

CITY OF OAKLAND
COUNCIL AGENDA REPORT

TO: Office of the City Manager
ATTN: Robert C. Bobb
FROM: Community and Economic Development Agency and Public Works Agency
DATE: June 10, 2003
RE: OAKLAND TRUST FOR CLEAN WATER AND SAFE PARKS (MEASURE DD)
PROGRAM IMPLEMENTATION AND RECOMMENDATION TO APPROVE THE
EXPENDITURE PLAN FOR BOND SERIES A

SUMMARY

This report presents the proposed Oakland Trust for Clean Water and Safe Parks (Measure DD) program and summarizes projects, project funding, project team member roles and responsibilities, and project procedures and controls that will ensure that the projects will be completed within budget, schedule, and scope of work. Measure DD's \$198.25 million general obligation bond is proposed to be repaid over a period of 37 years by levying a supplemental property tax to cover the bond principal, interest, and the cost of bond issuance. Sale of the bonds will be divided into three issuances over seven years, one to be issued in 2003, a second in 2006, and a third in 2010. All work is scheduled to be completed by the end of 2014. Staff recommends that City Council accept this report and approve staff recommendations for distribution of funds for Measure DD Series A found in Exhibit B.

FISCAL IMPACTS

Measure DD authorizes the issuance of general obligation bonds in the amount of \$198.25 million for the purpose of financing repair, construction and improvement of certain amenities at Lake Merritt, the Lake Merritt Channel, the Oakland Estuary waterfront, creeks, and other cultural and recreational facilities throughout Oakland. The total cost to fully implement all projects described under the Measure is approximately \$362 million. To fully implement all the projects under the bond measure, the City will need to aggressively pursue outside grant funds and state and federal appropriations. This will be especially true for projects that would be undertaken in outlying years, due to the erosive effect that inflation has on purchasing power. On the other hand, the significant local commitment that is demonstrated by this successful bond measure will make it much easier for the City to obtain outside funding. However, should additional funding not be raised, the project Scope of Work will be revised to reflect funding available from Measure DD only. If this funding is not adequate to complete a reasonable project, staff will return to City Council with recommendations for reprogramming of funds to other Measure DD projects.

Of the \$198.25 million, the proposed expenditures will be the following:

<u>Description</u>	<u>Amount</u>	<u>% of Bond</u>
Direct Costs		
Land Acquisition, Construction and Repairs	\$135,801,250	68.5
Project Delivery	\$ 49,562,500	25.0
Public Art	\$ 2,973,750	1.5
Total Direct Costs	\$188,337,500	95%

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Indirect Costs

Program Staff	\$5,160,186	2.6
Contract Services	\$1,700,000	1.2
Cost of Bond Issuance	\$ 822,000	0.4
Contract Compliance <small>1½% of 75% of bond</small>	<u>\$2,230,314</u>	1.0
Total Indirect Costs	\$9,912,500	5%
Grand Total	\$198,250,000	100%

Staff will return to City Council on approval of the expenditure plan for Measure DD, Series A and issuance of bonds with a resolution authorizing appropriation and budgeting of funds associated with Series A expenditures. Staff are currently reviewing the eligibility of central services and departmental overhead charges based upon federal tax requirements. If central services and departmental overhead charges are disallowed, staff will seek Council authority to waive these central services and departmental overhead charges.

Per Ordinance #11086 C.M.S., the public art amount is based on 1.5% of eligible costs which are construction, consultants, and permanent fixtures. The standard contract compliance fee of 3% of the costs associated with consulting and construction contracts has been reduced to 1.5%. Central services overhead and departmental overhead charges are waived per federal tax requirements, but actual administrative costs can be covered by the bond.

Measure DD’s \$198.25 million general obligation bond will be repaid over a period of 37 years by levying a supplemental property tax to cover the bond principal, interest, and the cost of bond issuance. Sale of the bonds will be divided into three series, one to be issued in 2003, a second in 2006, and a third in 2010. This is consistent with the bond measure position and commitment to the voters to not exceed an average of \$20 per year for every \$100,000 of assessed property value over the life of the bond program. All work is scheduled to be completed by the end of 2014.

Measure DD will provide funding for, among many other things, correcting the results of deferred maintenance at Lake Merritt Park through the restoration of buildings and implementation of system-wide improvements. The measure does not allow for funding maintenance and operation, as California law prohibits the use of bond funds for ongoing maintenance. Some of the new facilities constructed and acquired by Measure DD will require additional staff, operational expenses, and maintenance. Staff will return with a separate report to address the issue of maintenance in Spring 2004.

