

2010 JUL 15 PM 5:09

CITY OF OAKLAND
SUPPLEMENTAL AGENDA REPORT

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: July 20, 2010

RE: **Revised Resolution Approving The Application Of The City's Recovery Zone Economic Development Bond Issuance Authority Initial Allocation Of \$5,045,000 And Any Additional Allocations To The Macarthur Transit Village Within The Redevelopment Agency Of The City Of Oakland Broadway/Macarthur/San Pablo Redevelopment Project Area And The Obligations To Be Issued With Respect Thereto**

Revised Resolution Determining To Apply The City's Recovery Zone Facility Bond Issuance Authority Initial Allocation Of \$7,581,000 And Any Additional Allocations To The Financing Of Various Facilities To Be Acquired, Constructed And Installed By Ports America Oakland And Declaring Intent To Issue Revenue Bonds

Supplemental Report And Resolution Approving The Application Of The City's Qualified Energy Conservation Bond Issuance Authority Initial Allocation Of \$4,165,214.52 And Any Additional Allocations To The City Of Oakland Downtown Energy Efficiency Streetlight Project

SUMMARY

At the July 13th CED Committee, staff presented a report requesting that the City Council approve project recommendations for the use of the City's Recovery Zone Bond Program issuance authority. Under the American Recovery and Reinvestment Act of February 2009 the City of Oakland (the "City") was allocated \$5,054,000 in Recovery Zone Economic Development Bonds (RZEDB), \$7,581,000 in Recovery Zone Facility Bonds (RZFB) and \$4,165,124 in Qualified Energy Conservation Bonds (QECCB) to be used for economic development purposes.

The next critical date for continued access to the Recovery Zone Bond Program allocations is August 15, 2010. It is proposed that the bond repayment could be covered from the direct energy savings realized by the City over the life of the bond. By that date, the City must submit a Resolution of Intent which demonstrates the City Council's approval of the proposed projects, a written opinion by bond counsel that states that the proposed projects meet the federal guidelines and a commitment letter from the credit

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enhancement provider or purchaser of the bonds for all three bonds. The RZEDB and RZFB must be issued before January 1, 2011. There is no sunset date for the QECCB at this time.

At the time of the report preparation, staff was still in discussions with the State regarding the proposed project for the Qualified Energy Conservation Bond issuance. Staff has confirmed that the State will consider the Downtown Energy Efficiency Streetlight Project. Also staff has recently learned that requests for additional bond issuance authority for the Recovery Zone Economic Development, Facility, and Qualified Energy Conservation Bond programs are due to the State Treasurer's Office by August 25, 2010.

This supplemental report request authorization to apply the City's Qualified Energy Conservation Bond issuance authority initial allocation of \$4,165,214.52 to the City of Oakland Downtown Energy Efficiency Streetlight Project and provides authorization to staff to apply for additional bond issuances authority for the three Recovery Zone Bond Funds. Staff is also providing additional information about the Ports America Oakland Project.

Qualified Energy Conservation Bond Recommendation:

The City of Oakland's allocation of Qualified Energy Conservation Bonds is \$4,165,124. The funds must be used to reduce energy consumption in publicly owned buildings or implementing green community programs, such as Loan, rebate and/or grant programs; or energy research; and up to 30% may be used for private activities, meaning that proceeds may be loaned to private companies and/or for privately owned or operated projects.

Upon review with the Public Works Agency, Environmental Services and Electrical Services Units, and consultation with the State, staff is proposing that the entire QECCB bond issuance authority be dedicated to financing a portion of the City's Downtown Energy Efficiency Streetlight Project. The QECCB bond issuance allocation could support the modification of up 2,200 lights in the downtown area. The financing will be used to cover purchasing, installation and metering costs.

Prior to any commitment, staff will produce a thorough financial analysis to determine whether the savings generated by the project are sufficient to support debt service payments. As in the case of the other two Recovery Bond projects, staff must return to the City Council for authorization to actually issue the bonds. It is expected that staff will return to the City Council in fall 2010.

Recovery Zone Facility Bond Recommendation: Ports America Oakland

Under a 50-year concession and lease agreement with the Port of Oakland, Ports America Oakland will upgrade and operate Berths 20-24. Over time, the Ports America Project could lead to the creation of up to 6,000 jobs within the Bay Area and will support the

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competitiveness of the Port of Oakland by their capital improvement program. Ports America Oakland intends to use the \$7,581,000 in Recovery Zone Facility Bonds to finance the purchase of new container handling equipment, the provision of shore power infrastructure, or a combination of the two.

