



Legislation Text

File #: 24-320, **Version:** 1

Report Prepared by: Kimberly Nutt, Housing Program Supervisor, Housing Division/Development Services Department

SUBJECT: Consideration and Approval of the Second Substantial Amendment to the U.S. Department of Housing and Urban Development (HUD) 2023 Annual Action Plan Involving Corrections to Available Community Development Block Grant (CDBG) Resource Amounts, Resulting in Necessary Adjustments to CDBG Projects and Activities and Related Goals and Objectives

REPORT IN BRIEF

Considers approving a Second Substantial Amendment to the HUD 2023 Annual Action Plan, which is necessary to correct calculation errors of CDBG Expected Resources that were discovered during the final approval stages of the First Substantial Amendment approved by the City Council in January 2024.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2024-51**, A Resolution of the City Council of the City of Merced, California, Approving Substantial Amendment #2 to the Program Year 2023-2024 Annual Action Plan; Authorizing the City Manager or Deputy City Manager to Execute Any Related Documents, Certifications, and/or Agreements Resulting from this Amendment; Certifying Compliance with the Requirements of the Community Development Block Grant (CDBG) Program; and, Authorizing Staff to Submit All Required Documents to the U.S. Department of Housing and Urban Development; and,
- B. Authorizing the Finance Officer to make any necessary budget adjustments.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, subject to conditions as specified by the City Council; or,
3. Deny the request; or,
4. Defer back to staff for reconsideration of specific items as requested by the City Council; or,
5. Defer action to a future meeting, with date and time to be specified in the motion.

AUTHORITY

City of Merced Charter, Section 200, et. Seq., and Title 24 of the Code of Federal Regulations (CFR) Parts 91 and 570 (federal regulations relating to Citizen Participation and Consolidated/Annual Action Plans, and CDBG funds).

CITY COUNCIL PRIORITIES

As provided for in the 2023-24 Adopted Budget and Council Priorities regarding Housing.

DISCUSSION

The Merced City Housing Division requests approval of the Second Substantial Amendment to the 2023 Annual Action Plan, originally approved by Council on June 5, 2023, and first substantially amended on January 2, 2024, with subsequent HUD approval being received after both prior Council actions.

Through this Second Substantial Amendment process, the Housing Division intends to correct a calculation error made to CDBG available resource figures that, subsequently, effects necessary eliminations to previously planned CDBG projects, as well as Goals and Priority categories and figures that are affected by these adjustments.

First Substantial Amendment - Progress

On January 2, 2024, the City Council reviewed and approved the First Substantial Amendment to the 2023 Annual Action Plan. The First Substantial Amendment process was carried out to primarily move CDBG funds to a new activity that would expend those funds faster than the previously planned projects had been able to, in order to meet HUD's "Timeliness Test" date, which is upcoming on May 2, 2024. This new activity, the purchase of land for an affordable housing development, has been successfully completed and the drawdown of CDBG funds is currently being processed, which will result in the City meeting this critical compliance element in the overall administration of HUD CDBG funds. The January 2, 2024, administrative staff report is provided as information at Attachment 3.

Reason for Further Amendments to the 2023 Annual Action Plan

Just days prior to the January 2024 Council approval of the first amendment to this plan, Housing staff discovered that a mistake had been made in the calculation of the available CDBG resources that were erroneously reflected in the Draft Plan presented to both the public and the City Council. Upon consultation with HUD staff prior to the January council meeting, HUD determined that the first amendment approval could proceed, with the expectation (and necessity) that Housing staff would then begin a second amendment process to correct the error, as the plan must be correct prior to program year closeout on June 30, 2024. The City Council approved the First Substantial Amendment with this direction and expectation, as well.

Second Substantial Amendment - Changes Proposed

Since Home Investment Partnership Program (HOME) resources are not involved in this amendment, no changes are necessary to any figures or projects related to those funds.

1. Changes to CDBG Available Resources:

The subject error in the First Substantial Amendment resulted in an overstatement in CDBG available prior-year carryover resources.

Additional 2023-24 CDBG program income in the amount of \$27,225 has since been received since January, which will assist in balancing available resources to the proposed expenditure/project amendments discussed further below. This additional CDBG program income will be specifically allocated to Project #15 in the 2023 Annual Action Plan (Affordable Rental Housing - Land Acquisition and Construction) - the Devonwood Apartments project.

The below comparison chart illustrates the original Annual Plan totals, the 1st Substantial Amendment prior year resources error, and the proposed corrections and program income adjustments that are now needing to be made to the “Expected Resources - Priority Table” in Section AP-15 of the Annual Action Plan:

(CDBG Only) Section AP-15 Table 1 Expected Resources	Original Annual Plan	1 st Substantial Amendment	Proposed 2 nd Substantial Amendment
2023 CDBG Allocation	\$ 1,034,373	\$ 1,034,373	\$ 1,034,373
Program Income	\$ 93,000	\$ 120,095	\$ 147,320
Prior Year Resources	\$ 964,025	\$ 3,165,090	\$2,325,865
TOTAL:	\$2,091,398	\$ 4,319,558	\$ 3,507,558

2. Changes to Proposed Projects:

The below projects must be deleted from the 2022 and 2023 Annual Action Plan to assist in balancing to the corrected CDBG resource figures.

