



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Hold a Public Hearing to consider an amendment to the FY 2019-2020 Annual Action Plan, approval of the Community Development Block Grant allocations, the Draft FY 2020-2021 Annual Action Plan, and related budget amendments
Category:	Public Hearings-Community Development
Meeting Date:	6/23/2020
Staff Contacts:	Sharon Goei, 408-586-3260 Robert Musallam, 408-586-3275 Adam Marcus, 408-586-3244
Recommendations:	<ol style="list-style-type: none"> 1. Open the public hearing, hear testimony, then move to close the public hearing. 2. Approve the amendment to the FY 2019-2020 Annual Action Plan. 3. Approve the Community Development Block Grant funding for FY 2020-2021. 4. Approve the draft FY 2020-2021 Annual Action Plan. 5. Authorize the City Manager, or designee, to make any necessary changes to the approved draft FY 2020-2021 Annual Action Plan as needed to comply with CDBG submission guidelines. 6. Authorize the City Manager to execute CDBG agreements with the approved subrecipients. 7. Provide direction to staff on any revised City Council priorities to guide FY 2021-2022 outreach. 8. Approve budget appropriation of \$748,629 in the Building Safety and Housing FY 2020-21 operating budget.

Background:

The U.S. Department of Housing and Urban Development (HUD) provides annual grants through the Community Development Block Grant (CDBG) program to local entitlement cities and counties. The CDBG program provides resources to the most vulnerable low- and moderate-income communities to address a wide range of community development needs through investment in capital projects and public services. The amount of funds that Milpitas receives is determined by a formula based on population and other factors. This year it is important to distinguish regular CDBG “formula funds” from special CDBG-CV funds created by the CARES Act.

February 5 Community Advisory Commission (CAC) Meeting

At this meeting the CAC considered CDBG applications for an estimated \$600,000 in funding because at that time, the City had not yet received its FY 2020-2021 CDBG allocation from HUD. On February 25, 2020, HUD announced the City of Milpitas would receive an allocation of \$676,413 in formula funds. The CAC funding recommendations were shared with the City Council CDBG Subcommittee on February 28.

February 28 CDBG Subcommittee Meeting

At this meeting, the Subcommittee directed staff to re-open the application period for an additional 30 days, ending March 31, 2020, for staff to research the potential to build a tiny home village in Milpitas using CDBG funds. During the re-opened application period, the City received one additional application. However, due to the onset of COVID-19, the City’s HUD representative has suggested working with applicants that have a strong track record of CDBG performance. Given that this applicant is a first-time CDBG applicant and has had difficulties in meeting response requirements and deadlines, the applicant agreed to work closely with staff to learn about CDBG and apply for a future year instead.

COVID-19 Response

Over the coming weeks, the declaration of the pandemic outbreak of COVID-19, and subsequent shelter in place orders, would require City staff to deviate from standard CDBG operating procedures. Specifically, HUD notified all grantees that additional funding would soon be available, with more flexible guidelines for their use, and with guidance as to how to quickly distribute those funds.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law in response to the growing public health and resulting economic crisis. This \$2 trillion stimulus measure provided widespread relief for the private and public sector, including individual Americans. The CARES Act allocated an additional \$5 billion in Community Development Block Grant Coronavirus (CDBG-CV) funds to prevent, prepare for, and respond to coronavirus. Of this amount, \$2 billion (tranche 1) was allocated to entitlement grantees using the same allocation formula as the FY20-21 funds, \$1 billion (tranche 2) was allocated to states and insular areas, and the remaining \$2 billion (tranche 3) will be allocated at the discretion of the Secretary of Housing and Urban Development (HUD) based on need and other factors.

On April 2, 2020, HUD announced that Milpitas would receive \$397,911 in CDBG-CV funds (from tranche 1). It is currently unknown if Milpitas will receive additional funding from tranches 2 and 3. Additionally, the CARES Act provides new flexibility for entitlement Cities such as Milpitas to use formula CDBG and CDBG-CV funds and authorized HUD to grant waivers to approve the expenditure of these funds. This will be discussed in more detail in the analysis section.

May 21 CDBG Subcommittee Meeting

Staff presented a summary of applications received and reported findings on tiny home village research. Staff identified an alternative source of HUD funds known as Section 108 funds, which would allow the City to leverage our CDBG allocation with debt to fund capital projects. Additionally, staff would have enhanced flexibility in applying for and administering Section 108 funds. The Subcommittee agreed to include the optional use of Section 108 funds as part of the substantial amendment to the Consolidated Plan. This will provide the City with the option to leverage our CDBG dollars for future capital projects.

