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OAKLAND

2014 JUL 10 PM 12:33 **AGENDA REPORT**

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Basement Backfill and Repair Program

DATE: June 26, 2014

City Administrator

Date

Approval

7/5/14

COUNCIL DISTRICT: 3

RECOMMENDATION

Staff recommends that the City Council adopt:

A Resolution 1) Authorizing The Creation Of A City Basement Backfill And Repair Program, 2) Allocating \$2,636,845 For The Program Using Excess Central District Bond Funds Under The Bond Expenditure Agreement, And 3) Authorizing The City To Make Grants Under The Program Without Returning To Council

EXECUTIVE SUMMARY

Staff has developed the Downtown Basement Backfill and Repair Program (the "Program"), modeled after a similar program previously established by the former Oakland Redevelopment Agency (the "Agency"), to provide incentives for property owners in the Latham Square-Inner Telegraph and Old Oakland areas to backfill and/or repair their sub-sidewalk basement spaces to allow for the completion of sidewalk improvements above the basements. The proposed Program would provide engineering grants and construction grants to eligible property owners to backfill and/or retrofit the basement spaces.

Under the proposed City program, as distinct from the former Agency program, grants will be made for retrofitting and/or backfilling of the basement spaces Under the terms of the former Agency program, only backfill projects could be forgiven.

The change in terms under the Program was necessary because several property owners were unwilling to enter into a loan agreement with the Agency for retrofitting their basement spaces under the previous terms. The proposed new City Program will 1) provide greater financial incentives to property owners to complete their projects within the grant limits established under the Program; 2) increase the cost effectiveness of future projects that elect to retrofit; and 3) increase the likelihood of owner participation in the Program.

Item: _____
CED Committee
July 22, 2014

OUTCOME

Forgiving the basements retrofits under the Program will provide a more cost-effective solution for owners and allow the streetscape improvements located above the basements to proceed more quickly.

BACKGROUND/LEGISLATIVE HISTORY

As part of the overall strategy to revitalize the downtown Central Business District, the Successor Redevelopment Agency and the City are proposing streetscape improvements in target areas of the downtown, specifically at Latham-Inner Telegraph and Old Oakland. The planned work includes sidewalk improvements over vaulted basement spaces. The basement structures located directly beneath the sidewalks are deteriorated to the extent that they cannot provide adequate support for the sidewalk improvements that are planned above and are to be installed by the City. The program has been revised twice since its inception and a third modification is proposed to enable the program to have the maximum chance to succeed.

On February 19, 2008, the Agency Board, pursuant to Resolution No 2008-006 C.M.S., authorized the Basement Backfill and Repair Program (BBRP), and allocated \$1,100,000 for the program.

On July 15, 2008, pursuant to Agency Resolution No. 2008-0069 C.M.S., the Agency Board authorized amendments to the program, which included: 1) revising and expanding the area and properties covered; 2) allocating an additional \$2,000,000 to the program for a total aggregate amount of \$3,100,000; and 3) authorizing the Agency Administrator to make grants and loans under the program without returning to the Agency.

On May 17, 2011, pursuant to Agency Resolution No. 2011-0044 C.M.S., the Agency Board authorized a program amendment to increase the maximum loan amount for reinforcement and/or backfill work for small projects, which are defined as equal to or less than 40 linear feet, to an amount not to exceed \$200,000 or \$4,000 per linear foot, whichever is higher.

Between 2008 and 2011, Agency staff developed engineering grant and construction loan agreements and developed program procedures for the BBRP. Staff has assisted property owners with execution of fourteen (14) grant agreements with third-party engineering consultants. and executed ten (10) of fourteen (14) construction loan agreements. There are four remaining property owners who have been reluctant to enter into loan agreements.

Item: _____
CED Committee
July 22, 2014

In January 2012, the Oakland Redevelopment Agency was dissolved, and staff reassignments led to significant delays in the implementation of the Basement Backfill and Repair Program.

