

Agenda Report

September 12, 2016

TO: Honorable Mayor and City Council
FROM: Housing and Career Services Department
SUBJECT: **COMMUNITY ARMS PROJECT AT 151 E. ORANGE GROVE BOULEVARD; DECLINE OF HOME FUNDS BY COMMUNITY BIBLE COMMUNITY DEVELOPMENT CORPORATION**

RECOMMENDATION:

This report is for information only; No City Council action is required.

BACKGROUND:

On August 15, 2016 the City Council took action to award federal Home Investment Partnership Program (HOME) funds in the amount of \$420,000 to Community Bible Community Development Corporation ("CBCDC") for security upgrades at the 144-unit Community Arms apartment complex located at 151 E. Orange Grove Boulevard.

On August 31, 2016, the CBCDC informed staff of its decision to decline City grant funds. Consequently, \$382,361 of the \$420,000 HOME funds approved by the City for the project are subject to de-obligation by the federal government.

Under the federal HOME Program, the City, as a "Participating Jurisdiction", receives an annual award of funds on an entitlement basis from the U. S. Department of Housing and Urban Development (HUD). By federal statute, the City is required to commit the full amount of its annual award within 24 months of the funding award. Specifically, the HOME statute, Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990 as amended, at Section 218(g) (42 U.S.C. 12748) states:

"If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire."

Hence, Participating Jurisdictions lose their right to HOME funds that are not committed within 24 months. HUD has no authority to permit Participating Jurisdictions to keep these funds and HUD must de-obligate them.

In the current HOME program year, the City had an obligation balance of \$382,361 to commit to an eligible project by August 31, 2016, the end of the statutory 24-month period. To commit HOME funds requires a binding agreement between the City and the funding recipient, executed by both parties on or before the 24-month deadline date. Had CBCDC moved forward with the grant transaction for Community Arms as proposed, the City would have been able to meet (and actually exceed) this HOME program year's commitment requirement by the August 31, 2016 deadline.

Bringing a major project to the final commitment stage is typically a time-intensive process of a minimum of three months which requires Participating Jurisdiction approval at various points and is subject to federal HOME regulations. The process begins with identification of the project and includes determination of compliance with eligible HOME activity guidelines; inclusion of the project in the Annual Action (and any amendments thereto that may be necessary) for approval by the Participating Jurisdiction in a public hearing; environmental review; underwriting and determination of compliance with HOME subsidy guidelines; and preparation and processing of funding commitment documents.

Key events in the Community Arms project chronology are as follows:

- 4/24/14 CBCDC's \$50,000 grant application to City for a security camera system at Community Arms is not recommended by staff for CDBG funding at Northwest Commission meeting. The application did not score highly enough. However, to address ongoing public safety issues and concerns at the property, City staff commenced efforts with CBCDC and the Police Department to develop a comprehensive program of site upgrades to enhance security at Community Arms and surrounding neighborhood.
- 5/13-14/14 Housing staff provides CBCDC with loan terms of HOME funding.
- 7/13/15 City Council in a public hearing (requiring a 30-day public notice) approves Annual Action Plan – Program Year (PY) 2015 which includes programming of \$420,000 in PY 2014 HOME funds for Community Arms security upgrades project.
- 3/14/16 City Council in a public hearing (requiring a 30-day public notice) approves Substantial Amendment to Annual Action Plan - PY 2015 to substitute PY 2015 for PY 2014 HOME funding allocation to the Community Arms project. The action does not affect the \$420,000 funding amount.
- 7/10-22/16 In response to staff due diligence documentation requests, CBCDC provides audited financial statements, project operating budget, and HUD inspection report.

- 8/1/16 Housing staff completes environmental review pursuant to the National Environmental Protection Act guidelines.
- 8/2/16 CBCDC submits final project proposal and budget to City.
- 8/9/16 CBCDC informs Housing staff that the HOME funding must be a grant as opposed to a residual receipts loan as initially discussed with CBCDC.
- 8/15/16 City Council approves terms of grant agreement between City and Community Arms, which provides \$420,000 in HOME funds for the security upgrades project.
- 8/31/16 CBCDC informs Housing staff of its decision to decline the City grant.

Given the process and timeframe involved in the Community Arms project, there was no practical opportunity for the City to reallocate and commit the HOME funds to another activity after CBCDC made its decision to decline the City grant on August 31, 2016. There were no other HOME eligible projects waiting for a commitment of HOME funds.

CBCDC informed staff on August 31, 2016 that their decision was based on negotiations that are currently in progress with the equity investors of the limited partnership that owns Community Arms. Community Arms is a tax credit-financed project that is approaching the end of the required 15-year tax credit compliance period after which the investors, who would have received their full tax benefits, may leave the limited partnership. CBCDC, as the General Partner in the limited partnership, has been negotiating the exit of the investors. As communicated to City staff, CBCDC was concerned that taking on the City grant at this time would complicate and possibly negatively affect the negotiations between the two partners. CBCDC also transmitted to the Housing department a letter dated September 1, 2016 (Attachment "A").

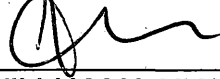
CONCLUSION:

It is anticipated that the Los Angeles field office of HUD will transmit a de-obligation notice to the City within the next 30 days. There is no recapture or repayment of funds required since no funds were drawn or spent from the HOME Investment Trust Fund.

During the period of engagement with CBCDC, until August 31, 2016, staff had no reason to question CBCDC's commitment to the transaction. No concerns arose from staff's due diligence review in July 2016. Both CBCDC and Community Arms, LP are registered as "active" business entities on the California Secretary of State website. In past transactions with tax credit-financed projects, staff negotiations have been principally with the nonprofit general partner, even for projects that are within the 15-year tax credit compliance period, with the equity investors still involved in the partnership. The exception to this practice is with projects that are newly financed with tax credits; in these cases, City funding negotiations typically include the equity investor parties along with the nonprofit general partner.


In future transactions for projects that are financed with tax credits, staff will assess the necessity to involve the limited partner equity investors (if any) in negotiations or, minimally, to require any written acknowledgement or approvals from such partners as may be deemed prudent by City staff.

Respectfully submitted




for WILLIAM K. HUANG
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Approved by:



STEVE MERMELL
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Attachments: (1)

Attachment A – Letter from CBCDC, 9/1/16