The Subcommittee provided feedback on their goals for the use of CDBG funds as it relates to the City's response to COVID-19. These goals included the following:

- **Housing**, which includes rent relief and supporting individuals and families experiencing homelessness;
- **Senior services**, which includes access to Wi-Fi, devices, and technical assistance to help counter social isolation;
- **Domestic violence**, which includes teaching students healthy relationships, and domestic violence prevention and education; and
- **Small Businesses**, which includes small business and/or microenterprise assistance.

The Subcommittee directed staff to report back with an outline of new CDBG flexibilities under the CARES Act, to survey how surrounding cities are distributing their CDBG and CDBG-CV funds, and to explore the possibility of working with current or new applicants to meet the goals above.

June 15 CDBG Subcommittee Meeting

Staff provided an overview of CDBG, including eligible and ineligible activities, National Objectives, and program changes due to the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

The Subcommittee discussed the FY 20-21 funding allocation requests for CDBG formula and CDBG-CV funds and provided staff the following direction:

- To explore partnership opportunities between YWCA and MUSD to provide a domestic violence prevention curriculum to MUSD students; and
- To prepare the funding recommendations based on Subcommittee feedback to bring to Council on June 23, 2020.

June 16 City Council Meeting

The City Council provided staff direction to utilize CDBG funding for the Small Business Loan Program and the Rent Relief Program. Staff has incorporated this into the proposed allocations and draft Annual Action Plans.

Analysis:

Eligible and Ineligible Uses

HUD sets restrictions on how CDBG and CDBG-CV funds can be used even with recent flexibilities from the CARES Act. CDBG activities must be on HUD's list of eligible uses. A summary of eligible and ineligible activities is included as **Attachment A**.

Meeting National Objectives

In addition, CDBG activities must meet one of the following National Objectives:

1. Provides a benefit to low- and moderate-income persons;
2. Eliminates or prevents slum or blight; or
3. Meets other community development needs having an urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community and other financial resources are not available to meet such needs, often referred to as "urgent need."

HUD has given clear guidance that National Objective #3 cannot be applied to CDBG-CV funding as it is typically reserved for natural disaster response efforts. The City of Milpitas has historically used its CDBG allocation to benefit low- and moderate-income persons. To meet the slum or blight National Objective, the City would have to identify areas of the City that meet the definition of a slum, blighted, deteriorated or deteriorating area under state or local law. Milpitas has not identified significantly blighted conditions within its boundaries. As such, all CDBG-CV, CDBG formula, and prior year formula funds must be used to benefit low- and moderate-income persons.

Other CDBG Rules

HUD sets caps on the proportion of annual formula CDBG funds that can be spent on different types of activities. Capital projects are capped at 65%, public service at 15%, and administration at 20%.

CARES Act Flexibility and CDBG-CV Funding

The CARES Act has modified certain CDBG policies and procedures for FY 20-21 to increase speed and flexibility in response to the COVID-19 pandemic, as summarized below:

- **No Public Service cap for COVID-19 related activities:** In a standard CDBG year, the formula allocation would cap CDBG funding for public services at 15% of the total allocation amount. However, for this fiscal year, public service activities that are used for COVID-19 related activities are exempt from this cap. This means the City Council could allocate more of its formula funding, which would typically be reserved for capital improvement projects, to COVID-19 related activities within the fiscal year. This funding flexibility only applies if the allocations are used for COVID-19 related activities. If funds are allocated to a non-COVID-19 related activity, those funds must conform to the standard CDBG caps of 15% for public services and 65% for capital projects.
- **Substantial amendment to the Consolidated Plan:** The Consolidated Plan details the City's 5-year plan to use CDBG funds to meet CDBG National Objectives, City Council and Community priorities. Given that COVID-19 is a new and widespread phenomenon, HUD is allowing grantees to substantially amend the Consolidated Plan to align the plan to account for COVID-19 related needs, without the extensive amendment procedures that are usually required. The intent of this change is to speed up the deployment of CDBG funds. Staff will present a summary of the substantial amendments at the June 30, 2020 City Council meeting.
- **Citizen Participation Plan Waiver:** As a part of the Consolidated Plan amendment process, HUD requires Citizen Participation via noticing to the public. The City satisfies the Citizen Participation Plan

by giving the public 15 to 30 days' notice of a public hearing, typically via newspaper advertisements, which would give the community time to provide comments to the governing body. Given the expedient need for these funds to be allocated, HUD has lowered the threshold for community noticing and public comment to at least 5 days prior to a public hearing. Additionally, each grantee will determine what constitutes reasonable public notice and outreach to justify sufficient noticing. The City plans to post the public hearing notice on its website, and it will send an email to all known interested community members, CDBG applicants, the Community Advisory Commission, and other agencies or individuals who can further Citizen Participation. Staff will present a summary of the Citizen Participation Plan amendments at the June 30, 2020 City Council meeting.

