



**AGENCY:** City Council  
**MEETING DATE:** April 13, 2015  
**DEPARTMENT:** Community Devel.  
**PRESENTED BY:** J. Owen

## AGENDA ITEM SUMMARY

**TITLE:**

**RECEIVE REPORT AND CONSIDER ADOPTING THE FOLLOWING RESOLUTIONS APPROVING FORGIVABLE LOAN AGREEMENTS USING FUNDS FROM COMMUNITY DEVELOPMENT BLOCK GRANT #12-CDBG-8388 AND AUTHORIZING CITY MANAGER TO EXECUTE SAME:**

- 1. MENDOCINO COAST HOSPITALITY CENTER FOR THE HOSPITALITY HOUSE IMPROVEMENTS PROJECT (AMOUNT NTE: \$41,000; ACCOUNT NO. 302-5024-0630)**
- 2. PROJECT SANCTUARY FOR THE BUILDING SAFETY IMPROVEMENTS PROJECT (AMOUNT NTE: \$10,000; ACCOUNT NO. 302-5025-0630)**
- 3. REDWOOD COAST SENIORS FOR THE SENIOR CENTER KITCHEN REHABILITATION PROJECT (AMOUNT NTE: \$35,000; ACCOUNT NO. 302-5026-0630)**

**ISSUE:**

On January 12, 2015, City Council approved Resolution No. 3769-2015 to approve addition of Supplemental Activities to the City's 2012 grant #12-CDBG-8388. The 2012 Supplemental Activities are funded with Program Income per Community Development Block Grant (CDBG) rule changes effective July 1, 2014. Three of the 2012 Supplemental Activities are classified as CDBG Public Facilities activities that include rehabilitation and improvements on behalf of non-profit entities. In the past, CDBG directed that Subrecipient Agreements should be the form of agreement between the City and the CDBG sub-grantee. However, CDBG now recommends that the form of agreement between the City and the non-profit sub-grantees for Public Facility projects should be a loan agreement. The loan agreement can be structured as a "forgivable loan" to the non-profit sub-grantee, after a minimum time period and with compliance with stated terms. Similarly to Subrecipient Agreements, the purpose of the loan agreements is to ensure that CDBG sub-grantees conform to HUD and CDBG regulations including Federal overlays, and to ensure that activities undertaken by the sub-grantees with the grant funds are as described in the grant application that funds the activities. In addition, the loan agreements are to include a Use Limitation Agreement and other performance requirements and associated sanctions for non-compliance. The three 2012 Supplemental Public Facility projects are the Mendocino Coast Hospitality Center's Hospitality House Improvements Project; Project Sanctuary's Building Safety Improvements Project, and Redwood Coast Senior Center's Kitchen Rehabilitation Project. In order for each of these projects to proceed, the Council must adopt a Resolution for each Loan Agreement that approves each forgivable loan agreement.

**RECOMMENDED ACTION:**

Adopt the following Resolutions Approving Forgivable Loan Agreements using Funds from CDBG #12-CDBG-8388 and Authorize City Manager to Execute Same:

- 1. Mendocino Coast Hospitality Center for the Hospitality House Improvements Project (Amount NTE: \$41,000; Account No. 302-5027-0630).**
- 2. Project Sanctuary for the Building Safety Improvements Project (Amount NTE: \$10,000; Account No. 302-5025-0630)**
- 3. Redwood Coast Seniors for the Senior Center Kitchen Rehabilitation Project (Amount NTE:**

\$35,000; Account No. 302-5026-0630).

**ALTERNATIVE ACTION(S):**

1. Do not adopt Resolutions approving loan agreements. The projects will not proceed without the agreements.
2. Make changes to the draft loan agreements. This would delay project implementation and may jeopardize timely project completion. All projects must be completed by September 30, 2015.

**ANALYSIS:**

On July 1, 2014, CDBG implemented new rules to require that all CDBG Program Income on hand must be expended before any grant funds may be reimbursed for approved grant expenditures. Program Income is the funding the City receives as CDBG loans for housing or business loans are repaid to the City. The City of Fort Bragg adopted a new Program Income Reuse Agreement in September 2014 that stated that the City would expend Program Income on activities included in open and/or new grants, rather than establishing new housing or business Revolving Loan Funds.

