

# CITY OF OAKLAND

## AGENDA REPORT

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2008 SEP 11 PM 3:20

TO: Office of the City Administrator  
ATTN: Dan Lindheim  
FROM: Community and Economic Development Agency  
DATE: September 23, 2008

RE: **Resolution To Amend Resolution No. 77965 C.M.S. To Reallocate Measure DD Series 2003A Bond Proceeds In An Amount Up To One Million Nine Hundred Thousand Dollars (\$1,900,000.00) To The Municipal Boathouse Rehabilitation Project (C241911) For Additional Construction Funding, And To Authorize The City Administrator, Or The City Administrator's Designee, To Reallocate Measure DD Series 2003A Bond Proceeds And To Allocate Measure DD Series 2003A Unallocated Interest Funds As The City Administrator Deems Necessary For The Timely Completion Of Specific Measure DD Projects In Accordance With Measure DD**

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### SUMMARY

A resolution has been prepared to amend Resolution No. 77965 C.M.S. to reallocate Measure DD Series 2003A Bond proceeds in an amount up to \$1,900,000.00 to the Municipal Boathouse Rehabilitation Project (C241911) for additional construction funding, and to authorize the City Administrator, or the City Administrator's designee, to reallocate Measure DD Series 2003A Bond proceeds and to allocate Measure DD Series 2003A unallocated interest funds as the City Administrator deems necessary for the timely completion of specific Measure DD projects in accordance with Measure DD.

This resolution will allow an amount up to \$1,900,000.00 to be temporarily reallocated to the Municipal Boathouse Reconstruction Project from existing Measure DD Series 2003A project funds that have not been spent or from projects which are on hold. This reallocated funding will be recovered by the specific projects through the allocation of Series 2003A Bond interest funds when the Series 2003A Bond fund principal has been spent. There is sufficient cash fund balance available in Measure DD Series 2003A to pay for this work.

The Municipal Boathouse Reconstruction Project was originally bid as a lump sum project, which included building reconstruction work and all park improvements and site work. The City Council approved a construction contract for this project in an amount not to exceed \$12.5 million on June 25, 2006, under Resolution No. 80085 C.M.S. The total construction budget for the project was \$13.4 million, including a \$900,000 contingency, which is less than the recommended 10% contingency for a reconstruction project. Soon after the award of the construction contract, a lawsuit was filed against the City to stop the removal of any trees on the site. This lawsuit prevented the City from implementing the site work and thus a majority of the site work was deleted from the original project.

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Public Works and Finance and Management Committees  
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Reconstruction of the building proceeded independently and the total projected construction cost of the building improvements is \$11.1 million. After the tree removal lawsuit was eventually resolved, the site work was re-packaged to exclude building improvement work and to incorporate the community concerns over the parking lot. The total budget for construction of the site work is \$4.2 million including \$3,825,400.00 for the base contract and \$374,600.00 for contingency. The overall project construction cost is now \$15.3 million and as a result, the Municipal Boathouse Reconstruction project requires an additional \$1.9 million (i.e., \$15.3 million less \$13.4 million) in funding for completion.

The additional \$1.9 million in required funding is a result of the following factors:

- Splitting of the building and site work contracts.
- *Redesign of on-site parking lot and the reconfiguration of Lakeside Drive in response to community concerns, as approved by Council on July 15, 2008.*
- Added contract change orders including numerous unforeseen conditions.
- Escalation of project costs due to the delay of the project by the tree removal lawsuit.

## **FISCAL IMPACT**

Approval of this resolution will result in funding an amount of up to \$1,900,000.00 for completion of construction of the Municipal Boathouse Rehabilitation Project (C241911) which will be advanced from existing Measure DD Series 2003A fund balance (Oakland Trust for Clean Water and Safe Parks, Fund 5320, Capital Project Management Organization 92270). These funds will be temporarily reallocated to the Municipal Boathouse Reconstruction Project from specific project funds that have not been spent or from projects which are on hold. This reallocated funding will be recovered by the specific projects by allocating Series 2003A Bond Interest Funds when the entire Series 20003A principal has been spent. There is sufficient cash fund balance available in Measure DD Series A to pay for this work.