Ports America Oakland Shore Power Project will be conducted without any funding from the Port. Ports America's three active containership berths will be outfitted. Ships retrofitted with proper electrical connections will shut down their auxiliary engines and rely on power from Oakland's electrical grid for refrigerated containers and other power needs on board. According to a 2005 Emissions Inventory by the Port, while berthed at the Port of Oakland, ship emissions represent approximately 20% of the diesel particulate matter emissions and oxides of nitrogen. According to the California Air Resources Board, shore powered vessels reduce carbon emissions by relying on the grid, which includes many non-carbon based energy sources. In addition to the air quality benefits of the Shore Power Project, the direct and indirect economic benefits of the Ports America investment, this project also impacts the redevelopment efforts of the former Oakland Army Base for the City and the Port of Oakland, since it involves major capital improvements.

RECOMMENDATION(S) AND RATIONALE

Staff recommends the Council's adoption of the revised resolution approving the application of the City's Recovery Zone Economic Development Bond Issuance Authority Initial Allocation of \$5,045,000 and any additional allocations to the Macarthur Transit Village, and a revised resolution applying the City's Recovery Zone Facility Bond Issuance Authority to the financing of various facilities of the Ports America Oakland Project. Staff also recommends the acceptance of the supplemental report and the resolution authorizing the application of the City's Qualified Energy Conservation Bond issuance to the City of Oakland's Downtown Energy Efficiency Streetlight Project. These resolutions will approve the Recovery Zone Bond projects for submittal to the State on August 15th and the execution and delivery of related documents to request additional bond issuance authority for each of the proposed projects by August 25, 2010.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the City Council approve the respective resolutions authorizing the following actions necessary to secure and utilize the Oakland Recovery Bond Zone Bond allocations:

1. Revised Resolution Approving The Application Of The City's Recovery Zone Economic Development Bond Issuance Authority Initial Allocation Of \$5,045,000 And Any Additional Allocations To The Macarthur Transit Village

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Broadway/MacArthur/San Pablo Redevelopment Project Area And The
Obligations To Be Issued With Respect Thereto

2. Revised Resolution Determining To Apply The City's Recovery Zone Facility Bond Issuance Authority Initial Allocation Of \$7,581,000 And Any Additional Allocations To The Financing Of Various Facilities To Be Acquired, Constructed And Installed By Ports America Oakland And Declaring Intent To Issue Revenue Bonds
3. Supplemental Report And Resolution Approving The Application Of The City's Qualified Energy Conservation Bond Issuance Authority Initial Allocation Of \$4,165,214.52 And Any Additional Allocations To The City Of Oakland Downtown Energy Efficiency Streetlight Project

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed By:
Gregory Hunter, Deputy Director
Economic Development & Redevelopment
Community and Economic Development Agency

Joseph T. Yew, Finance Director/City Treasurer
Finance and Management Agency

Prepared by:
Aliza Gallo, Economic Development Coordinator
Community and Economic Development Agency

Katano Kasaine, Treasury Manager
Finance Management Agency

APPROVED AND FORWARDED TO THE
CITY COUNCIL:



Office of the City Administrator

Item: _____
City Council
July 20, 2010

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Produced by
2010 JUL 15 PM 5:08

Approved for Form and Legality


City Attorney

Councilmember

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

RESOLUTION APPROVING THE APPLICATION OF THE CITY'S QUALIFIED ENERGY CONSERVATION BOND ISSUANCE AUTHORITY INITIAL ALLOCATION OF \$4,165,214.52 AND ANY ADDITIONAL ALLOCATIONS TO THE CITY OF OAKLAND DOWNTOWN ENERGY EFFICIENCY STREETLIGHT PROJECT

WHEREAS, the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (the "Federal Stimulus Act") amended the Energy Improvement and Extension Act of 2008 (Pub. L. 110-343, 122 Stat. 3765 ("PL 100-343)), to increase the ability of governmental entities to issue Qualified Energy Conservation Bonds ("QECCB's"); and

WHEREAS, the City of Oakland (the "City") has determined to establish a program involving the replacement of approximately 2000 or more street lights in the downtown area of the City with energy efficient streetlights, with the cost of acquisition, installation and metering financed with proceeds of QECCB's (the "Downtown Energy Efficiency Streetlight Project");

WHEREAS, the Downtown Energy Efficiency Streetlight Project involves pollution reduction and energy efficiency activities that are appropriate for financing with QECCB's; and

WHEREAS, the City of Oakland (the "City") has received an allocation of \$4,165,214.52 to issue QECCB's (the "City QECCB Initial Allocation")