In order to have an opportunity to fully expend both Program Income and grant funds, CDBG allowed jurisdictions to add "Supplemental Activities" to open grants. A CDBG Design Phase Public Hearing was held on September 30, 2014, to solicit input from the public regarding Supplemental Activities. On January 12, 2015, with adoption of Resolution 3769-2015, City Council approved addition of six activities to the open 2012 grant #12-CDBG-8388. Of the six approved activities, three are Public Facility activities that are expected to be implemented and completed by the 2012 grant termination date of September 30, 2015. These activities are expected to expend approximately \$86,000 in Program Income, a total that is comprised of Program Income on hand as of June 30, 2014, plus Program Income expected to be received between July 2014 and June 2015.

Until very recently, a Subrecipient Agreement as provided by CDBG in template format, was the recommended form of agreement between jurisdictions and non-profit sub-grantees, for all types of CDBG activities. Staff recently was advised by CDBG that a forgivable loan agreement is now a preferred form of agreement for Public Facility activities. The use of a loan agreement reduces some administrative responsibilities that are associated with on-going Public Service activities, such as monitoring of the underlying Public Service during the entire period of the grant. Like Subrecipient Agreements, loan agreements ensure that non-profit sub-grantees comply with various Federal, state and local regulations, terms and covenants.

For each of the three Public Facility activities, a CDBG Public Facilities General Conditions Checklist must be completed and submitted to CDBG for approval before activities may commence. The loan agreements will be submitted with the Checklist for each activity. The Checklist also includes a requirement that a "no change of use provision" must be recorded against the improved property for a minimum of five years. CDBG advised staff that the five-year period should begin when the Public Facility is completed and the "Public Benefit" is achieved. Public Benefit is generally achieved when improvements are completed and the project beneficiaries (that is, the clientele serviced within the Public Facility) are able to use the improved facility. The Project Sanctuary and Mendocino Coast Hospitality Center (Hospitality House) loan agreements accomplish this requirement by including a Restrictive Covenant regarding the five year Use Limitation to be recorded in the Mendocino County Recorder's office. Because the Redwood Coast Senior Center is a leased property per terms of a long-term lease agreement, no Restrictive Covenant will be recorded, but the loan documents secure the five-year restriction.

Each of the attached draft loan agreements is similar as to content, with specific project information inserted. Content of each loan agreement that is consistent for all three agreements includes the following:

1. **Recitals.** These identify the subject property; explain that the CDBG Program is the source of the loan funding and that funds were provided as a grant to the City; and describe the purpose of the loan as described in the CDBG grant application.
2. **Definitions.** This section explains and clarifies specific terms and terminology as used in the loan documents;
3. **Loan of Funds.** This section describes the loan amount and terms of disbursement including
  - Loan Amount (maximum amount to be disbursed to the non-profit sub-grantee);
  - Interest: No interest will be charged or accumulated on the loan amount.
  - Term of the loan: 5 years after project completion.
  - Required Documentation: The related documentation that must be executed prior to disbursement of funds is listed, including Exhibits to the Loan Agreement (Deed of Trust, Truth-In-Lending Disclosure, Notice of Right to Cancel, and except for the Senior Center, Restrictive Covenant).
  - Disbursement of Funds: Funds for property rehabilitation will be released directly to vendors and contractors by the City. If the acquisition and rehabilitation activity requires less than the maximum loan amount, any amounts less than the maximum loan amount will be considered partial repayment of the loan.
4. **Repayment of the City Loan.** This section describes circumstances or “Triggering Events” that would cause repayment of the loan by the non-profit sub-grantees, including the following:
  - Any Transfer of the Property without the City’s prior written consent.
  - Change of use such that the non-profit sub-grantee stops using the property to provide services as described in each 2012 CDBG Supplemental Activities application. The use description is also stated in the Regulatory Agreements to be recorded in the County Recorder’s office for Project Sanctuary and Mendocino Coast Hospitality Center.
  - Failure to maintain the property at post-rehabilitation condition.
  - Default of the Loan Agreement, including misrepresentations, failure to perform obligations contained in the Loan Agreement, or failure to notify the City if a “Triggering Event” occurs.
  - Failure to maintain property insurance with City as loss payee.
  - Failure to pay any property taxes due.
  - If such a Triggering Event occurs, the City may determine the repayment terms, with discretion to allow monthly payments rather than a lump sum payment.
5. **CDBG Program Requirements.** This section requires conformity with HUD and CDBG regulations and provides that rehabilitation activities may proceed only with City approval and participation. In addition, this section contains Covenants regarding the property transfer restrictions, property maintenance requirements, prohibition against discrimination, the City’s right to inspect the property, and the requirement to maintain adequate property insurance.
6. **Defaults and Enforcement.** This section describes “events of defaults”, including those described in Item 4 above, and also states that if a default occurs, the City may declare the full