- **Availability of CDBG-CV Funds:** The CARES Act created a supplemental funding of CDBG-CV dollars that must be used to prevent, prepare for, and respond to COVID-19. CDBG-CV funds cannot be used for other purposes.

In order to distribute CDBG-CV funding rapidly, HUD will allow jurisdictions to amend their FY 19-20 Annual Action Plan to allocate the CDBG-CV funds rapidly. HUD's guidance has been that amending an already approved Action Plan is the most efficient way to allocate the funds to jurisdictions. Staff expects these funds to be made available in July or approximately two weeks after submitting a Council-approved amendment to HUD. CDBG formula funds and prior year formula funds will be allocated as a part of the FY 20-21 Action Plan process and will be transferred to the City in Fall 2020.

- **Ability to Allocate Unused Prior Year Funding:** The CARES Act has provided additional flexibility for jurisdictions to allocate unused funds from prior years, as a part of the FY 20-21 Annual Action Plan process, only if these funds are used for COVID-19 related activities. In a typical year, these funds would be allocated only for capital projects. The City secured an additional \$290,039 in unused prior year funding from FY 14-15 to FY 18-19. Prior year funds must be used to prevent, prepare for, and respond to COVID-19.

Outreach

To understand the COVID-19 related needs in the community, City staff created an outreach list and directly contacted CDBG applicants, various food providers, homeless shelters, the City Police Department, Destination: Home, Milpitas Unified School District and its McKinney Vento coordinator, the Santa Clara County Office of Supportive Housing, as well as monthly calls with our CDBG counterparts in other cities who have been working to deploy much needed CDBG-CV funds.

Additional research included attending webinars hosted by the Department of Housing and Urban Development (HUD), Best Best & Krieger (BBK), and the California Department of Housing and Community Development (HCD) to stay on top of the legislation and its impact on our ability to use CDBG-CV funds. Furthermore, staff has been monitoring local news and various national publications to identify needs our community may have. The goal of this outreach has been to understand the needs in Milpitas, to keep up with changes to the HUD CDBG process, to understand how other cities are moving forward, and to communicate our next steps to the CDBG Subcommittee, City Council, our applicants, and to residents.

This outreach identified the need for short term rent relief both locally and regionally. Other needs identified were a need for greater outreach and access to Wi-Fi and computers for seniors, students, and low-income households to help them shelter in place, legal help for renters, landlords and homeowners dealing with delayed rent and mortgage payments, groceries and meal delivery, and access to personal protective equipment (PPE) for individuals who cannot work from home.

How other cities are using CDBG for COVID-19

Staff surveyed how entitlement jurisdictions in Santa Clara County were using their CDBG formula and CV funding to respond to COVID-19 related needs. The following is a list based on the number of cities that have allocated funds to these uses.

COVID-19 Related Activities

Rent Relief	Gilroy, Mountain View, Palo Alto, Santa Clara, Sunnyvale
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Homelessness Prevention	Cupertino, Palo Alto, Santa Clara, Urban County
Senior Services	Cupertino, Palo Alto, Santa Clara, Urban County
Small Business Relief/Job Retention	Cupertino, Gilroy, San Jose
Emergency Repairs	Cupertino, San Jose, Santa Clara
Food access	Palo Alto, San Jose, Santa Clara
Shelter/Hotel Vouchers	San Jose, Urban County

Cities in other regions have also used CDBG-CV funds to pay their local FEMA match, for mobile testing and medical services, workforce development training for displaced workers, child care for essential workers, sidewalk upgrades to facilitate social distance curbside pick-up, and more.

Prior Year Performance of Sub-recipients

Staff evaluated how sub-recipients have performed in the prior fiscal year based on their stated goals. Staff analyzed progress on goals for 2019-2020 sub-recipients through the first half of the fiscal year. Quarter 3 was not included because COVID-19 has dramatically impacted many subgrantees. Staff found that the majority of sub-recipients have met 50% of their goals half way through the fiscal year. A few organizations reported less than 50% progress on their goals. Note that capital project reimbursements are often lump sums and don't spread out evenly throughout the year. See **Attachment B** for details.

Staff also analyzed the percentage of funding each sub-recipient has used as of December 31, 2019 to evaluate their capacity to use CDBG funds in a timely manner, and found that most sub-recipients had spent nearly half of their funds by the end of Q2 with a few exceptions. For details, see **Attachment B**.

