



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Shola Olatoye
Director, HCD

SUBJECT: Second Substantial Amendment To
The 2019/20 Annual Action Plan

DATE: October 26, 2020

City Administrator Approval

Date: November 18, 2020

RECOMMENDATION

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution:

- 1) Accepting And Appropriating Coronavirus Aid, Relief, And Economic Security (CARES Act) Funds In The Amount Of Nineteen Million, Two Hundred Eighty-Eight Thousand, One Hundred Seventy-Five Dollars (\$19,288,175) Awarded To The City Of Oakland In Round Two Of The U.S. Department Of Housing & Urban Development Emergency Solutions Grant Allocations To Prevent, Prepare For And Respond To The Coronavirus;**
- 2) Accepting And Appropriating Cares Act Funds In The Amount Of Three Million, Seven Hundred Twelve Thousand, Five Hundred Twenty-Nine Dollars (\$3,712,594) Awarded To The City Of Oakland In Round Three Of The U.S. Department Of Housing & Urban Development Community Development Block Grant Allocations To Prevent, Prepare For And Respond To The Coronavirus;**
- 3) Authorizing The City Administrator To Update Round One Cares Act Housing Opportunities For Persons With Aids (HOPWA-CV) Programs To Include A Rental Assistance Program For Homeless People With HIV/AIDS Transitioning Out Of The Operation Home Key Motel Rooms To Permanent Housing;**
- 4) Authorizing The City Administrator To Prepare And Submit To The United States Department Of Housing & Urban Development The City's Second Substantial Amendment To Its Fiscal Year 2019-2020 Consolidated Annual Action Plan; And**
- 5) Authorizing The City Administrator To Award Round-One HOPWA Cares Act Grant Agreements, Round-Two Emergency Solutions Cares Act Grant Agreements, And Round-Three Community Development Block Grant Cares Act Grant Agreements As Set Forth In Exhibit A, Attached**

City Council
December 1, 2020

Hereto And The City's Amended Fiscal Year 2019-2020 Consolidated Annual Action Plan, Subject To Compliance With Any Applicable Competitive Bidding Requirements, Without Returning To Council.

EXECUTIVE SUMMARY

Oakland City Council Resolution No. 88135 C.M.S., passed on May 19, 2020 and City Council Resolution No. 88202 C.M.S. passed on June 19, 2020, approved and authorized the First Substantial Amendment to the City's 2019/20 Annual Action Plan (AAP) forwarded to the U.S. Department of Housing and Urban Development (HUD) for final approval. Said legislation authorizes the City to apply for, accept and appropriate Coronavirus Aid, Relief And Economic Security (CARES) Act Funding allocated to the City under HUD's Round One Community Development Block Grant CARES Act (CDBG-CV), Emergency Solutions Grant (ESG-CV) and Housing Opportunities for Persons With AIDS (HOPWA-CV) grants to prepare for, prevent and respond to Coronavirus (COVID-19) impacts.

HUD grant agreements with the City for the CDBG-CV1, ESG-CV1 and HOPWA-CV1 awards are fully executed. Following Round 1 CARES Act allocations, HUD announced Round Two and Round Three CARES Act allocations, with the following Round Two ESG and Round Three CDBG award totals to the City of Oakland:

ESG-CV2:	\$19,288,175
CDBG-CV3:	\$ 3,712,594

ESG-CV2 is awarded to Oakland, as authorized under the CARES Act, Public Law 116-136 to be used to prevent, prepare for, and respond to the coronavirus pandemic among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19 and will be managed by the Human Services Department.