Redevelopment elimination legislation requires that amendments to ORSA agreements receive Oversight Board and State Department of Finance (DOF) approval. There is no guarantee that the DOF will approve these amendments. As a result of this potential obstacle, staff recommends that the BBRP and any related loan and grant agreements be terminated. The loans were bond funded, so the released funds will be eventually transferred to the City under the Bond Expenditure Agreement. Termination of the ORSA Loan Agreements and execution of City Grant Agreements is therefore recommended. All property owners that formerly signed ORSA loan agreements have been contacted and have committed to enter into new City Grant agreements. Current and anticipated activities include:

1. Termination of seven Agency loan agreements, currently listed on the ROPS;
2. Preparation and execution of seven City Grant agreements;
3. Execution of four additional grant agreements, where owners were reluctant to sign agreements.
4. Re-engineering of seven backfill designs, modifying those designs to retrofit; and
5. Bid packaging for multiple properties for competitive bidding, followed by selection of contractors and finally commencement of construction.

Please see *Attachment A* for a table showing status of projects.

ANALYSIS

The BBRP is a voluntary incentive program that assists property owners with the costs of backfilling and/or retrofitting their basements, so that publicly funded streetscape work can be completed above the basement areas.

Existing Agency Basement Backfill Program	Proposed City Basement Backfill Program
Agency Grant not to Exceed \$20,000 to pay for engineering services for backfill and/or repair of basements.	City Grant not to exceed \$20,000 to pay for re-engineering services for 7 backfill projects. Backfill designs will be modified to retrofits. Increase in design costs will translate into substantial cost savings during construction with no additional appropriation of funds required.

Item: _____
CED Committee
July 22, 2014

<p>Agency Loan of up to \$4,000 per lineal foot for retrofit and repair of sub-sidewalk basements, payable upon resale of property.</p> <p>Agency loan of up to \$4,000 per lineal foot for abandonment and backfill of sub-sidewalk basements, which is forgiven upon satisfactory completion.</p>	<p>City Grant of up to \$4000 per lineal foot for abandonment and backfill or retrofit of sub-sidewalk basements.</p>
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The overall objective of the BBRP is to facilitate basement work so that key streetscape projects can be completed above. The intent of the Program was to promote backfill of basements. Loans were forgiven if owners elected to backfill, leading most owners to select this option. However, one of the major drawbacks to this approach became apparent during Program implementation, which is that backfill of the basement spaces is exceedingly expensive as a result of required utility relocations.

The cost for physically relocating multiple utilities is substantial and includes: private utility company engineering fees, undergrounding and replacement of infrastructure in the street, impacts to property owners to perform code required downstream upgrades to electrical switchgear, gas distribution lines, fire pumps, water services, telephone and data, and City electrical conduit, etc. Based on engineer's estimates and bid results, utility relocations can cost from \$100,000 to \$150,000, depending on the number of utilities requiring relocation. These costs are in addition to the costs of backfilling the basements. This has resulted in property owners receiving bids and engineers estimates that exceed the loan limits established under the program. This prevents the owners from closing on the loans, which has led to delay in program implementation.

Under the Agency program, the retrofit loans are due upon resale or transfer. The cost of retrofitting or strengthening the basements is substantially less than the cost of walling up and backfilling the basements. The original program was structured using the logic that if you actively used the basement for income generating purposes, repayment of the loan was required.

However, most of the basements have little or no use to the owners, except that they house utility infrastructure serving the building. In this case, if use of the space is restricted to providing access for meter reading and utility maintenance, grants should be made for retrofits because it represents the more cost-effective and feasible alternative from a constructability standpoint.

Item: _____
CED Committee
July 22, 2014

Observing the bid pricing and engineering cost data, the cost of retrofitting or strengthening a basement ranges from \$1,000-\$2,000 per lineal foot. The cost of backfilling basements ranges between \$4,000-8,000 per lineal foot. The program allows for a maximum of \$4,000 per lineal foot. Some of the owners of the affected properties cannot proceed with closing of the loans because they are unable to finance project costs that exceed the maximum loan amount.

Allowing the City to make grants for basement retrofits will provide a more cost effective solution and allow the streetscape improvements located above the basements to proceed more quickly.

PUBLIC OUTREACH/INTEREST:

Affected property owners have been contacted and informed of the proposed revisions to the program.

COORDINATION

The following City departments were consulted during the preparation of this report:

- Office of the City Attorney
- City Budget Office
- Public Works Agency
- Planning and Building

COST SUMMARY/IMPLICATIONS

There are no new ORSA/City funds appropriated for this program. The ORSA program is being eliminated and the funds from that program are being transferred to the City. The attached City resolution allocates \$2,636,845 for the program, to be drawn from two sources: (\$2,236,845) from Central District Major Projects in City Fund: (5611).Org (94889) Account (54011) Project: (C473220) Program Code (SC13).

