



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: Shola Olatoye
Director, HCD

SUBJECT: First Substantial Amendment To
2019/20 Annual Action Plan

DATE: May 13, 2020

City Administrator Approval

Date:

5-14-2020

RECOMMENDATION

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

- 1) Accept And Appropriate Coronavirus Aid, Relief, And Economic Security (CARES Act) Funds In The Amount Of \$4,532,841 Awarded To The City Of Oakland To Prevent, Prepare For And Respond To The Coronavirus;**
- 2) Amend Resolution No. 87729 C.M.S. To Reallocate \$236,712 In Code Enforcement Relocation Program Funds To the Commercial Lending Program For A Grant Previously Awarded To Main Street Launch And To Reallocate Excess Revolving Loan Program Income For Additional Community Development Block Grant Eligible Activities;**
- 3) Authorize The City Administrator To Reallocate Unused Community Development Block Grant Funds For Other Priority Community Development Block Grant Projects Including Projects To Address The Impact Of The Coronavirus Crisis On Oakland Communities;**
- 4) Authorize The City Administrator To Prepare And Submit To The United States Department Of Housing And Urban Development The City's First Substantial Amendment To Its Fiscal Year 2019-2020 Consolidated Annual Action Plan;**
- 5) Authorize The City Administrator To Award Agreements For Capital Improvements To The Henry Robinson Multi-Service Center In An Amount Not To Exceed \$350,000 Subject To Compliance With Any Applicable Competitive Bidding Requirements, Without Returning To Council; And**
- 6) Authorize The City Administrator To Award Agreements For Other Community Development Block Grant Activities As Set Forth In Exhibit A, Attached Hereto, And The City's Amended Fiscal Year 2019-2020 Consolidated Annual Action**

City Council
May 19, 2020

Plan, Subject To Compliance With Any Applicable Competitive Bidding Requirements, Without Returning To Council.

EXECUTIVE SUMMARY

The City of Oakland's Annual Action Plan (AAP) for Fiscal Year (FY) 2019/20 was approved and authorized for forwarding to the U.S. Department of Housing and Urban Development (HUD) per City Council Resolution Nos. 87729, 87730, 87806 and 87805. Further, it authorized the City to accept from HUD and appropriate a combined total of \$13,964,586 in Federal formula grant funds anticipated to be awarded to the City under the HUD 2019 Community Planning & Development (CPD) budget; to appropriate \$850,000 in anticipated revolving loan program income for FY 2019/20; and to approve Community Development District Recommendations for Community Development Block Grant (CDBG) funding for 2019/20.

This report and resolution request City Council approval to forward a Substantial Amendment to the City's 2019/20 AAP to HUD to add the following:

1. Reprogram \$236,712 in surplus CDBG funds to support the 19/20 Main Street Launch – Commercial Lending activity, previously approved to be funded with CDBG funds and other Federal funds per Oakland City Council Resolution No. 87729 C.M.S. passed on June 4, 2019;
2. Expand the use of program income collected in excess of the annual \$850,000 in Revolving Loan Program Income (RLPI) budgeted for Residential Lending/Rehabilitation to include "housing rehabilitation activities and other activities eligible under the CDBG program;"
3. Add "Back Up" activities (***Attachment A***) to the 2019/20 AAP that may be funded with balances from projects currently funded by CDBG under the AAP but that may be experiencing delays and/or have a budget surplus. Back up activities include project category and service type of activities recently approved and posted by the United States Housing & Urban Development (HUD) on March 16, 2020 in HUD's *National Briefing on CDBG Support for Infectious Disease Response* to address the impact of the Coronavirus (COVID-19) on low- to moderate-income communities (updated April 9, 2020 to include use of 2018, 2019 and 2020 CDBG funds); and
4. Accept and appropriate \$4,532,841 in 2020 CARES Act funding allocated to the City under the CDBG for COVID-19 response (CDBG-CV) to fund activities addressing the impact of COVID19 through (1) Housing preservation and stabilization, (2) Housing Operator Support, (3) Housing Production and Preservation and other CDBG-CV eligible strategies that produce quantifiable new or increased services and benefit in response to COVID-19.