Based on the current accrued interest for the Measure DD Program, the proportionate amount of interest for the Municipal Boathouse Rehabilitation Project is approximately \$2.1 million, and is, therefore sufficient to cover the requested additional funding for the project, up to \$1,900,000.00.

## **BACKGROUND**

The Municipal Boathouse is located in Council District 3 on the west side of Lake Merritt at 1520 Lakeside Drive. The proposed improvements are identified in the Lake Merritt Park Master Plan of July 2002 as a high priority project scheduled for implementation. In November 2002, Oakland voters passed Measure DD, the Oakland Trust for Clean and Safe Parks Bond Measure, to fund the construction of the various projects, including the Municipal Boathouse Rehabilitation Project.

The Municipal Boathouse Rehabilitation Project was covered as part of the Environmental Impact Report (EIR) for the City of Oakland Bond Measure DD projects. This EIR was certified April 1, 2008, and no additional supplemental environmental clearance is required.

## **PROJECT DESCRIPTION**

Originally built in two phases, the center building, or Pump House, was completed in 1909 and the north and south wings were completed in 1917. The existing building is built partially over the water and is supported by piles. The current improvements to the Municipal Boathouse have been designed to preserve and enhance the historic characteristics and elements of the facilities. The improvements include seismically strengthening the building with a combination of micro-piles, grade beams, brace frames and shear walls, and the replacement of all windows, doors, and all the mechanical systems and utilities. To promote the City's mandate for sustainable development, the project will be LEED (Leadership in Energy Efficient Design) Silver certified. Site work includes the construction of a new parking lot, pathways, and park improvements.

Pursuant to Resolution No. 80085 C.M.S., the City Council on June 25, 2006, approved a construction contract with BBI Construction in an amount not to exceed \$12.5 million for the entire Municipal Boathouse Reconstruction project, which included the building reconstruction work and all the park improvements and site work. The total construction budget for the project was \$13.4 million, including a \$900,000 contingency. Soon after the award of the construction contract, a lawsuit was filed against the City to stop the removal of any trees on the site. This lawsuit prevented the City from implementing the site work and thus a majority of the site work was deleted from the original project and BBI Construction's contract.

With the delay to site improvement work, it was deemed necessary for the reconstruction of the building, including all structural renovations, interior and exterior building upgrades, and retaining wall and dock reconstruction work to proceed independently. Moving separately forward with only the building work minimized more delays and delay related costs to the project. Any further delays to the building work would have also adversely affected the lease terms and costs between the City and the future restaurant tenant of the facility.

The total projected construction cost of these building improvements is \$11.1 million. The tree removal lawsuit was eventually resolved, and the site work was also partially re-designed to accommodate City Council approved revisions to the on-site parking lot and to Lakeside Drive. The site work and park improvements portion of the project was re-packaged and bid upon separately in April 2008. Pursuant to Resolution No. 81491 C.M.S, the City Council awarded a construction contract to McGuire & Hester for the site work with a total construction budget of \$4.2 million, including contingency. The overall project construction cost is now \$15.3 million and as a result, the Municipal Boathouse Reconstruction Project requires an additional \$1.9 million (i.e., \$15.3 million less \$13.4 million) in funding for completion.

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## KEY ISSUES AND IMPACTS

The supplemental funding of up to \$1.9 million for the Municipal Boathouse Reconstruction Project is required as a result of the following:

1. Splitting of the building and site work contracts.

The tree removal lawsuit restricted the contractor from performing the site work at the same time the building work was proceeding. The subcontractors performing the site work could not hold their bid prices past December 2006 and as a result the site work was deleted from the construction contract. This ultimately resulted in increased costs due to the inefficiencies of having two construction projects; by repackaging the contract documents and re-bidding the project.

2. Redesign of the on-site parking lot and the reconfiguration of Lakeside Drive in response to community concerns and as approved by Council.