There are (\$400,000) for the former ORSA program already available in the City in Fund (5610) Org (94889) Account (54930) and Project (C354410) Program Code (SC13)

The funds that would be released when the ORSA loans are terminated would be included in the next Recognized Obligation Payment Schedule (ROPS), for January-June 2015 (ROPS 14-15B). These funds totaling \$2,236,845 are located in 2 separate funds and projects: ORSA Basement Program Fund (9714) in various Orgs and Accounts, Project (S354510) and in ORSA Downtown

Item: _____
CED Committee
July 22, 2014

Streetscape Fund (9715) in various Orgs and Accounts, Project (P128820) will replace the funds taken from Central District Major Projects.

FISCAL/POLICY ALIGNMENT

The project will be funded from excess bond funds from ORSA provided to the City under the Bond Expenditure Agreement. The Bond Expenditure Agreement requires that the expenditure of these funds be for an eligible redevelopment purpose and that the projects be consistent with the redevelopment plan and implementation plan for the area that issued the bonds, in this case the Central District. The program will be implemented in the Uptown and Victorian Row/Old Oakland Activity Areas of the Central District Urban Renewal Plan ("CDURP"). The program will assist with right-of-way improvements that are consistent with Section 307 Public Improvements and Facilities of the CDURP, particularly the Public Improvements listed in Exhibit 3, including: streets and roadways (roadway widening, intersection improvements, traffic signalization, roadway resurfacing, installation of overpasses and underpasses, and street signage) and streetscape (sidewalks, curbs and gutters, street medians, street lighting, street furniture, landscaping and street beautification). This program is in support of the infrastructure projects that the City is implementing to attract retail and residential development in the Uptown and Victorian Row/Old Oakland Redevelopment Activity Areas.

SUSTAINABLE OPPORTUNITIES

Economic: The BBRP will provide third party engineering design services and construction job opportunities to improve the physical infrastructure of the area and allow the publicly funded streetscape projects to move forward.

Environmental: Rehabilitated buildings preserve a range of building stock and conserve energy and materials more than new construction. Participants in the program will be encouraged to use recycled content building materials and low waste construction techniques.

Social Equity: The goal of both programs is to improve the physical and economic conditions of the area.

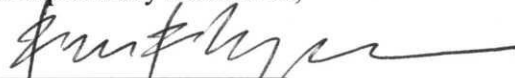
CEQA

No CEQA analysis is required for this report.

Item: _____
CED Committee
July 22, 2014

For questions regarding this report, please contact George Durney Urban Economic Analyst IV, at (510) 238-6150.

Respectfully submitted,



Rachel Flynn, Acting Director
Economic and Workforce Development Department

Reviewed by:

Gregory Hunter

Economic and Workforce Development

Project Implementation Department

Prepared by:

George Durney

Urban Economic Analyst IV

Economic and Workforce Development

Item: _____
CED Committee
July 22, 2014

**BASEMENT BACKFILL and REPAIR PROGRAM
Attachment A**

SITE ADDRESS	OWNER SELECTED OPTION	UTILITIES IN BASEMENT	CONSTRUCTION LOAN AGREEMENT	RECOMMENDED ACTION
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TELEGRAPH BASEMENTS				
1611 Telegraph Ave	Retrofit	Yes	Not Executed	Execute Agreement with Amended Terms
1629 Telegraph Ave	Backfill	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
1631 Telegraph Ave	Backfill	Yes	Executed	Construction Complete - No Action Required
1635 Telegraph Ave	Backfill	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
1645 Telegraph Ave	Backfill	Yes	Not Executed	Execute Agreement with Amended Terms

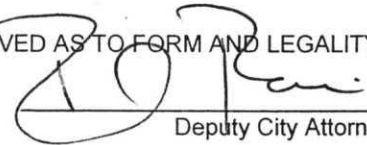
BROADWAY BASEMENTS				
1615 Broadway	Retrofit	Yes	Loan Closed	Construction Complete - No Action Required
1617 Broadway / 1618 Telegraph	Backfill	Yes	Not Executed	Execute Agreement with Amended Terms
1624/8 Telegraph Ave / 1621	None Selected	Yes	Not Executed	Execute Agreement with Amended Terms
1634 Telegraph Ave	Backfill	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
1636 Telegraph Ave	Backfill and Retrofit	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
457 17th St	Backfill and Retrofit	Yes	Executed	Construction Underway - No Action Required