All CDBG and CDBG-CV funding will be appropriated in Fund 2018, Organization 89949 and Project (To Be Determined-CV).

BACKGROUND / LEGISLATIVE HISTORY

The Five-Year Consolidated Plan (Con Plan), mandated by HUD, is designed to help local jurisdictions assess their affordable housing needs, community development needs, market conditions, and to make data-driven, place-based investment decisions. The consolidated planning process serves as the framework for a community-wide dialogue to identify housing and community development priorities that align and focus funding from the Community Planning & Development (CPD) Formula Entitlement Grant programs: CDBG, HOME Investment Partnership Program (HOME), Housing Opportunities for People With AIDS (HOPWA) and Emergency Solution Grants (ESG).

The Annual Action Plan (AAP), also mandated by HUD, provides a concise annual summary update of planned actions and activities in the furtherance of identified objectives. In addition, the AAP includes the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Con Plan. The FY 19/20 AAP was first approved via Oakland City Council Resolution Nos. 87729, 87730, 87806 and 87806 C.M.S. passed on June 4, 2019 and July 9, 2019.

Public Engagement Process

HUD requires jurisdictions receiving 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 AAP, a public hearing is also required.

The public hearings must address housing and community development needs, development of proposed activities, proposed strategies and actions for affirmatively furthering fair housing consistent with the City's Analysis of Impediments (Assessment of Fair Housing/Fair Housing Plan), and a review of program performance.

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 has made provisions to amend citizen participation and public hearing requirements for Consolidated Plans (including Substantial Amendments). HUD has reduced the public comment review period to not less than 5 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 Substantial Amendment to the 2019/20 AAP will be posted on the City's website for public review and comment no later than May 13, 2020 for five to 30 days. All feedback received as of the date of this report is included in the Substantial Amendment and is posted on the City of Oakland's website, on the following webpage:

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

All comments received during the public hearing will be added to the final Substantial Amendment to the 2019/20 AAP prior to submitting the plan to HUD for final approval. A public hearing will be scheduled for May 19, 2020, providing an additional opportunity for public comments on the City's First 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 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 Substantial Amendment will accomplish the following:

- (1) Ensure that the City has the ability to target available CDBG funding to critical activities such as the Main Street Launch program, which provides financial assistance to small businesses utilizing surplus funds in the Code Enforcement Relocation Program (CERP) project, and
- (2) Create greater flexibility in how funds that are not being used in a timely manner or that are no longer needed for a particular project can be deployed to address other critical CDBG-eligible needs in the City,
- (3) Permit funds to be used to meet needs related to the impacts of the Coronavirus pandemic on Oakland's low- and moderate-income neighborhoods and households, and
- (4) Expedite the allocation of CDBG-CV funds to address the varied impacts on low- to moderate-income residents and businesses of Oakland related to COVID-19.

FISCAL IMPACT

The attached resolution re-appropriates surplus CDBG funds initially allocated to CERP as approved by Oakland City Council Resolution No. 87729 C.M.S. to restore funding levels to Main Street Launch for services provided under the Commercial Lending Program in the amount of \$236,712. This amount, historically covered by HUD Economic Development Initiative (EDI) funds, is currently unavailable for this purpose until HUD and staff reaches an agreeable use of the EDI grant. The original intent of the now defunct EDI program was to assist local governments in two ways: (1) To provide additional security for the Section 108 loan program (as a loan-loss reserve or debt-service, for example), thereby reducing the exposure of its CDBG funds in the event of a default in loans made locally with the 108 funds. Or (2) to use this flexible grant to simply make the project more feasible by paying some of the project costs with grant funds. Allocation of EDI funds to Main Street supports the latter of these eligible uses.

