



## Legislation Text

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**File #:** 21-328, **Version:** 1

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### ..Title

SUBJECT: Public Hearing to Consider Adoption of a Resolution Approving Substantial Amendment #1 to the 2020-2024 Consolidated and 2020 Annual Action Plans to Amend Expected Funding Sources, Expected Program Income, Funding Amount for Project #1- CDBG: Administration, Funding Source for Project #3: Public Facility and Infrastructure, and Associated Text Changes Related to a Change in Funding Source for the Childs and B Affordable Housing Project; Authorizing the City Manager to Execute all Documents, Agreements, and Certifications Resulting from this Amendment; Authorizing Staff to Make these Amendments to the Plans and Submit all Required Documents to the U.S. Department of Housing and Urban Development

### REPORT IN BRIEF

Considers the first Substantial Amendment to the 2020-2024 Consolidated and 2020 Annual Action Plans to amend expected funding sources, expected program income (PI), funding for Project #1: Administration, Funding Source for Project #3: Public Facility and Infrastructure, and associated text changes related to a change in the funding source for the Childs and B Affordable Housing Project; authorizes the City Manager to execute all related documents, agreements, and certifications; and authorizes staff to make amendments the plans and submit to the U.S. Department of Housing and Urban Development (HUD).

### RECOMMENDATION

City Council - Adopt a motion adopting Resolution 2021-31, a Resolution of the City Council of the City of Merced, California, approving substantial amendment #1 to the 2020-2024 Consolidated and 2020 Annual Action Plans to amend expected funding sources, expected program income, funding amount for Project #1- CDBG: administration, funding source for Project #3: Public Facility and Infrastructure, and associated text changes related to a change in funding source for the Childs and B Affordable Housing Project; authorizing the City Manager to execute all documents, agreements, and certifications resulting from this amendment; and authorizing staff to make these amendments to the plans and submit all required documents to the U.S. Department of Housing and Urban Development.

### ..Body

#### 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 Council; or,
5. Defer action to a future meeting, date and time to be specified in the motion.

#### AUTHORITY

Charter of the City of Merced, Section 200.

#### CITY COUNCIL PRIORITIES

Continued Focus on Affordable Housing, and as provided in the 2020-2024 Consolidated Plan and 2020 Annual Action Plan.

#### DISCUSSION

On April 5, 2021 a presentation was provided to the City Council on Affordable Housing Assets. The overview included CDBG, HOME, Housing Successor Agency, and other programs. The City Council was also asked to provide direction on potentially utilizing an alternative funding option related to a portion of the Childs and B project.

The City Council provided direction to utilize Community Development Block Grant (CDBG) Program Income (PI) funds instead of HUD Section 108 Loan Guarantee Funds in support of the community facilities to be constructed and operated with in the Childs and B Affordable Housing Project. The City received an unexpected loan payoff from The Grove project which included \$3,877,751 in CDBG PI.

#### Background

This Substantial Amendment is necessary primarily to swap funding sources needed for the ongoing construction of the Childs & B Street Affordable Housing Project, at the northwest corner of Childs Avenue and B Street, following the unexpected receipt of "Program Income" revenue from a payoff of existing loans associated with "The Grove Apartments," which was constructed in 2004.

The Grove Apartments were partially funded with Section 108 Loan Guarantee funds in 2003, which were guaranteed each year thereafter by the City's yearly allocation of Community Development Block Grant (CDBG) funds as collateral. On years that The Grove's collected rents were not enough to make the Section 108 Loan payment, the City made the payment to HUD alternately out of its CDBG and former Redevelopment Agency funds (now call Housing Successor Agency/LMI Asset funds). The Grove Apartments was also subsidized by a loan from the City of its HOME Investment Partnership Program (HOME) funds. On January 29, 2021, the City of Merced received The Grove Apartments payoff totals as follows: \$3,877,751.42 to be returned to CDBG funds, \$1,582,488.65 to be returned to the LMI Asset fund account, and \$1,468,861.64 to be returned to HOME funds.

Prior to this Amendment, funding of the public facility building portion of the Childs & B Affordable Housing project was approved by City Council and HUD, through approval of the 2020-2024 ConPlan/2020 Annual Action Plan, to be with \$2,000,000 of HUD Section 108 Loan Guarantee funds, which are subject to HUD Code of Federal Regulations (CFR) Title 24 Subpart M (24 CFR 570.700). This was incorporated in the Disposition Development Agreement (DDA) executed in October 2020. An amendment to the DDA updating the funding source, Section 330, has been prepared and executed. The DDA provided an amendment process within Section 702. The proposed CDBG PI funds are being in the same capacity and in the same amount as the pledged HUD Section 108 Loan Guarantee Funds.