BACKGROUND

On November 5, 2002, Oakland overwhelmingly passed with 80% voter approval the “Oakland Trust for Clean Water and Safe Parks,” a \$198,250,000 general-obligation bond measure. The measure allows the City to sell bonds in order to raise funds for a variety of parks, clean-water protection and youth recreation projects. This show of significant local commitment demonstrated by a successful bond measure is integral to the City’s capability to obtain outside funding by ably demonstrating matching funds and community support. The projects were identified in the bond measure enabling ordinance by the following five categories:

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- Lake Merritt restoration and water quality improvements - \$88.25 million;
- Estuary waterfront access, parks and clean up - \$53 million;
- Lake Merritt-to-Oakland Estuary connection (Lake Merritt Channel) - \$27 million;
- Youth and public recreation facilities - \$20 million; and
- Creeks and waterways restoration and acquisition - \$10 million.

KEY ISSUES AND IMPACTS

Measure DD Program

The purpose of the implementation plan is to summarize the plan for bond issuance, scope of work, budgets, schedules, procedures and controls that will be utilized during the execution of projects to ensure completion within given budget, schedule and scope of work. It should be noted that the regional economic factors outside the control of staff could result in costs exceeding the estimate even when all of the procedures and controls are followed throughout the project. Also, because many of the projects at the Lake, Channel, and Estuary are under the regulatory control of outside agencies such as the Army Corps of Engineers and Bay Conservation and Development Corporation (BCDC), the schedules and budgets of these projects will be particularly sensitive to the actions of these regulators.

Project Organization

The following narrative delineates the roles and responsibilities for the coordination and oversight of the Measure DD Bond.

Executive Team The overall responsibility of implementing Measure DD projects will be overseen by the City Manager's Office and coordinated through an Executive Team made up of the Directors of Community and Economic Development Agency (CEDA) Planning and Zoning Division, Public Works Agency (PWA), Budget, Finance, Parks and Recreation, Public Art, and the City Attorney. This team will be augmented by staff from the City Manager's and Mayor's Offices, and City Council representatives. The Executive Team will establish policy, procedures, and overall program direction, resolve administrative issues, and monitor progress of the program.

Two key staff, one from CEDA and one from PWA will be responsible for moving projects forward and reporting progress quarterly to the Executive Team. CEDA will coordinate the conceptual design and community input associated with a project, and Public Works will review technical and financial feasibility during conceptual design and provide day-to-day design and construction management in later stages. Daily coordination between key CEDA and PWA staff will be essential in building strong collaborations and ensuring that design concepts consider all technical and construction requirements and project goals are preserved throughout design and construction stages of a project. Funds are budgeted in program administration for two program support positions should additional support be required to manage the program. See Exhibit A for an organization chart.

Community and Economic Development Agency:

- Providing all criteria necessary to establish a clear program definition;
- Providing a clear definition of the goals and objectives for the projects;
- Ensuring adequate funding is in place to meet the project requirements and/or developing an alternate strategy should full funding of a project not be realized;
- Providing timely responses to requests for reviews and approvals specific to project design, budget and schedule;
- Leading and coordinating community outreach efforts for projects associated with Lake Merritt, the Lake Merritt Channel and the Estuary;
- Requesting approval of program scope and funding changes from the Executive Team;
- Maintaining and facilitating effective communication with affected City departments and community organizations;
- Providing administrative review of project costs and invoices and submittal to Treasury for payment processing;
- Providing accounting support services to the project;
- Pursuing fund raising and grant making opportunities to close projected project funding gaps for projects associated with Lake Merritt and the Estuary;
- Assisting with project entitlements (e.g. permits to build including outside government and regulatory approvals, Landmarks Advisory Board approval, Planning Commission approval, etc.);
- Providing regular reporting to the Executive Team, City Staff, City Council and the community via a formal semi-annual report, regular on-line reporting, and meeting as needed;
- Assuring compliance with CEQA document associated with the Measure DD program; and
- Performing real estate appraisals, acquisitions, site searches and identifications.

