:** That the grant funds will be allocated from Environmental Protection Agency Fund (2125), Business Development Org: (02981), and EPA-Brownfield Cleanup Project (G183830); and be it

**FURTHER RESOLVED:** That the grant must be drawn down within a period of two (2) years from the date the Grant Agreement is executed; 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 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), Section 15061(b)(3)(general rule), and 15304 (minor alterations to land) of the CEQA guidelines; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this project; 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 her 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, \_\_\_\_\_

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