Staff will prepare the Consolidated Annual Performance Evaluation Report (CAPER), which is the full sub-recipient performance report for FY 2019-20, and present the findings to the City Council in fall 2020.

Program Administration

HUD allows up to 20% of CDBG funds to be set aside for administrative costs, which include providing fair housing services designed to further the City's fair housing objectives. In prior years the City has allocated and used its CDBG administration set-aside to fund the City's administrative costs and Project Sentinel, who administers the City's fair housing services. The City's administrative costs cover staff time associated with outreach, education, application process, technical assistance for applicants, preparing for meetings and public hearings, coordinating with other departments and agencies, creating plans and progress reports, preparing documentation and reporting, performing accounting and financial reporting, and other tasks related to HUD compliance.

In FY 20-21, staff anticipates spending more time administering the CDBG program than in past years. This additional time is needed to respond to COVID-19 needs, to understand new compliance rules and flexibilities, and to design new programs such as the small business loan program. Project Sentinel has requested \$56,290 for fair housing services for FY 20-21, an increase from the total they received last year through the CDBG program administration allocation. In prior years, the City has funded a portion of Project Sentinel's fair housing services through CDBG and supplemented this funding from the Milpitas Housing Authority Fund. For these reasons, staff recommends distributing the full 20% program administration to cover both Project Sentinel and the staff time that will be needed to administer the CDBG program. The below table summarizes administrative funds set aside in 2019-2020 and funds requested for 2020-2021.

	2019-2020	%	2020-2021 + CV	%
Total Funds*	\$608,734	100%	\$1,074,324	100%
Max Administration (20%)	\$121,747	20%	\$214,865	20%
Program Administration (City)	\$111,747	18.4%	\$158,575	16%
Project Sentinel	\$10,000	1.6%	\$56,290	4%

*Prior year funds have already used administration funds in the fiscal year they were originally allocated and are only allowed to be used for COVID-19 related activities.

Available funding summary

Milpitas has the following funds available for allocation:

\$676,413	FY 20-21 Formula Funds	(Can be used for COVID-19 or other activities)
\$290,039	Prior Years Funds	(Must be used for COVID-19 activities)
<u>\$397,911</u>	<u>CDBG-CV Funds</u>	(Must be used for COVID-19 activities)
\$1,364,363	Total	

Funding Allocations

The CDBG Subcommittee has considered the above research and information and has provided the following recommendation allocations to the City Council. The table below lists the FY 20-21 CDBG and CDBG-CV applicants the CDBG Subcommittee have recommended for funding and the respective funding amounts. Note that FY 20-21 Formula funds and prior year funds will be allocated through the FY 20-21 Annual Action Plan, and CDBG-CV funds will be allocated through the FY 19-20 Annual Action Plan Amendment.

Public Services	Catholic Charities of Santa Clara County	Long Term Care Ombudsman Program visits long-term care facilities to investigate and resolve complaints for seniors and disabled adults	\$20,523
	Child Advocates of Silicon Valley	Provide court appointed youth in the foster care system with life-long mentorship and guidance	\$10,000
	Next Door Solutions to Domestic Violence	Provide support to victims/survivors of domestic violence by providing emergency shelter, crisis counseling, safety strategies, community and systems advocacy, support groups, and case management	\$21,650
	Senior Adults Legal Assistance	Provide free legal assistance that includes legal services to Milpitas seniors 62 or older, targeting low income or at risk clients	\$10,000
	Silicon Valley Independent Living Center	Provide comprehensive Housing Assistance Services for low to very-low income persons with disabilities. This includes assessments, referrals, search assistance, and advocacy	\$7,264
	The Health Trust	Meals on Wheels serves homebound seniors with daily hot and healthy meals and wellness checks	\$16,000
	YWCA Silicon Valley	Provide comprehensive services for victims and survivors of domestic violence, including counseling for adult and children, emergency center, response calls from law enforcement, advocacy, and housing. \$40,000 in additional funding was recommended to explore a partnership opportunity with MUSD to create a domestic violence prevention curriculum for MUSD students.	\$50,000 (\$10,000+\$40,000)
	Subtotal		\$135,437

Capital Projects

LifeMoves	Cover external renovations of the LifeMoves Villa Shelter (families and single women) in San Jose including new stucco, new exterior paint and replacing all the original windows in order to prolong the life expectancy of the building by another 20 years. [Alternative: Motel/Hotel Vouchers]	\$0
Terrace Gardens Senior Housing	Replace 2 commercial ovens	\$20,000
Rebuilding Together (Sunnyhills)	TBD capital project at Sunnyhills. Proposal to date would be 10-12 roof replacement on the existing buildings at approximately \$200,000	\$200,000
Rebuilding Together	Continue providing home repairs, rehabilitation, accessibility and mobility services work for low-income homeowners	\$25,205
Subtotal		\$245,205