Original Program Year	Project Name & Type	Project Amount + Activity Delivery Cost
FY 2022-23	S Canal St/W Childs Ave Street, Sidewalk, Curb & Gutter Improvements (public facility/improvements) *	* \$ 275,000
FY 2023-24	Merced City Fire Department - HEART and EAV EMS Vehicles (public facility/improvements)	\$ 632,000
FY 2023-24	Habitat for Humanity - Homeowner Rehabilitation of Existing Housing Assets (E Main Street housing project)	\$ 180,000
TOTAL:		\$ 1,087,000

* *Note:* As this is a prior-year (2022) project, deletion of this project increases the Prior Year Resources figure in the above comparison chart by the same amount. Therefore, the net change to only 2023 projects is a \$812,000 decrease, which matches the net change to expected resources in the above table.

3. Changes to Goals and Priorities (Section AP-20 in the Annual Action Plan):

Also, because of the changes to both available CDBG resources and the project list, the following adjustments must be made to figures in the Goals and Priorities table in Section AP-20. These changes are as follows:

<u>Goal</u>	<u>Change</u>
Goal 1A - Improve Public Infrastructure & Facilities	Decrease by \$657,623
Goal 2A - Increase Owner Occupied Rehab Opportunities	Increase by \$1,997
Goal 2B - Increase Affordable Housing Opportunities	Decrease by \$159,173
Goal 3A - Provide Vital Services for LMI Families	Increase by \$2,377
Goal 4A - Provide Homeless Prevention & Support Services	Increase by \$422

4. Changes to the text document:

Finally, minor text amendments and other corrections related to these adjustments will be made to sections of the plan where these projects and goals are mentioned. There is also a new section in the Executive Summary entitled “9. Second Substantial Amendment to the 2023 Annual Action Plan” that explains the reasons for the amendment, the changes, and the citizen participation actions that have been taken thus far.

Citizen Participation Plan Requirements

The City’s adopted Citizen Participation Plan (CPP) for HUD-funded projects sets the requirements for substantial amendments, which is made necessary whenever one or more of the following is proposed:

1. A substantial change in the allocation priorities or substantial change in the method of distribution of funds. A substantial change is defined as a change that affects more than 75% of the allocation of funding in any project and/or total distribution.
2. An activity using funds from any HUD program not covered by the Consolidated/Action Plan, including program income, not previously described in the plan.
3. A substantial change to the purpose, scope, location, or beneficiaries of an activity.

The City is required to carry out a minimum 30-day Public Review and Comment Period to give residents reasonable opportunity to both review the proposed changes and provide their feedback or other input. The City is required to notify the public of this opportunity through the publishing of public notices in three languages in local newspapers, on the City’s website, and at the Merced Civic Center, and provide the public with easily-accessible ways to view and comment.

Notices in English, Spanish, and Hmong were published in the Merced Sun-Star and Merced County Times on Thursday, April 4, 2024, and provided a 32-day Public Review and Comment Period through May 6, 2024. Both the notices and the website provided instructions for viewing and commenting, as well as instructions for requesting special accommodations, such as language translation or disabled accessibility. The notices were also posted on the bulletin board outside the Merced Civic Center.

The CPP does not require a public hearing for substantial amendments. However, residents are still encouraged to provide any comments or other input for this matter before the City Council is asked to approve these changes.

IMPACT ON CITY RESOURCES

This Second Substantial Amendment involves changes to project activities using CDBG funds that have already been allocated and distributed by HUD to the City (therefore, already budgeted), through approval of the original and first-amended 2023 Annual Action Plan and the 2022 Annual Action Plan, with the exception of the additional \$27,225 of unanticipated program income that has been received over and above what was originally estimated and previously added to this year's 2023 plan.

Normally, additional program income received in this manner is held in in the unreserved, unencumbered fund balance as unallocated funding. It rolls over into the next year's Annual Plan as prior year carryover funding. However, HUD allows grantees the option of using unallocated program income the year it is received, as long as the City performs the required Citizen Participation process that allows residents the opportunity to comment on the use of funds, goals, etc.

Funds are currently available in Fund 2501 CDBG.

ATTACHMENTS

1. Summary of Changes to Projects and Amendment Details - Public Review document
2. Draft Second-Amended 2023 Annual Action Plan (text only version - no attachments)
3. Administrative Report - First Substantial Amendment January 2, 2024
4. 2022 Annual Action Plan
5. Resolution 2024-51