In alignment with CDBG-CV1 allocations approved by City Council Resolutions No. 88202 and No. 88135 C.M.S., the CDBG-CV3 (third round allocation) is awarded to Oakland as a targeted allocation, based on research on the COVID-19 crisis. Specifically, the CDBG-CV3 allocation targets:

1. Communities with households most at risk for transmission and risk of eviction, with higher amounts for states with high rates of coronavirus.
2. Communities with a high proportion of *individuals* in industries with high job loss in states with high unemployment; and
3. Communities with a high proportion of *businesses* in industries with high job loss in states with high unemployment;

The first CDBG-CV3 target referenced above aligns best with the activities currently approved by City Council and HUD under CDBG-CV1 per Resolution No. 88135 and No. 88202 C.M.S. Those activities are:

1. Supporting Housing Stabilization & Preservation Activities
2. Supporting Non-profit Housing Operations Support

3. Providing Special Needs Housing
4. Supporting Policy & Advocacy

Each of these activities were approved and are in direct relation to the housing activities to prepare for, prevent and respond to COVID-19 impacts to households most at risk for transmission of COVID-19 and risk of eviction.

ESG-CV2 funding will be appropriated in Fund 2103, Organization 78411, and Project to be determined by the Department of Human Services and CDBG-CV funding will be appropriated in Fund 2018, Organization 89949 and Project 1005525.

BACKGROUND / LEGISLATIVE HISTORY

In March 2020, the United States Congress provided CARES Act funds for the CDBG-CV program, specifically setting aside \$10 million for Technical Assistance and noting three different allocation methods for the remainder:

- (1) Allocation 1: The first \$2 billion were allocated based on the same formula used for the regular fiscal year (FY) 2020 CDBG formula allocation. These grants have already been announced.
- (2) Allocation 2: \$1 billion allocated directly to states on May 11, 2020.
- (3) Allocation 3: \$2.42 million of Allocation 3 was also included for the District of Columbia (DC) to address a drafting error that unintentionally excluded DC from the second allocation.
- (4) Allocation 3: The remaining funds, \$1.988 billion, is made available for allocation on a rolling basis based on criteria to be determined by the Secretary.

Congress also provided CARES Act funds for the Emergency Solutions Grant, setting aside \$4 billion in ESG-CV to supplement FY 2020 ESG funding provided under the Further Consolidated Appropriations Act, 2020 (Public Law 116-94). Of this amount, the Department previously allocated \$1 billion for ESG-CV grants based on the FY 2020 ESG formula and set aside \$40 million for technical assistance.

An additional \$2.96 billion in funding for ESG-CV2 grants is now allocated directly to States or units of local government by a separate formula developed by the Secretary. The formula approved by the Secretary includes variables that quantify the population currently experiencing and at risk of homelessness, including:

- Total Homeless Population
- Unsheltered Homeless Population
- Total Very Low Income (VLI) Renters
- VLI Renters that are Overcrowded or without a Kitchen or Plumbing

City Council Resolutions No. 88135 C.M.S. and No. 88202 C.M.S. authorizes the City to accept and appropriate CDBG-CV, ESG-CV, and Housing Opportunities for Persons With AIDS CARES Act (HOPWA-CV) funds for Round One allocations, as submitted to HUD in the City of Oakland First Substantial Amendment to the 2019/20 Annual Action Plan and the City of Oakland Five Year Consolidated Plan (Con Plan). Per HUD instruction, the First Substantial

Amendment was modified to include all Round One CARES Act funding (CDBG-CV, ESG-CV, and HOPWA-CV).

Per HUD mandate, published in an April 2020 HUD Community Planning Development (CPD) memo, a grantee with more than one CARES Act grant (e.g. CDBG-CV and ESG-CV) may submit an amendment to the Annual Action Plan with all grants at the same time or separately as they are ready, and HUD will review the submitted amendment(s). If accepted, HUD will award the funds through issuance of a grant agreement for that program. When the grantee submits subsequent amendments for different CARES Act grants, HUD will follow the same process to review the amendments and issue the grant agreements.

The resolution to this report is forwarded for City Council review and approval to accept and appropriate CDBG-CV3 and ESG-CV2 funds for the purposes established in this report and further authorizing the City Administrator to prepare and submit the Second Substantial Amendment to the 2019/20 Annual Action Plan to HUD.

Public Engagement Process

HUD requires jurisdictions receiving Community Planning and Development (CPD) Formula Grant Entitlement funding to hold public hearings each program year to obtain residents' feedback; one during the planning stage and another during the program-performance reporting stage. In the case of a substantial amendment to the Annual Action Plan (AAP), a public hearing is also required.