Program Admin

Project Sentinel	City's fair housing provider that provides fair housing, tenant-landlord counseling and dispute resolution services.	\$56,290
Program Administration	Staff time in administering the program, including all public noticing and publishing.	\$78,993
Subtotal		\$135,283

COVID-19 Requests

Silicon Valley Independent Living Center	Direct aid to the Rent Relief Program	\$223,071
Child Advocates of Silicon Valley	Meet social distancing and sanitation requirements, and help ensure the safety of CASAs and their youth when they are able to return to in-person visits	\$5,000
Milpitas Senior Center	Loan laptops/tablets to seniors to help counter social isolation and improve access to information.	\$25,000
Milpitas Senior Center	Fund some of the City's portion of the Santa Clara County Senior Nutrition program	\$50,000

Milpitas Unified School District	Identify program that benefits LMI - further explore program providing face coverings and other PPE to low-income students and their families	\$10,000	
Project Sentinel	It Takes a Village Program: Provide wraparound rent relief/reduction services involving all parties in the process, including the tenant, property owner, mortgage holder, and mediators	\$50,000	
Milpitas Food Pantry	Fund two employees to assist with the Milpitas Food Pantry's daily operations	\$30,000	
Terrace Gardens Senior Housing	Meal delivery to residents, rather than dinner being held in the dining room. Also, cleaning supplies and PPE to keep up with necessary sanitation practices	\$37,456	
Rebuilding Together	Restock their PPE	\$20,000	
Subtotal		\$450,527	
Total FY 20-21 Allocation	FY 20-21 Formula funds and prior year funds will be allocated through the FY 20-21 Annual Action Plan	\$966,452	
CDBG-CV	Enterprise Foundation/KIVA	Direct aid to Small Businesses	\$50,000
		Microenterprises	\$150,000
	Silicon Valley Independent Living Center	Direct aid to the Rent Relief Program	\$118,329
	Program Administration	Staff time in administering the program, including all public noticing and publishing.	\$79,582
	Subtotal	CDBG-CV funds will be allocated through the FY 19-20 Annual Action Plan Amendment	\$397,911
Total CDBG Allocation		\$1,364,363	

FY 2019-2020 Annual Action Plan Amendment and FY 2020-2021 Annual Action Plan

Upon receiving direction from the City Council, staff will finalize an amendment to the FY 2019-2020 Annual Action Plan, to rapidly allocate the CDBG-CV funding, and prepare the final FY 2020-2021 Annual Action Plan to submit to HUD. To see drafts of each document, see **Attachments C and D**.

Council Priorities

Currently, City Council priorities have been set forth in the five-year Consolidated Plan ending FY 2022. Staff is requesting City Council direction regarding funding priorities for both public service and capital projects for FY 2021-2022. Staff will use Council's direction to identify and conduct outreach with key stakeholders in order to identify new sub-grantees and/or expand the services of the existing sub-grantees.

Fiscal Impact:

The Fiscal Year 2020-21 Adopted Budget assumes \$615,734 in expenditures. However, the FY 2020-21 Annual Action Plan with CDBG-CV combined provides for \$1,364,363 in expenditures. Therefore, to align the

recommended expenditures as detailed in the Allocation Plan, staff recommends increasing expenditures by \$748,629 offset with receipt of corresponding federal grant funds.

California Environmental Quality Act:

The actions being considered have no potential for causing a significant effect on the environment and are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

Recommendations:

1. Open the public hearing, hear testimony, then move to close the public hearing.
2. Approve the amendment to the FY 2019-2020 Annual Action Plan.
3. Approve the Community Development Block Grant funding for FY 2020-2021.
4. Approve the draft FY 2020-2021 Annual Action Plan.
5. Authorize the City Manager, or designee, to make any necessary changes to the approved draft FY 2020-2021 Annual Action Plan as needed to comply with CDBG submission guidelines.
6. Authorize the City Manager to execute CDBG agreements with the approved subrecipients.
7. Provide direction to staff on any revised City Council priorities to guide FY 2021-2022 outreach.
8. Approve budget appropriation of \$748,629 in the Building Safety and Housing FY 2020-21 operating budget.

Attachments:

- A. List of Eligible and Ineligible CDBG activities
- B. Progress on CDBG Funding Goals
- C. Amendment to the FY 2019-2020 Annual Action Plan
- D. Draft FY 2020-2021 Annual Action Plan
- E. Budget Change Form