Current utilization of the FY 2019/20 CDBG allocation for CERP in Fund 2108, Org. 89949, Project 1000385 is much lower than the \$605,940 allocated per Oakland City Council Resolution No. 87729. These funds are used to pay relocation expenses to tenants displaced as a result of a code enforcement action in cases where the property owners do not pay the required relocation benefit. As such, the deployment of funds is tied to the number of such cases in any given year where the property owner does not make the required payment. Staff is confident that adequate funding remains in the CERP to provide this assistance through June 30, 2020. Staff recommends reprogramming \$236,712 from the CERP FY 2019/20 CDBG allocation to the Main Street Launch Commercial Lending allocation in Fund 2108, Organization 89949, Project 1003938 to cover the EDI portion of funds previously allocated to Main Street Launch per Oakland City Council Resolution No. 87730 C.M.S.

Revolving Loan Program Income (RLPI) collected by the City's Residential Lending/ Rehabilitation Program is typically deposited back into the RLPI for further lending, with any funds collected in excess of the annual RLPI budget converted to program income and used for housing activities. The attached resolution expands the use of funds received in excess of the annual RLPI budget to include "housing activities and other CDBG-eligible activities."

Furthermore, we recommend the approval of "Back-Up" activities to be funded with CDBG funds allocated to activities approved per Oakland City Council Resolution No. 87729, 87730, 87805 and 87806; only when it is determined by the CDBG Division/Department of Housing and Com-

munity Development that funds allocated under these resolutions will not be used in a timely manner for the original purpose. Only in these cases will funds be authorized to be re-appropriated to the Back-Up activities as listed in this report in Fund 2108, Organization 89949, Project TBD.

Acceptance and appropriation of the 2020 CDBG-CV award for \$4,532,841 will allow for financial support to increase services to Oakland residents in response to COVID-19 and a portion of the funds may be used to cover staff cost for planning, capacity building, and technical assistance. Said funds will be budgeted and identified as one-time stimulus funding for CDBG-CV in Fund 2108, Organization 89949, Project "To Be Determined-CV."

PUBLIC OUTREACH / INTEREST

On March 31, 2020 HUD released a Memorandum of available waivers for COVID 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 & 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 2019/20 AAP as well as the date, location and time of the public hearing. Due to the Coronavirus (COVID-19), the First Substantial Amendment to the FY 2019/20 AAP is only available electronically and online at the City of Oakland web page referenced below: <https://www.oaklandca.gov/documents/first-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 CDBG and Revolving Loan Program Income funds referenced in the report for FY 2019/20 programs and activities.

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 (including carry-forward) under the CDBG program.

SUSTAINABLE OPPORTUNITIES

Economic: CDBG grants fund and support organizations that provide economic development technical and financial assistance, repair to public facilities, infrastructure, and social services for low and moderate income communities and expand social service and construction jobs.

City staff continues to explore the best uses of limited Formula Entitlement Grant funds, particularly CDBG awards and to provide more efficient use of funding, making visible and impactful changes in Oakland with CDBG funds.

Environmental: The CDBG program provides funding for services to rehabilitate blighted or substandard housing, remove hazards such as lead-based paint and other health and building safety issues that help preserve existing City housing stock and improve the environment. The CDBG also provides funding for the Residential Lending Program which administers the housing rehabilitation programs. Staff encourages construction contractors, property owners and housing developers to make substantial use of recycled content building materials, energy-conserving building designs and appliances, and water conserving fixtures and landscaping.

Housing Development loans support construction projects that will meet or exceed the green building standards developed by Stop Waste of Alameda County and must be GreenPoint Rated. Also, housing development projects are infill projects near transportation and reduce pressure to build on agricultural and other undeveloped land and reduce dependency on automobiles.

Race & Equity: Services and housing provided under CDBG benefit Oakland residents and businesses by promoting fair and affordable access to housing, services, business assistance and other activities for low- and moderate-income residents, homeless and those with special needs.

CDBG funding of activities under these programs ensures they are fully accessible to the populations served. In the absence of this funding, they might not be accessible. CDBG supports activities for the equitable safety, security and well-being of Oakland residents.

ACTION REQUEST OF THE CITY COUNCIL

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

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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,



SHOLA OLATOYE

Director, Housing & Community Development
Department

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Attachment (1):
A: Back-Up Activities