

AGENDA ITEM

March 141
Carry forward of 2009
Unspent Budgeted funds to
2010 and Reallocation of
Certain OCTC positions in the
2010 Budget

DATE: February 8, 2010

TO: Members, Board Planning, Program Development and Budget Committee
Members, Board of Governors

FROM: Finance

SUBJECT: Authorize amendment to 2010 budget for carry forward of unspent 2009 funding for Howard Street Improvements; amend 2010 budget to correct the allocation of certain positions within the Office of Chief Trial Counsel's budget.

EXECUTIVE SUMMARY

In July 2009, the Board of Governors adopted a resolution to amend the 2009 budget to provide funding for necessary improvements to the 180 Howard Street Facility. Due to the fee bill veto in October, the improvements were placed on hold and budget authority for expenditure of the funding lapsed at the end of the fiscal year. The purpose of this agenda item is to request that the Board approve an amendment to the 2010 adopted budget to reauthorize these capital projects. A detailed discussion of the needs for these improvements is included in the background section of this memo.

In addition, this agenda item requests a minor adjustment to the 2010 budget. At the recommendation of the State Auditor's office, the 2010 budget separately allocates costs for the service areas of Investigation, Trials, and Audit and Review. The Office of Chief Trial Counsel has requested that five positions be reallocated between these cost centers to better reflect the time spent by these employees in certain cost centers. This reallocation will result in no increase in the Trial Counsel Budget.

BACKGROUND DISCUSSION OF REQUESTED BUILDING IMPROVEMENTS:

180 Howard Street is a 13-story, 225,000 square foot office building, constructed in 1978. The State Bar purchased the building for \$23 million in 1996 and paid off the mortgage in 2006. The building is the Bar's single largest capital asset.

Since purchasing the building thirteen years ago, the State Bar has maintained it in generally good condition through continuous routine maintenance, and occasional major improvements such as a seismic retrofit, completed in 2006. As the building is now 31 years old, additional major improvements to its structure and systems have become necessary. While significant and costly, these required repairs and upgrades are generally standard and predictable, the result of normal aging, weathering, wear and tear, and technical obsolescence.

The Office of Operations engaged Marx/Okubo, an engineering and construction consulting firm, to prepare a Property Condition Assessment of 180 Howard Street. The Property Condition Assessment included a review of the building's site (paving, landscaping, storm drainage, etc); structural elements (foundation, superstructure); exterior (roof, windows, masonry, etc); electrical/mechanical systems (HVAC, plumbing, electrical); elevators; other equipment (security, fire life safety); and disabled access/ADA compliance. Marx Okubo's report included recommendations on the timing of all required corrective actions, and an estimate of the probable costs.

The Property Condition Assessment revealed that the building will require approximately \$4.2 million worth of repairs and upgrades to its structure and systems over the next five years (this includes a 10% contingency). Approximately \$2 million worth can be deferred to 2011-2013. Three projects, however, totaling approximately \$2.2 million, should be completed within the next 12-24 months, as follows:

<u>Cost (\$)</u>	<u>Description</u>
1,400,000	Masonry and window frame repairs/waterproofing. Exterior window gaskets and window frame-to-masonry wall sealant joints are significantly deteriorated due to weather and age. Rain water leaks into the building in several locations.
330,000	Roof replacement. The roof is original to the building; at 31 years old it is at least five years past its expected useful life, and is significantly deteriorated. Further repairs are no longer feasible; replacement is required.
300,000	HVAC system overhaul. The air handling system, a major component of the Heating, Ventilation & Air Conditioning System, is original to the building. It remains in fair condition thanks to ongoing maintenance, but is increasingly prone to problems; a major overhaul is required.
2,030,000	SUBTOTAL
200,000	Contingency
2,230,000	TOTAL

BACKGROUND DISCUSSION OF PROPOSED ADJUSTMENT TO THE 2010 CHIEF TRIAL COUNSEL BUDGET:

In order to comply with the recommendation of the State Auditor's Office, the 2010 Budget separately budgets for the costs of Investigations, Trials, and Audit & Review. After the adoption of the budget, Trial Counsel staff discovered that 5 of its positions were allocated to the wrong cost centers. The positions to be reallocated are:

<u>PCN #</u>	<u>Position Title</u>	<u>From</u>	<u>To</u>
1647	Investigator	Trial Unit San Francisco	Investigation San Francisco
384	Attorney	Trial Unit San Francisco	Investigation San Francisco
1588	Attorney	Trial Unit San Francisco	Investigation San Francisco
1440	Attorney	Trial Unit San Francisco	Investigation San Francisco
1680	Investigator	Investigation San Francisco	Trial Unit San Francisco

Approval of this amendment will result in no increased costs to the Trial Counsel budget or the General Fund budget in total. Rather, the cost of Trial Unit San Francisco will be reduced by \$370,667 and Investigation San Francisco will be increased by the same amount.

FISCAL AND PERSONNEL IMPACT:

The 180 Howard Street Building Fund has a current cash balance of approximately \$1 million. This amount includes \$380,000 in restitution from the former real property director. In order to fully fund these improvements, a transfer from the General Fund to the Building Fund in the amount of \$1,230,000 is required to provide the \$2,230,000 needed.

After approval of this transfer, the 2010 beginning fund balance for the General Fund is estimated at \$7 million.

If approved, the 2010 budget will be amended to establish a project budget in the 180 Howard Street Building Fund. This project will be budgeted as a continuing appropriation to allow the project budget to carry forward until completion of the improvements.

Approval of the reclassification of Trial Counsel personnel from Trial Unit to Investigation Unit will result in no increase in the budget.

BOARD BOOK IMPACT:

None.

RULE AMENDMENT IMPACT:

None.

PROPOSED BOARD COMMITTEE RECOMMENDATION:

RESOLVED that the Board Planning, Program Development and Budget Committee recommends that the Board of Governors hereby adopt appropriations to the 2010 State Bar budget whereby a capital improvements budget is established in the amount of \$2,230,000 in the 180 Howard Street Building Fund and an amount of \$1,230,000 is transferred from General Fund beginning fund balance, which, when combined with the \$1,000,000 in available cash in the Building Fund, will provide the funding necessary to complete the facility improvements. This budget appropriation will be carried forward until such projects are complete.

FURTHER RESOLVED that the Board Planning, Program Development and Budget Committee recommends that the Board of Governors hereby adopt an amendment to the 2010 budget whereby four positions originally budgeted in the Trial Unit in San Francisco and one budgeted in the Investigative unit be reclassified to the proper cost centers. This action will reduce the Trial Unit SF budget by \$370,776 and increase the Investigation SF budget by an equal amount. This action results in no increase in the 2010 budget.

PROPOSED BOARD RECOMMENDATION:

RESOLVED, upon recommendation of the Board Planning, Program Development and Budget Committee that the Board of Governors hereby adopt appropriations to the 2010 State Bar budget whereby a capital improvements budget is established in the amount of \$2,230,000 in the 180 Howard Street Building Fund and an amount of \$1,230,000 is

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