WHEREAS, the California Debt Limit Allocation Committee ("CDLAC") has established procedures which require that the City submit certain documentation by August 15, 2010, including a resolution approving the project intended to be funded from proceeds of the QECCB's, in order to avoid having the City QECCB Allocation re-allocated to another California governmental entity; and

WHEREAS, the City intends to apply for additional allocation (the "City QECCB Additional Allocation") of authority to issue QECCB's from CDLAC up to the amount necessary to complete the Downtown Energy Efficiency Streetlight Project; and

WHEREAS, the City desires to demonstrate compliance with such CDLAC procedures; now, therefore, be it

RESOLVED, that this City Council hereby confirms that all of the above recitals are true and correct; and

FURTHER RESOLVED, the City hereby approves the application of the City QECB Initial Allocation and any City QECB Additional Allocation to the Downtown Energy Efficiency Streetlight Project; and be it

FURTHER RESOLVED, that the City intends to City apply the City QECB Allocation and any City QECB Additional Allocation to bonds or other obligations to be issued by the City for the benefit of the Downtown Energy Efficiency Streetlight Project; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator to conduct negotiations, execute documents and take any other action necessary or desirable to further the purposes of this Resolution; and be it

FURTHER RESOLVED, that prior to execution, all contracts and agreements shall be reviewed and approved for form and legality by the Office of the City Attorney and a final copy shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

**AYES : BROOKS, DE LA FUENTE, KAPLAN, KERNIHGAN, NADEL, QUAN, REID
and PRESIDENT BRUNNER**

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

2010 JUL 15 PM 5:09

OAKLAND CITY COUNCIL


Approved as to Form and Legality

Resolution No. _____ C.M.S.

REVISED RESOLUTION APPROVING THE APPLICATION OF THE CITY'S RECOVERY ZONE ECONOMIC DEVELOPMENT BOND ISSUANCE AUTHORITY INITIAL ALLOCATION OF \$5,045,000 AND ANY ADDITIONAL ALLOCATIONS TO THE MACARTHUR TRANSIT VILLAGE WITHIN THE REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND BROADWAY/MACARTHUR/SAN PABLO REDEVELOPMENT PROJECT AREA AND THE OBLIGATIONS TO BE ISSUED WITH RESPECT THERETO

WHEREAS, the Redevelopment Agency of the City of Oakland (the "Agency") has formed, and operates within, its Broadway/MacArthur/San Pablo Redevelopment Project Area (the "Project Area"); and

WHEREAS, within the Project Area, the City of Oakland (the "City") and the Agency have undertaken certain activities and entered into certain agreements relative to the MacArthur Transit Village within the Project Area, which obligates the Agency (which obligation the City may, but is not required to, undertake) to contribute \$7,300,000 to the costs of the MacArthur Transit Village; and

WHEREAS, Section 1401 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Sta. 115 (2009) (the "Federal Stimulus Act") added Section 1400U-2 to the Internal Revenue Code of 1986, as amended (the "Code"), authorizing state and local governments to issue recovery zone economic development bonds ("RZEDB's"), the interest on which is excludable from gross income for federal income tax purposes under the Code; and

WHEREAS, under the Federal Stimulus Act, the City has been allocated the authority to issue up to \$5,045,000 principal amount of Recovery Zone Facility Bonds (the "City Initial RZEDB Allocation"); and

WHEREAS, by its Resolution No. 82504 C.M.S. adopted January 19, 2010, this City Council designated the entire area within the boundaries of the City as a "recovery zone" for purposes of section 1400U-1(b) of the Code, which boundaries include the Project Area; and

WHEREAS, the California Debt Limit Allocation Committee ("CDLAC") has established procedures which require that the City submit certain documentation by August 15, 2010, including a resolution approving the project intended to be funded from proceeds of the RZEDB's, in order to avoid having the City RZEDB Allocation re-allocated to another California governmental entity; and

WHEREAS, the City intends to apply for additional allocation (the "City RZEDB Additional Allocation") of authority to issue RZEDB's from CDLAC up to the full amount of the Agency's obligations with respect to the MacArthur Transit Village; and

WHEREAS, the City desires to demonstrate compliance with CDLAC procedures; now, therefore, be it

RESOLVED, that this City Council hereby confirms that all of the above recitals are true and correct; and

FURTHER RESOLVED, the City hereby approves the application of the City initial RZEDB Allocation and any City RZEDB Additional Allocation to the MacArthur Transit Village and related projects within the Project Area and any other allocation it receives as contemplated by this resolution to the MTV; and be it