OLD OAKLAND				
725 Washington St	None Selected	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
811-815 Washington St	Retrofit	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms
827 Washington St	Backfill	Yes	Executed	Terminate and Re-Execute Agreement with Amended Terms

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2014 JUL 10 PM 12:33

APPROVED AS TO FORM AND LEGALITY:


Deputy City Attorney

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

A RESOLUTION (1) AUTHORIZING THE CREATION OF A CITY BASEMENT BACKFILL AND REPAIR PROGRAM, (2) ALLOCATING \$2,636,845 FOR THE PROGRAM USING EXCESS CENTRAL DISTRICT BOND FUNDS UNDER THE BOND EXPENDITURE AGREEMENT, AND (3) AUTHORIZING THE CITY ADMINISTRATOR TO MAKE GRANTS UNDER THE PROGRAM WITHOUT RETURNING TO COUNCIL

WHEREAS, staff of the Economic Development and Workforce Development division have prepared a program known as the Downtown Basement Backfill and Repair Program (the "Program"), modeled after a similar program established by the Redevelopment Agency, to provide incentives for property owners in the Latham Square-Inner Telegraph and Old Oakland areas to backfill and/or repair their sub-sidewalk basement spaces so sidewalk improvements can be completed above; and

WHEREAS, the Program will provide for engineering grants and construction grants to backfill or retrofit the basement spaces; and

WHEREAS, the original Redevelopment Agency Program authorized an increase to loan or grant limits for small projects defined as 40 feet or less; and

WHEREAS, the intent of the original Redevelopment Agency program when created was to incentivize backfill and result in complete removal of the physical basement space including removal of spaces from the public right of way; and

WHEREAS, in the original program, the backfill loan converts to a grant upon satisfactory completion of construction and terms of the loan agreement; and

WHEREAS, the original program requires that if the owner elects to retrofit, the construction loan is due and payable upon transfer or resale; and

WHEREAS, the cost of multiple utility relocations is significant and has resulted in property owners receiving bids and engineers estimates that exceed the loan limits established under the program, when they elected to backfill; and

WHEREAS, removal of the basement space from the right of way would require wholesale utility relocation; and

WHEREAS, authorizing retrofits would be more cost effective than backfill; and

WHEREAS, the revised Program will provide greater financial incentives and will increase the feasibility of implementation of cost effective projects and likelihood of increased owner participation; and

WHEREAS, the revised Program will likely result in more rapid implementation of the streetscape project above; and

WHEREAS, funds are available for the revised Program from Central District excess bond funds provided by the Oakland Redevelopment Successor Agency to the City under the Bond Expenditure Agreement, and funding for this Program is provided for under the Bond Spending Plan adopted by the City Council; now, therefore, be it

RESOLVED: That the City hereby adopts a Downtown Basement Backfill and Repair Program to provide engineering grants of up to \$20,000 and to provide recoverable grants of up to \$4,000 per lineal feet of basement space, without returning to Council; and be it

FURTHER RESOLVED: That the grants made available shall be for backfill and/or retrofit of the basement spaces; and be it

FURTHER RESOLVED: That the maximum grant amount is increased for reinforcement or backfill work for small projects, which are defined as equal to or less than 40 linear feet, to an amount not to exceed \$200,000 or \$4,000 per lineal foot, whichever is higher; and be it;

FURTHER RESOLVED: That the grants for backfill and abandonment shall be recoverable if the property owner fails to complete the work; and be it

FURTHER RESOLVED: That the City hereby allocates a total of \$2,636,845 for the Program from two sources: (\$2,236,845) in Central District Major Projects City Fund (5611) Org(94889)Account(54011)Project (C473220)Program Code(SC13) and (\$400,000) in Basement Program City Fund (5610) Org (94889) Account (54930) Project (C354410) Program Code (SC13); and be it

FURTHER RESOLVED: That the City authorizes the City Administrator to make grants under the program without returning to City Council; and be it

FURTHER RESOLVED: That the City Administrator or his or her designee is hereby authorized to make grants, negotiate and enter into contracts, and to take other action with respect to the Program consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON McELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California