Further, the City is mandated by Part 24 of the Code of Federal Regulations (CFR) to carry out a citizen participation plan that provides community residents with reasonable notice and an opportunity to comment on the AAP or any substantial amendments to the AAP and any revisions to the Assessment of Fair Housing (AFH) prior to submitting the final AAP to HUD. Generally, per 24 CFR 91.105 and 24 CFR 91.115, said public comment period for the AAP must not be less than 30 calendar days. Public comments must be included in the AAP (or Substantial Amendment) prior to the AAP being finalized and submitted to HUD for review.

However, in response to COVID-19, HUD amended its citizen participation and public hearing requirements for Consolidated Plans (including Substantial Amendments), reducing the public comment review period to not less than five days; allowing for virtual public hearings if national/local health authorities recommend social distancing and limiting public gatherings for health reasons. Virtual hearings are allowed as long they provide reasonable notification and access for citizens in accordance with the City's certifications, timely response from local officials to all citizen questions and issues, and public access to all questions and responses.

The Second Substantial Amendment to the 2019/20 AAP will be posted on the City's website for public review and comment no later than November 10, 2020 for not less than five days. All feedback received as of the date of this report is included in the Second Substantial Amendment and is posted on the City of Oakland's website, on the following webpage:

<https://www.oaklandca.gov/documents/second-substantial-amendment-to-the-city-of-oaklands-2019-2020-annual-action-plan>

All comments received during the public hearing will be added to the final Second Substantial Amendment to the 2019/20 AAP prior to submitting the plan to HUD for final approval. A public

hearing is scheduled for December 1, 2020, providing an additional opportunity for public comments on the City's Second Substantial Amendment to the 2019/20 AAP. Should the Shelter-In-Place order currently in effect as of the writing of this report still be in place, the public hearing will be conducted virtually.

ANALYSIS AND POLICY ALTERNATIVES

Per 24 CFR 91.505, grantee jurisdictions awarded Federal formula grant funds are required to submit an amendment to the AAP whenever the decision is made to:

- (1) Make a change in its allocation priorities or a change in the method of distribution of funds;
- (2) Carry out an activity, using funds from any program covered by the consolidated plan (including program income, reimbursements, repayment, recaptures, or reallocations from HUD), not previously described in the action plan; or
- (3) Change the purpose, scope, location, or beneficiaries of an activity.

The City of Oakland, as a recipient of CARES Act funds under Round Two Allocations for the Emergency Solutions Grant and Round Three Allocations for the CDBG funds, identifies in its citizen participation plan the criteria it will use for determining what constitutes a "substantial" amendment. It is these substantial amendments that are subject to a citizen participation process, in accordance with the jurisdiction's citizen participation plan.

Per the City of Oakland's current Citizen Participation Plan, the following will be considered "substantial" amendments to the AAP:

- (1) A change in the use of CDBG funding from one activity to another (i.e., "reprogramming" of CDBG funds).
- (2) Funding of an activity type not described in the Annual Action Plan.
- (3) Changing the priorities contained in the Five Year Strategy.
- (4) Increasing or reducing the amount allocated to an activity by more than 25 percent. Changes of less than \$15,000 will not be considered Substantial Amendments. For activities that contain multiple projects or contractors (such as a citywide housing development program in which funds are awarded through a separate process to multiple developers), changes in an activity will not be considered Substantial Amendments unless the total amount budgeted for the activity/program is changed by more than 25 percent, or unless there is a significant change in the number or character of the proposed beneficiaries.

The proposed Second Substantial Amendment to the 2019/20 AAP will accomplish the following:

- (1) Establish funding priorities for the ESG-CV2 allocation to prevent, prepare for and respond to Coronavirus impacts through the provision of eligible homeless services

and activities. Activities will include emergency shelter, hygiene, rapid rehousing, outreach, landlord incentives, training, and prevention;

- (2) Update the program description for HOPWA-CV1, authorized by City Council Resolution No. 88202 and No. 88135 C.M.S. to include a rental assistance program for homeless people with HIV/AIDS to be able to transition out of the Operation Home Key motel rooms and into permanent housing; and
- (3) Establish the use of CDBG-CV3 funds for the purposes of mitigating COVID-19 impacts for those households whose characteristics are known to put them at higher risk of transmission of coronavirus or higher risk of eviction due to likely limited means to sustain a long-term economic disruption.