In the winter of 2005/2006, the local community voiced their concerns about a 52-space parking lot impacting the lawn area at the Municipal Boathouse site. To address these concerns the parking lot was reduced to 28-spaces to conserve lawn area and Lakeside Drive was reconfigured to provide an aisle for additional parking. This required the curb and drainage systems along Lakeside Drive to be relocated. Council approved the revised plan in July 2006. These changes resulted in additional design and construction costs to the project, which are estimated to be \$400,000.

3. Added contract change orders, including numerous unforeseen conditions.

Key contract change orders include reconstructing several major concrete beams that had deteriorated under the building, removing 60 cubic yards of contaminated soil beneath the Pump House floor, and numerous structural revisions required as a result of reconstructing the historic building. The project schedule has also been extended and additional design and construction management costs have been incurred because of the change orders. These change orders are estimated to cost \$1.4 million.

4. Escalation of project costs due to the delay of the project by the tree removal lawsuit.

As a result of the overall delay of the site work for approximately two years, labor and material costs have escalated.

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## **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The project will generate jobs for Oakland residents, and business tax, sales tax and other revenues for the City by those who work on the project.

***Environmental:*** The Municipal Boathouse Rehabilitation Project will receive the Leadership in Energy and Environmental Design (LEED) Silver Rating Certification from the US Green Building Council (USGBC). The contractor was required to meet the USGBC's LEED Silver Rating standards in the areas of sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, and innovation and design process. The standards also include the construction waste reduction goal of 75%, which exceeds the City's Recycling and Waste Reduction Program goal of 50%.

***Social Equity:*** With this project, neighboring residents and the community citywide will gain improved access to the Municipal Boathouse, Lake Merritt, and the surrounding Lakeside Park. The improved facilities and site will also provide enhanced recreational venues for public functions.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The project will be compliant with the Americans with Disabilities Act (ADA). Compliant circulation routes will be provided for improved access to the park and to the Municipal Boathouse.

## **RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council approve the resolution. The Municipal Boathouse Rehabilitation Project requires additional funding of up to \$1,900,000 for completion because of the impacts of the tree removal lawsuit, redesign of the site to respond to community concerns, contract change orders and escalation of project costs.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the resolution.

Respectfully submitted,

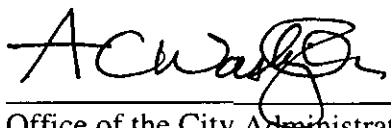


Dan Lindheim  
Director  
Community & Economic Development Agency

Reviewed by:  
Michael Neary, P.E.  
Deputy Director, Community & Economic  
Development Agency

Prepared by:  
Lyle Oehler  
Project Manager, Project Delivery

APPROVED AND FORWARDED  
TO THE PUBLIC WORKS AND  
FINANCE AND MANAGEMENT COMMITTEES:

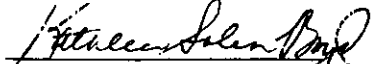


Office of the City Administrator

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2008 SEP 11 PM 3:20

Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

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

INTRODUCED BY COUNCILMEMBER \_\_\_\_\_

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**RESOLUTION TO AMEND RESOLUTION NO. 77965 C.M.S. TO REALLOCATE MEASURE DD SERIES 2003A BOND PROCEEDS IN AN AMOUNT UP TO ONE MILLION NINE HUNDRED THOUSAND DOLLARS (\$1,900,000.00) TO THE MUNICIPAL BOATHOUSE REHABILITATION PROJECT (C241911) FOR ADDITIONAL CONSTRUCTION FUNDING, AND TO AUTHORIZE THE CITY ADMINISTRATOR, OR THE CITY ADMINISTRATOR'S DESIGNEE, TO REALLOCATE MEASURE DD SERIES 2003A BOND PROCEEDS AND TO ALLOCATE MEASURE DD SERIES 2003A UNALLOCATED INTEREST FUNDS AS THE CITY ADMINISTRATOR DEEMS NECESSARY FOR THE TIMELY COMPLETION OF SPECIFIC MEASURE DD PROJECTS IN ACCORDANCE WITH MEASURE DD**

**WHEREAS**, the reconstruction of the Municipal Boathouse is identified in the Lake Merritt Park Master Plan of July 2002 as one of the major, high priority projects scheduled for implementation, and in November 2002 the Oakland voters passed Measure DD, the Oakland Trust for Clean Water, Safe Parks Bond Measure, to fund the construction of the project; and

