



THE CITY OF SAN DIEGO

Redevelopment Agency's Report (Revised)

DATE ISSUED: May 11, 2007

REPORT NO: RA-07-15
RTC-07-090

ATTENTION: Council President, City Council and the Redevelopment Agency

FROM: City Attorney's Office

SUBJECT: CDBG Loan Repayment of \$3,781, 193 from the Redevelopment Agency of the City of San Diego from the Centre City Redevelopment Project Area

REQUESTED ACTION:

- Authorize and direct the Executive Director or designee to amend the Centre City Redevelopment Project Fiscal Year 2007 Budget by increasing the Centre City Redevelopment Project Loan Repayment Budget for the partial repayment of principal to the City for previously loaned CDBG funds by the City to the Agency in the amount of \$3,781,193 and reducing other project funds by a like amount, and further authorize and direct that said expenditure of \$3,781,193 be accomplished in Fiscal Year 2006-2007, funded by tax increment or other revenues of the Agency from the Centre City Redevelopment Project Area.
- Declare that approval of this amendment constitutes authority for the expenditure of funds by CCDC in Fiscal Year 2006-2007 for the partial repayment of principal to the City for previously loaned CDBG funds by the City to the Agency, for use by CCDC.
- Authorize the City Auditor/Comptroller:
 - To establish the necessary accounts.
 - To appropriate and to allot the money available in the project funds and/or appropriate debt service funds as a result of the adoption of this resolution in accordance with the direction given herein.
- Authorize the City Auditor/Comptroller to carry forward any unexpended balance remaining in each budgetary account at the end of each fiscal year into the next fiscal year as a continuing appropriation, subject to amendment by the Agency.
- Authorize and direct the President of CCDC, or designee, to expend funds from the Centre City Redevelopment Project for the partial repayment of principal to the City for previously loaned CDBG funds by the City to the Agency.

- Authorize and direct the President of CCDC, or designee, to request the City Auditor and Comptroller to make budgetary transfers between the line items and object accounts within each fund as necessary to implement this resolution.
- Authorize the City Auditor/Comptroller, upon the request of CCDC, to transfer or loan funds between sub-projects within a project, provided that such transfers or loans do not increase or decrease the total project budgets or result in a use of such funds which would be inconsistent with the permitted uses of such funds.
- Declare that in the event the Agency desires to issue bonds, notes, or other instruments of indebtedness of the Agency to carry out redevelopment projects, then any indebtedness of the Agency to the City of San Diego, including any interest accrued thereon, shall be deemed not to be a first pledge of tax increment allocations received by the Agency pursuant to California Health and Safety Code Section 33670; and any indebtedness of the Agency to the City of San Diego, including any interest accrued thereon, shall be subordinate to any pledge of tax increment to bondholders or the holders of other such instruments of indebtedness.
- Declare that the City accepts a CDBG loan repayment from the Redevelopment Agency in the amount of \$3,781,193 from the Centre City Redevelopment Project Area to the City CDBG Fund.
- Authorize the City Auditor/Comptroller to record the aforementioned transfer to the City and to take any additional action, as needed, to implement the acceptance of said \$3,781,193 in accordance with the direction given herein.
- Declare that this activity is not a “project” and is therefore exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15060(c)(3).

STAFF RECOMMENDATIONS (PER CITY ATTORNEY’S OFFICE):

No Recommendation.

SUMMARY:

In Report to the City Council No. 07-085, dated May 2, 2007, City Planning and Community Investment [Department] set forth its funding recommendations for the FY 2008 Social Services Program. The report stated, “in summary, the reduction of federal funds (\$8,324), the loss of Housing Commission homeless shelter funding (\$445,000), the need to cover a one-time expense of \$75,000 to purchase new tent skins for the homeless shelters, and the need to increase the City homeless shelter programs by a combined \$38,855 results in a need to reduce remaining programs by \$567,179.” The report then included a list of nineteen social service programs, indicating a 5% reduction in funding to four of the programs, a 34% reduction in funding to seven of the programs, and a 100% reduction in funding to two of the programs.