Per the statute, both of the factors below are adjusted upward for communities within states that have higher coronavirus case or death rates per 100,000, or higher positivity rates, compared to the national average:

- Overcrowding (1.01 or more persons per room). People living in overcrowded households have a higher risk for transmission of the virus. Overcrowding also is an indicator of risk for loss of housing and unsheltered homelessness. (Source: 2013-2017 American Communities Survey (ACS))
- Very Low-Income Renters. Very Low-Income Renters are most at risk for eviction. (Source: 2013-2017 ACS)

Use of CDBG-CV3 funds will target said populations to provide for housing services, rental assistance, mortgage assistance and affordable housing operations that will support housing production, preservation, and protections as previously established in City Council Resolutions No. 88135 and No. 88202 C.M.S. concerning City Council- and HUD-approved CDBG-CV activities, programs and projects.

Attachment A provides a description and funding caps for the updated HOPWA-CV1 activities and program activities using ESG-CV2 and CDBG-CV3 funds.

FISCAL IMPACT

Grant Agreements for all Round 1 CARES Act awards are fully executed between HUD and the City of Oakland for the CDBG-CV, ESG-CV and HOPWA-CV grants. Fiscal impacts established in City Council Resolutions No. 88135 and No. 88202 C.M.S. for these grants remain unchanged.

Acceptance and appropriation of the CDBG-CV3 award for \$3,712,594 will allow for financial support and other housing services to Oakland residents whose characteristics are known to put them at higher risk of transmission of coronavirus or higher risk of eviction due to likely limited means to sustain a long-term economic disruption. CDBG-CV3 is an additional resource to prevent, prepare for and respond to the coronavirus pandemic through housing services in Oakland.

A portion of CDBG-CV3 funds will be used to cover staff costs, as allowable by HUD, for COVID-19-related planning, capacity building, and technical assistance. CDBG-CV3 funds will

be budgeted and identified as Round Three stimulus funding for CDBG-CV3 in Fund 2108, Organization 89949, Project 1005525.

Acceptance and appropriation of the ESG-CV2 award for \$19,288,175 will support the increase of services and resources to prevent, prepare for, and respond to COVID-19 impacts among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19. ESG-CV2 will provide local support of increased emergency shelter services and operations, hygiene (portable toilets and wash stations on the street), rapid rehousing, outreach, homeless prevention, landlord incentives, and training activities that mitigate the COVID-19 impacts for the homeless population of Oakland.

Up to 10 percent of ESG-CV2 funds may be used to cover staff costs for COVID-19-related planning, capacity building, and technical assistance specific to serving the homeless population. ESG-CV2 funds will be budgeted and identified as Round 2 stimulus funding for ESG-CV2 in Fund 2103, Organization 78411, Project "To Be Determined ESG-CV3"

PUBLIC OUTREACH / INTEREST

On March 31, 2020 HUD released a Memorandum of available waivers for COVID-19 funding, AAP, and Public Hearing Federal regulatory requirements. The City requested authorization of the waiver that waives or relaxes requirements of a 30-day public review and comment period for the AAP or Substantial Amendments to the AAP as mandated by 24 CFR 91.105 and 24 CFR 91.115. The City received HUD authorization of the waiver made available to all jurisdictions receiving CDBG-CV funds, enabling the City to make available the Substantial Amendment to the 2019/20 AAP for public comment for no less than **five** days.

Additionally, from the HUD waivers made available per HUD notices released March 31, 2020, in-person public hearings are not required for Substantial Amendments to the AAP. The City of Oakland may meet public hearing requirements with virtual public hearings if: 1) national/local health authorities recommend social distancing and limiting public gatherings for public health reasons; and 2) virtual hearings provide reasonable notification and access for citizens in accordance with the grantee's certifications, timely responses from local officials to all citizen questions and issues, and public access to all questions and responses. This authority provides flexibility to Federal Regulation 24 CFR 91.105 and 91.115 which mandates that a Public Hearing will be held concerning the AAP.