With the receipt of CDBG Program Income from The Grove loan payoff, the \$2,000,000 Section 108 Loan Guarantee for the Childs & B project will not be necessary, as \$2,000,000 of the CDBG Program Income received in January will be used for the same eligible costs (construction of Public Facilities). The public facility/community building being constructed on-site will be open for neighborhood and general public use for educational classes and community services.

Additionally, HUD also allows "Activity Delivery Costs" (ADC), which funds administrative costs of carrying out project activities associated with the Childs & B project. HUD allows ADC to be drawn down at a rate of 20% of CDBG project activity, or \$400,000 of the CDBG funds proposed.

The remaining proceeds from The Grove payoff, including the remaining CDBG funds, HOME, and LMI Asset funds received, will be reflected on the subsequent Annual Action Plan currently being developed for the 2021 Program Year as "Prior Year Program Income," and will be programmed during the 2021 Program Year for HUD eligible activities. Any CDBG Program Income added to the 2020 Annual Action Plan with this Amendment that remains unspent as of June 30, 2021, will be reflected as Prior Year Resources in the 2021 Annual Action Plan.

#### Substantial Amendment

As part of the administrative responsibility as an entitlement community under HUD, the City is required to prepare a funding strategy that furthers housing and community development goals. This is included in the Consolidated Plan. The City recently approved the 2020-2024 ConPlan/2020 Annual Action Plan. The plans are intended to address expected funding sources including program income and funding amounts for proposed projects. Given the proposed changes it's necessary to amend those plans.

The City may amend those plans after providing an opportunity for public comment and after holding a public hearing. In response to COVID-19, HUD provided a waiver that allows for an abbreviated public comment period on proposed plan amendments. The normal 30-day review and comment period can be reduced to as few as five days. Specific to this proposed amendment it was available for review from April 23rd through April 30th, seven days. Any comments received will be provided at the Public Hearing.

In summary, the Substantial Amendment proposes the following changes to the existing 2020-2024 Consolidated Plan and 2020 Annual Action Plan:

\* Increase Source: CDBG - Public Federal Program Income from "Expected Amount Available in Year 1" by \$2,400,000, in order to be available for expenditure during the 2020 Program Year that ends June 30, 2021 (ConPlan: Table SP-35 - Anticipated Resources; Annual Action Plan: Table AP-15 - Expected Resources); and adjust table totals accordingly.

\* Reduce Source: "Other - Public-Federal" (Section 108 funds) from "Expected Amount Available Year 1" by \$2,000,000, as this funding source is no longer necessary (ConPlan: Table SP-35 - Anticipated Resources; Annual Action Plan: Table AP-15 - Expected Resources); and adjust table totals accordingly.

\* Adjustments to Goal #1 - 1A Improve Public Infrastructure & Facilities: increase CDBG funding by \$2,400,000; and, reduce CDBG Section 108 funding by \$2,000,000 (ConPlan: Table SP-45 -Goals Summary; Annual Action Plan: Table AP-20 - Annual Goals and Objectives); and adjust table totals accordingly.

\* Adjustments to Annual Plan Projects (Table AP-38): increase Project #3 - CDBG: Public Facilities & Infrastructure by \$2,400,000, for a new total of \$2,482,500. Planned Activities will change as follows:

o \$2,000,000 of CDBG Section 108 activities will be deleted; and,

o Add the following activity: \$2,400,000 of CDBG funding will be made available for construction of a Neighborhood Facility (Public Facility) within the Childs & B Affordable Housing/Childs Court Apartments' community building; total amount includes \$2,000,000 for construction costs and 20% activity delivery costs of \$400,000; IDIS Matrix Code: 03E/Neighborhood Facilities; National Objective Met: LMA/Low-Mod Area Benefit Activities - 24 CFR 570.208(a)(1)(i); Eligibility: 24 CFR 570.201(c) - Public Facilities.

\* Various corrections to text throughout the Consolidated Plan and Annual Action Plan to remove references to Section 108 Loan Guarantee financing of the Neighborhood Facility construction that will now be financed with the CDBG Program Income proceeds received in January 2021.

#### Next Steps

Should the City Council approve the proposed amendments, the Housing Division expects to be able to submit to HUD shortly afterwards. HUD then is allowed up to 45 days to review and approve the changes. Staff will also arrange for a scheduled meeting with the City's assigned community representative, so they are aware of the timing of the project. Following HUD approval, the City intends to draw down these funds immediately.

In addition to these next steps related to the Substantial Amendment, a Loan Agreement with security is necessary for the CDBG funding. The proposed HUD 108 funding included a Loan Agreement and was secured by a Deed of Trust with Lease Assignment of Rents. HUD previously approved this approach and the same is being incorporated into the CDBG Loan. The terms within the DDA are also consistent with the CDBG Loan. These items will require separate Council consideration and possible action. These documents are currently being prepared and are likely to be scheduled for the May 17, 2021 agenda.

#### IMPACT ON CITY RESOURCES

None.

#### ATTACHMENTS

1. Resolution 2021-31
2. Presentation