loan amount due and payable. Liquidated damages are provided in the event of rent or lease of the property without City consent. Specific Performance is also required in this section, because the CDBG project serves a public purpose of a “special and unique kind.”

7. **Subordination.** This section provides that the City may approve loan subordination at its discretion, but there are restrictions stated on terms of any new loan.
8. **General Provisions.** This section contains standard loan provisions that are not unique to this transaction except to identify Notice Addresses and signers.

Specific information about each of the proposed projects follows.

1. **Mendocino Coast Hospitality Center’s Hospitality House Improvements Project:** This project includes installation of a roof top solar system and replacement of internal flooring at the Hospitality House emergency shelter located at 237 N. McPherson Street. Funding of up to \$41,000 has been approved for these activities.
2. **Project Sanctuary Building Safety Improvements Project** (Amount NTE: \$10,000; Account No. TBD): This project will include, as affordable, enclosure of a front porch to provide a secure waiting area, and installation of an additional exit door, in order to increase safety for clients and staff at the Project Sanctuary facility located at 461 N. Franklin Street.
3. **Redwood Coast Seniors Kitchen Rehabilitation Project** (Amount NTE: \$35,000; Account No. TBD): Upgrades to the commercial kitchen will include installation of new kitchen equipment and furnishings including storage and refrigeration equipment at the Senior Center, located at 490 N. Harold Street.

#### **FISCAL IMPACT:**

Approval of loan documents accomplishes on of several grant General Conditions. Once General Conditions are cleared, CDBG will authorize that 2012 Supplemental Activities may be implemented. These activities will result in a positive fiscal impact for the City as they enable the City to expend Program Income on important community activities that might otherwise remain unfunded due to lack of resources. If the Supplemental Activities are not implemented, the City will be required to return awarded but unexpendable grant funds to the state. This could directly affect the City’s ability to compete for future grants and could also impact the City’s ability to assist local non-profit entities in the future. Program Income may be used to pay Activity Delivery costs specific to each activity and may in some cases be allocated to General Administration costs. The City is allowed to use General Administration funding from any open CDBG grant to assist with program management, and there is adequate General Administration funding available to cover staff costs for these activities.

#### **CONSISTENCY:**

Approval of Supplemental Activities is consistent with the Program Income Reuse Agreement adopted September 22, 2014. Certification of environmental compliance is required in order to clear General Conditions. Federal NEPA as required for CDBG and state CEQA review as required by the City has been completed for these activities.

#### **IMPLEMENTATION/TIMEFRAMES:**

Grant General Conditions specific to each activity must be assembled, submitted to CDBG, and cleared by CDBG before each activity can commence. Staff estimates that activities CDBG clearance will be obtained and activities will be authorized to commence by May 1, 2015. All activities must be completed by September 30, 2015.

**ATTACHMENTS:**

1. Resolution and Loan Agreement documents, Mendocino Coast Hospitality Center
2. Resolution and Loan Agreement documents, Project Sanctuary
3. Resolution and Loan Agreement documents, Redwood Coast Seniors

**NOTIFICATION:**

1. Charles Bush, Redwood Coast Senior Center
2. Anna Shaw, MCHC
3. Dina Polkinghorne, Executive Director; Rachel Kradin

**City Clerk's Office Use Only**

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		