A Notice of Public Hearing will be published in the East Bay Times, The Post, El Mundo, and Sing Tao news publications providing dates of the public review and comment period for the Second Substantial Amendment to the 2019/20 AAP as well as the date, location and time of the public hearing. During local Shelter-In-Place Orders related to COVID-19, the Second Substantial Amendment to the FY 2019/20 AAP is available electronically and online at the City of Oakland web page below:

<https://www.oaklandca.gov/documents/second-substantial-amendment-to-the-city-of-oaklands-2019-2020-annual-action-plan>

Distribution of hard copies is suspended until further notice.

COORDINATION

This report was coordinated with the City Attorney's Office and Budget Bureau. Each office has reviewed the request to appropriate ESG-CV2 and CDBG-CV3 funds to be awarded to the City of Oakland under the Round 2 and Round 3 CARES Act HUD allocation.

The City's Department of Housing & Community Development staff consulted with the Department of Human Services, Community Housing Services Division, to coordinate activities and funding under the ESG-CV2 and HOPWA-CV programs.

SUSTAINABLE OPPORTUNITIES

Economic: CDBG-CV3, ESG-CV2, and HOPWA-CV grants fund and support organizations that provide assistance to the homeless, low- to moderate-income households of Oakland, persons living with HIV/AIDS (PLWA) in the Oakland Eligible Metropolitan Statistical Area (EMSA)¹ most in need of resources to access quality subsidized housing, social services and expanded economic opportunities that prevent or eradicate homelessness; that supports the production, protection and preservation of affordable housing; and supports housing and service needs of PLWA.

Environmental: CDBG-CV3, ESG-CV2, and HOPWA-CV support the environmental health conditions by targeting services and assistance for those with higher risk for transmission of coronavirus due to homelessness, housing, eviction, and health status. All CARES Act funding is awarded to prepare for, prevent and respond to COVID-19 impacts, including those that are environmental.

Race & Equity: Services and housing provided under CDBG-CV3, ESG-CV2, and HOPWA-CV benefit Oakland and Oakland EMSA residents and businesses by promoting fair and affordable access to housing, services, business assistance and other activities for low- and moderate-income residents, homeless residents and those with special needs. CDBG-CV 3 dollars continue to target those residents living in zip codes most impacted by the COVID-19 pandemic, who are disproportionately Black and Latinx.

ACTION REQUEST OF THE CITY COUNCIL

Staff Recommends That The City Council Conduct A Public Hearing And Upon Conclusion Adopt A Resolution:

- 1) Accepting And Appropriating Coronavirus Aid, Relief, And Economic Security (Cares Act) Funds In The Amount Of Nineteen Million, Two Hundred Eighty-Eight Thousand, One Hundred Seventy-Five Dollars (\$19,288,175) Awarded To The City Of Oakland In Round

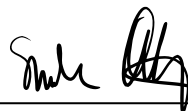
¹ Includes Alameda County and Contra Costa County.

Two Of The U.S. Department Of Housing & Urban Development Emergency Solutions Grant Allocations To Prevent, Prepare For And Respond To The Coronavirus;

- 2) Accepting And Appropriating Cares Act Funds In The Amount Of Three Million, Seven Hundred Twelve Thousand, Five Hundred Twenty-Nine Dollars (\$3,712,594) Awarded To The City Of Oakland In Round Three Of The U.S. Department Of Housing & Urban Development Community Development Block Grant Allocations To Prevent, Prepare For And Respond To The Coronavirus;
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For questions regarding this report, please contact Gregory Garrett, CDBG Manager, at 510.238.6183 or ggarrett@oaklandca.gov.

Respectfully submitted,



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Director, Housing & Community Development
Department

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Attachment (1):
A: CDBG-CV3, ESG-CV2 & HOPWA-CV Activities