Public Works Agency:

- Project implementation including project development, preliminary design, final design, bidding/award, construction, project completion and delivery. Monitoring and proactively resolving project -related issues and problems;
- Providing final project design, contract administration, construction management, and project close-out;
- Maintaining project-level schedules and budgets;
- Providing technical information as required;
- Directing the work of design consultants;
- Construction Management systems including quality control, interpretation of design drawings, evaluation of change orders and claims, approving contract invoices, and documentation of as-built conditions;
- Processing requests for proposals, advertising bids, processing bid awards, executing contracts, coordinating issuance of notices to proceed, and filing notices of completion;
- Performing Phase I and II environmental site assessments, investigations, remediations;
- Leading the community outreach efforts to identify priorities and define Scope of Work for creek acquisitions and restoration projects, and water quality projects associated with Lake Merritt. Leading

the complete implementation of creek and waterway acquisitions and restoration projects, including raising additional funds from outside sources;

- Administering the budget and payment requests from Children's Fairyland, Inc., and reviewing and providing City approval of their design and construction work;
- Maintaining a status summary database for all projects, and providing information for the Annual Report to City Council.

City Manager's Office, Contract Compliance Division

- Monitoring and verifying compliance with the City's contract compliance and local employment programs.

Financial Services Agency

The Treasury Division is responsible for the following:

- The issuance and management of the Measure DD General Obligation Bonds;
- Submitting payment requests to Trustee for processing; and
- Transmitting payment acknowledgements to Program Manager.

The Accounting Division is responsible for the following:

- Posting payment transactions to the General Ledger.

Proposed Non-Profit Organization Managed Project and Agreement with the City

Children's Fairyland Inc. (CFL) is requesting management of the Measure DD project associated with Children's Fairyland in the amount of \$3 million dollars. CFL is eligible to manage this project as a result of an agreement between the City and CFL for CFL to perform facility operations for Children's Fairyland.

CFL, as manager of their project, will have similar responsibilities as PWA with the exception of work related to property acquisition, environmental auditing and remediation, and monitoring City employment programs.

Subsequent to City Council approval, CFL must enter into a contractual master agreement with the City of Oakland. The agreement holds the non-profit organization responsible for executing the project within the prescribed Measure DD bond and City requirements. The agreement will detail the scope of work and define the various services that the organization agrees to provide to the City. As a part of the agreement, CFL will commit to providing and maintaining specific project schedules and budgets and adhering to all City requirements and program guidelines. The organization shall also submit to any audit requested by the City.

Community Participation

A group of citizens has formed as a result of the passage of Measure DD under the name of the Measure DD Community Coalition. The Measure DD Community Coalition is an inclusive coalition formed by

people who are interested and want to be involved in the implementation of Measure DD. The Coalition maintains an overall view of Measure DD and citywide benefits that can accrue from its completion. The Coalition is currently meeting on a monthly basis and is working with City staff to provide input on recommendations for program organization and prioritization of projects and their associated budgets. The Coalition is open to membership from the general public and will continue to meet regularly with staff during the implementation of the Measure DD program.

Additional broad based community outreach will occur for each individual project funded by Measure DD during concept design and design development stages of the project. Community outreach for the East Oakland Sports Complex has been completed and is underway for Studio One.

Project Scope of Work and Release of Funding

Measure DD will fund the repair, construction, and improvement of certain facilities at Lake Merritt, the Lake Merritt Channel, the Oakland Estuary, creeks, and other cultural and recreational facilities throughout Oakland. Exhibit B summarizes the projects and funding allocations of Measure DD over the life of the bond. The projects are well defined for Lake Merritt as a result of the adoption of the Lake Merritt Master Plan by City Council in July 2002. Project prioritization for the Oakland waterfront/bay trail will take place over the next several months and will be presented to City Council in a separate report during the Fall of 2003 based on a detailed design and feasibility study that is nearing completion. Project prioritization for the Creeks and Waterways category of Measure DD will be part of the public process that will be initiated in Fall 2003 and brought to City Council for concurrence in Fall 2004.

At the request of Oakland citizens, City staff explored several bond release scenarios which looked at the duration and amount of funding per release to maximize the use of funds, take advantage of a beneficial contracting climate, minimize administrative costs, consider the effect of long-term inflation, and recognize a commitment to the voters to not exceed an average of \$20 per year for every \$100,000 of assessed property value over the life of the bond program. Early scenarios envisioned projects being built over 20 years; the proposed scenario builds all of the projects over 11 years. The proposed allocation and spending program included as Exhibit B addresses these issues and works to maximize the use of available funding.