FURTHER RESOLVED, that the City intends to City apply the City initial RZEDB Allocation and any City RZEDB Additional Allocation to bonds or other obligations to be issued by the City, the Agency or by the Oakland Joint Powers Financing Authority for the benefit of the MacArthur Transit Village and the Project Area; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator to conduct negotiations, execute documents and take any other action necessary or desirable to further the purposes of this Resolution; and be it

FURTHER RESOLVED, that prior to execution, all contracts and agreements shall be reviewed and approved for form and legality by the Office of the City Attorney and a final copy shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20__

PASSED BY THE FOLLOWING VOTE:

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

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
Introduced by AND

2010 JUL 15 PM 5:08
Councilmember

Approved for Form and Legality


City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

**REVISED RESOLUTION DETERMINING TO APPLY THE CITY'S
RECOVERY ZONE FACILITY BOND ISSUANCE AUTHORITY
INITIAL ALLOCATION OF \$7,581,000 AND ANY ADDITIONAL
ALLOCATIONS TO THE FINANCING OF VARIOUS FACILITIES TO
BE ACQUIRED, CONSTRUCTED AND INSTALLED BY PORTS
AMERICA OAKLAND AND DECLARING INTENT TO
ISSUE REVENUE BONDS**

WHEREAS, Section 1401 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Sta. 115 (2009) (the "Federal Stimulus Act") added Section 1400U-3 to the Internal Revenue Code of 1986, as amended (the "Code"), authorizing state and local governments to issue recovery zone facility bonds ("RZFB's"), the interest on which is excludable from gross income for federal income tax purposes under the Code; and

WHEREAS, under the Federal Stimulus Act, the City of Oakland (the "City") has been allocated the authority to issue up to \$7,581,000 principal amount of Recovery Zone Facility Bonds (the "City RZFB Initial Allocation"); and

WHEREAS, by its Resolution No. 82504 C.M.S. adopted January 19, 2010, this City Council designated the entire area within the boundaries of the City as a "recovery zone" for purposes of section 1400U-1(b) of the Code; and

WHEREAS, Ports America Oakland (the "Company") operates Berths 20-24 at the Port of Oakland under a 50-year concession and lease agreement and intends to acquire, construct and install various improvements at such berths (the "Project"); and

WHEREAS, the City may issue revenue bonds (the "Bonds") to finance a portion of the costs of the Project pursuant to the City Charter of the City of Oakland or the California Industrial Development Financing Act, being Title 10 of the California Government Code, as supplemented and amended (the "Act"), or other appropriate authority; and

WHEREAS, the City expects that the Company or an entity formed by it for purposes of the financing (the "Borrower") will pay certain expenditures (the "Reimbursement Expenditures") in connection with the Project prior to the issuance of the Bonds; and

WHEREAS, the City reasonably expects that certain of the proceeds of the Bonds will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, Sections 1.103-8(a)(5) and 1.150-2 of the treasury regulations promulgated under the Internal Revenue Code of 1986, as amended (the "Treasury Regulations") require an issuer of tax-exempt obligations to declare its reasonable official intent to reimburse, from proceeds of such obligations, expenditures made prior to the issuance of such obligations; and

WHEREAS, the California Debt Limit Allocation Committee ("CDLAC") has established procedures which require that the City submit certain documentation by August 15, 2010, including a resolution approving the project intended to be funded from proceeds of the RZFB's, in order to avoid having the City RZFB Allocation re-allocated to another California governmental entity; and

WHEREAS, the City intends to apply for additional allocation (the "City RZFB Additional Allocation") of authority to issue RZFB's from CDLAC up to the amount necessary to complete the Project; and

WHEREAS, the City desires to demonstrate compliance with such CDLAC procedures; now, therefore, be it

RESOLVED, that this City Council hereby confirms that all of the above recitals are true and correct; and

FURTHER RESOLVED, the City hereby approves the application of the City RZFB Initial Allocation and any City RZFB Additional Allocation to the Bonds to be issued by the City to finance the Project; and be it

FURTHER RESOLVED, this City Council hereby declares its official intent to use proceeds of indebtedness expected to be issued in an amount of approximately \$7,581,000 to make a loan to the Borrower, a portion of which will reimburse the Borrower for Reimbursement Expenditures, which declaration is made solely for purposes of establishing compliance with the requirements of Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator to conduct negotiations, execute documents and take any other action necessary or desirable to further the purposes of this Resolution; and be it

FURTHER RESOLVED, that prior to execution, all contracts and agreements shall be reviewed and approved for form and legality by the Office of the City Attorney and a final copy shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES

NOES

ABSENT

ABSTENTION

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California