On May 8, 2007, Item 332, "Fiscal Year 2008 Social Services Program," was heard before the City Council. At the hearing, the City Council passed the following motion made by Councilmember Frye: 1) to authorize the City Auditor and Comptroller to accept the funding appropriations from the City's CDBG entitlement grant, Emergency Shelter Grant, and the San Diego Housing Commission for the FY 2008 Social Services Program; 2) to direct the City Attorney, and appropriate staff, to prepare an ordinance to have the Redevelopment Agency, specifically the Centre City Development Corporation [CCDC], to pay back to the City of San Diego the amount of \$2.183 million in CDBG funds previously borrowed by CCDC from the City, to be used toward the FY 2008 Social Services Program and other CDBG eligible projects; 3) to continue Item 332 for further discussion to May 15, 2007; and 4) to notice a separate item on the Supplemental Agenda for May 15, 2007, to discuss the repayment of CDBG funds by CCDC to the City for the above mentioned purposes.

On the Supplemental Agenda for both the Agency and the City, the present actions proposed are as follows: 1) authorize CCDC to pay \$3,781,193 to the City as a partial repayment of prior loans made by the City to CCDC that used CDBG funds; and 2) authorize the City to accept the payment of \$3,781,193 for the purpose of funding the FY 2008 Social Services Program in the amount of \$567,179, and using the remainder of the payment to fund other CDBG-eligible projects.

It appears that the intent of the City Council was to consider funding the FY 2008 Social Services Program with \$567,179 to ensure each of the nineteen programs are funded at FY 2007 levels, the larger repayment amount of \$3,781,193 (compared to the \$2.183 million originally requested by Council) is necessary. Title 24, Section 570.201(e) of the Code of Federal Regulations states in relevant part:

The amount of CDBG funds used for public services shall not exceed 15 percent of each grant, except that for entitlement grants made under subpart D of this part, the amount shall not exceed 15 percent of the grant plus 15 percent of program income, as defined in Section 570.500(a). For entitlement grant under subpart D of this part, compliance is based on limiting the amount of CDBG funds obligated for public service activities in each program year to an amount no greater than 15 percent of the entitlement grant made for that program year plus 15 percent of the program income received during the grantee's immediately preceding program year.

In addition Title 24, Section 570.500 (a) of the Code of Federal Regulations states in relevant part:

Program income means gross income received by the recipient or a subrecipient directly generated from the use of CDBG funds... . (1)
Program income includes, but is not limited to, the following: ... (v)
Payments of principal and interest on loans made using CDBG funds... .

On May 8, 2007, the City Council approved the funding recommendations for the FY 2008 CDBG Program, which allocates 15 percent (or \$2,313,689) of the annual CDBG

entitlement for the FY 2008 Social Services Program. The additional \$3,781,193, however, is program income, since it is a payment of “principal and interest on loans made using CDBG funds.” As such, the City, under 24 C.F.R. 570.201 (e)(1), is limited to using only 15 percent of the \$3,781,193 (or \$567,179) for the FY 2008 Social Services Program.

In addition, Section 570.201(e)(1) requires that the City receive the \$3,781,193 during the current Fiscal Year (on or before June 30, 2007) to be able to use these funds for the FY 2008 Social Services Program. Accordingly, the present action requests that the CCDC annual budget for FY 2007 be amended to include the payment of the \$3,781,193 to the City.

Upon receipt of CDBG funds from the Agency the City Council may discuss and take action on the distribution of said funds, and direct appropriate staff to prepare necessary documents for future City Council consideration.

FISCAL CONSIDERATIONS:

Adoption of the resolutions will result in a reallocation of \$3,781,193 within the Centre City Redevelopment Project Budget, and will transfer said amount to the City of San Diego to be placed in its CDBG fund for uses consistent therewith. If the City accepts the funds and proceeds to allocate them to CDBG eligible programs, the City will lose the interest on the funds that would have accrued if the transfer of funds had not occurred.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

City Council direction, based upon the motion adopted at its May 8, 2007 meeting.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

Huston Carlyle
Chief Deputy City Attorney