**WHEREAS**, the Municipal Boathouse Rehabilitation and Park Improvement Project (C241911) was covered as part of the Environmental Impact Report (EIR) for the City of Oakland Measure DD Bond projects and was certified April 1, 2008, with no additional supplemental environmental clearance is required for this project; and

**WHEREAS**, the Municipal Boathouse Rehabilitation and Park Improvement Project (C241911) was originally bid as a lump sum project, which included building rehabilitation work and all park improvements and site work and the City Council approved a construction contract under Resolution No. 80085 C.M.S. on June 25, 2006 with a total construction budget, including contingency, of \$13.4 million; and

**WHEREAS**, subsequently, the majority of the Municipal Boathouse project site improvement work was deleted from the construction contract because of delays caused by the tree removal lawsuit and major design modifications made to parking facilities at the site to address community concerns and as approved by Council; and

**WHEREAS**, the current construction cost for Municipal Boathouse Reconstruction Project is \$11.1 million; and

**WHEREAS**, Resolution No. 81491 C.M.S. authorized the City to award a construction contract for the Park and Street Improvement for the Municipal Boathouse and Lakeside Drive Project (C241311) on July 15, 2008 with a total construction budget, including contingency, of \$4.2 million; and

**WHEREAS**, the overall construction cost of both the site work improvement project and Municipal Boathouse building rehabilitation project is \$15.3 million; and

**WHEREAS**, the Municipal Boathouse Reconstruction Project requires an additional \$1.9 million in funding for completion; and

**WHEREAS**, the additional \$1.9 million in required funding for the Municipal Boathouse Rehabilitation Project is the result of the tree removal lawsuit delaying the project and requiring the *splitting of the building and site work into separate construction contracts, the redesign of on-site parking lot and the reconfiguration of Lakeside Drive in response to community concerns and as approved by Council, added contract change orders, including numerous unforeseen conditions, and escalation of project costs due to the delay of the project;* and

**WHEREAS**, approval of this resolution will authorize the City Administrator, or the designee of the City Administrator, to temporarily reallocate an amount up to \$1,900,000.00 to the Municipal Boathouse Reconstruction Project from existing Measure DD Series 2003A project funds that have not been spent or from projects which are on hold; and

**WHEREAS**, reallocated funding from Measure DD Series 2003A project funds that have not been spent or from projects which are on hold will be recovered by those specific projects by allocating Series 2003A Bond unallocated interest funds when all the Series 2003A Bond fund principal has been spent; and

**WHEREAS**, there is sufficient funding available in Measure DD Series 2003A cash fund balance (Oakland Trust for Clean Water and Safe Parks, Fund 5320, Capital Project Management Organization 92270) to pay for this supplemental funding for Municipal Boathouse Project until such time that all the Series 2003A Bond fund principle has been spent; and

**WHEREAS**, based on the current accrued interest for the Measure DD Program, the proportionate amount of interest for the Municipal Boathouse Rehabilitation Project is approximately \$2.1 million, and is, therefore, sufficient to cover the required added funding for the project of up to \$1,900,000.00; now, therefore, be it

**RESOLVED:** That the City Administrator, or a designee of the City Administrator, is hereby authorized to temporarily reallocate an amount up to \$1,900,000.00 to the Municipal Boathouse Reconstruction Project (C241911) from existing Measure DD Series 2003A project funds that have not been spent or from projects which are on hold; and be it



**FURTHER RESOLVED:** That the City Administrator is hereby authorized to allocate up to \$1,900,000.00 in Series 2003A Bond unallocated interest funds to replenish the funds of specific projects which will advance funding to the Municipal Boathouse Reconstruction Project authorized by this resolution; and be it

**FURTHER RESOLVED:** That the City Attorney's Office has reviewed this resolution as to form and legality and a copy is kept on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2008

**PASSED BY THE FOLLOWING VOTE:**

AYES -           BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT  
                  DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
          LATONDA SIMMONS  
          City Clerk and Clerk of the Council of the City  
          of Oakland, California