Project Budget

Exhibit C summarizes the proposed expenditures, scope of work for each Measure DD project, and a summary of project delivery categories and costs for each project. For CFL, the funding available will be the Measure DD designated amount less costs for public art, monitoring City mandated employment and contract programs, City administration, and PWA efforts to review and approve the design work and actual construction for compliance with City regulations. The specific costs, with the exception of the indirect administrative costs associated with Measure DD projects, within a project may be revised at a later date to reflect additional funding sources anticipated to be raised for a project to complete the entire Scope of Work for a project. Should additional funding not be raised, the project Scope of Work will be revised to reflect funding available from Measure DD only. If this funding is not adequate to complete a reasonable project, staff will return to City Council with recommendations for reprogramming of funds to other Measure DD projects.

Project Schedule

The first series of bonds will be sold in July 2003. The City expects the projects to be completed in stages of three, four, and four years for a total of eleven years from the sale of the bonds. Exhibit D is a proposed schedule for completing the projects within each issuance of bonds and over the life of the bond. The Series A issuance includes significant design work for many of the projects allowing the projects to be considered “ready to construct” and thus more competitive when submitted to agencies for additional funding. The schedule provides allowances for permit and regulatory requirements which may be significant in some cases. CEQA was addressed through an addendum to multiple previously certified environmental documents and was adopted by City Council as a part of the Measure DD ballot measure. The schedule does not allow for any additional CEQA documentation which may be required if project scope changes significantly.

The first series of bonds will be sold in July 2003. The City expects the projects to be completed in stages of three, four, and four years for a total of eleven years from the sale of the bonds. Exhibit D is a proposed schedule for completing the projects within each issuance of bonds and over the life of the bond. The Series A issuance includes significant design work for many of the projects, allowing the projects to be considered “ready to construct” and thus more competitive when submitted to agencies for additional funding.

Project Staffing

Additional Public Works and Public Art project staff will be needed to deliver these projects in a timely fashion. These staff will be paid out of project budgets (listed under Project Delivery in the Fiscal Impacts Section) or the percent for Public Art. Public Art will be requesting .5 FTE to implement the public art component of Measure DD. The exact staffing needs of Public Works staff can not be determined at this time, because it will depend on what projects are being executed at the same time that Measure DD projects are being worked on. A more detailed analysis of staffing needs can be done after the City Council adopts its CIP budget for 2003-2008, and a spending plan for the first series of Measure DD bonds.

Project Procedures and Controls

Project procedures and controls will be utilized as tools to ensure that projects are completed within the given budget, schedule, and scope of work. The procedures will include continuous monitoring of expenditures with respect to the budget and the bond requirements to prevent cost overruns. The schedule for each project will also be continuously monitored and updated, so that appropriate action can be taken if unforeseen events threaten to interfere with timely project completion. Quarterly reviews of this information will be performed by the Measure DD Executive Team and a semi-annual progress report will be submitted to City Council on the Measure DD program.

SUSTAINABLE OPPORTUNITIES

Environmental opportunities include improvements to the water quality of Lake Merritt, the estuary, and city creeks; enhancements to biking and walking conditions; remediation of contaminated sites; improvements to wildlife habitat; and creation of new parks and expansion of existing ones.

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Economic opportunities include enhanced business and economic development opportunities along Oakland’s waterfront; increased land values of and property-tax receipts for private land surrounding Lake Merritt Park and along the estuary; stimuli to improve and develop private properties; and a new image for Oakland as an environmentally sustainable and clean city, which could boost tourism (and higher sales-tax receipts from greater numbers of out-of-town visitors), attract new residents, and lead to job creation.

Social equity opportunities include the expansion of parks and other recreational opportunities that are free of charge; and the creation of facilities, such as the East Oakland sports complex and Union Point Park, in underserved areas of the city.

DISABILITY AND SENIOR CITIZEN ACCESS

The projects under the proposed bond measure have been developed with full consideration of the needs of senior and disabled residents in compliance with the provisions of the Americans with Disabilities Act. Most of the projects will enhance access significantly. Among these are building renovations, path improvements, and new parks and paths on currently inaccessible sites.

RECOMMENDATION

Staff recommends that City Council accept this report and approve staff recommendations for distribution of funds for Measure DD Series A found in Exhibit B.

Respectfully submitted,

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Community and Economic Development Agency

CLAUDETTE R. FORD
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APPROVED AND FORWARDED TO THE
LIFE ENRICHMENT COMMITTEE

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