

### REPORT TO HOUSING AND HUMAN SERVICES COMMISSION

#### **SUBJECT**

Consider Request from Sunnyvale Community Services for Forgiveness of 2003 Community Development Block Grant (CDBG) Loan in the amount of \$400,000.

#### **BACKGROUND**

In 2003, the City provided a loan of \$400,000 in CDBG funds to Sunnyvale Community Services (SCS) to acquire a property located at 725 Kifer Road to serve as the agency's base of operations. This loan was provided at three percent simple annual interest for a thirty-five-year term with all payments of principal and interest deferred for the first fifteen years.

In early 2013, SCS wrote a letter to the City asking it to forgive the CDBG loan in full. That request was considered by the Council on August 27, 2013; however, Council continued the item and requested that staff return with modified alternatives, and staff presented several options, including:

- *Option 1:* Defer all payments of principal and interest to the end of term (2038);
- *Option 2:* Forgive interest accrued to date and reduce interest rate to zero percent going forward;
- *Option 3:* Forgive the loan balance at end of term.

On December 17, 2013, Council considered the options and approved Option 1, deferring the decision on Options 2 and 3 to the Housing and Human Services Commission (HHSC) for consideration and a recommendation to Council. The HHSC considered the request and on July 23, 2014, recommended (by a vote of 4-2-1, with one commissioner absent) that Council only approve Option 2. The Council subsequently approved the HHSC recommendation on, October 28, 2014 (Attachment 2).

Several Commissioners dissented from approving Option 3, on July 23, 2014, for various reasons, including: the potential of taking away funds from other agencies that also benefit the community and not being convinced that loan forgiveness was necessary or a best practice in loan administration. The fiscal impact of option 2 was an initial reduction in CDBG Revolving Loan Fund (RLF) payments of \$135,600 in previously accrued interest at the time of the vote and an additional \$285,000 in interest projected to accrue through the remainder of the loan term, resulting in a total forgiveness of \$420,600 in projected loan payments to the CDBG RLF.

On May 1, 2019, SCS submitted a new request, via letter (Attachment 4), asking that their 2003 CDBG loan principal in the amount of \$400,000 be forgiven in its entirety, as they are currently exploring the purchase of a new building.

The City Council is scheduled to consider this item on September 10, 2019.

## **EXISTING POLICY**

### **Housing Element of the General Plan**

**GOAL HE-5 Equal Housing Opportunities** - Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

#### **Policy HE-5.6**

Participate in the County Collaborative on Affordable Housing and Homeless Issues to support its efforts to prevent and end homelessness. Facilitate and sponsor the provision of permanent supportive housing for homeless people. Support local service providers that offer facilities and support services to homeless individuals and families, and persons at risk of homelessness.

### **2015-2020 HUD Consolidated Plan**

#### **Goal C: Other Community Development Efforts**

Objective: support the provision of essential human services, particularly for special needs populations.

## **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" with the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378 (b) (4) in that it is a fiscal activity that does not involve any commitment to any specific project which may result in a potential significant impact on the environment.

## **DISCUSSION**

On May 1, 2019, SCS sent a letter to the City of Sunnyvale requesting that the City Council consider forgiving the remaining \$400,000 principal on their CDBG mortgage loan. The reason cited in the letter, specific to the loan forgiveness request, is that SCS wants to use the funds to purchase a larger building to administer its services to the community, as the agency has outgrown its current location due to an increased need in the community for supportive services, and an increase in staffing levels.

On June 4, 2019, the Community Development Department (CDD) responded to the new loan forgiveness request to ask for additional details to evaluate if forgiveness of the loan can be justified, and establish a criteria/expectation for SCS's request, and similar requests, if received, moving forward. Since the purchase of a new building was cited as the reason for requesting loan forgiveness, the CDD staff asked what steps were taken to:

1. Explore selling the current property on Kifer Rd, and how that factors into acquiring a new property - assuming an appreciation in value since the initial purchase in 2003.
2. Analyze how paying back the \$400,000 loan will create a hardship, or prevent the purchase of a new property.
3. Identify how forgiving the \$400,000 loan will support low-income residents of Sunnyvale, in accordance with CDBG National Objectives (24 CFR 570.208); and the Public Benefit Standards (24 CFR 570.209 {b}) - and to what extent the services to the community will be

enhanced and increased (i.e. projected increase in unduplicated participants).

On June 27, 2019, SCS responded to CDD's request for information (Attachment 5), and SCS leadership stated that they intend to, after the purchase of a new facility, maintain and eventually expand services within the boundaries of Sunnyvale. Additionally, SCS has identified a prospective Sunnyvale-based facility that is three-times the size of its current location. The cost of the building is just over \$14,000,000, and is predominately warehouse space. The building is classified for industrial use and SCS is currently working with staff to ensure proper land use permits are obtained. In addition to the cost of the building, the facility will require the development of new offices, meeting rooms, HVAC upgrades and other enhancements.

***How Does the \$400,000 CDBG Loan Repayment Interfere with Purchasing the New Building?***

The CDBG loan provided to SCS requires immediate and full loan repayment upon sale of the current facility. The aforementioned requirement would reduce, by \$400,000, the amount of capital that SCS can put toward the purchase of the new building. Additionally, the current \$400,000 liability may limit SCS's ability to obtain sufficient loans to assist in purchasing the new facility. For example, SCS is in the early stages of working with two non-profit lending institutions (Community Vision and The Housing Trust Silicon Valley) and both have informed SCS that the \$400,000 debt will lower its credit worthiness, but are not certain of the level of impact.

***The Precedent Issue:***

The concern about precedent is justified, as various borrowers have approached staff after the initial SCS request, to inquire about the potential of modifying the terms on other City loans. Other borrowers have yet to submit a formal request; however, it is an indication that more borrowers may come forward with such requests in the future, depending on how HHSC and City Council respond to the SCS request.

If the SCS request is approved and starts a trend of loan modification requests, staff will evaluate each on a case-by-case basis. Approval of this request for a loan modification does not commit the City to approving any or all future requests for modifications from other borrowers.

It must be acknowledged that the City may have a challenge explaining to another borrower why they may not receive the same outcome as a prior borrower and the conditions that lead to a staff recommendation and Council action must be transparent.

Currently, the City's federal loan portfolio (CDBG and HOME) includes about 20-loans to local non-profit organizations, 14 of which are CDBG loans, totaling about \$788,000 (principal) - and 6 HOME funded loans, totaling about \$1.5 million (principal). The CDBG and HOME loans provided to the various non-profit agencies benefit the community in a variety of ways, from providing funds for shelter services and transitional housing to supporting public facilities that provide essential services to the community (i.e. food distribution). No federal loans have been forgiven to date.

In addition to providing loans using federal funding, the City administers loans to local developers (i.e., MidPen, Charities and First Community Housing) using Housing Mitigation Funds (HMF), to increase, and/or enhance the affordable housing stock. To date, the City has awarded over \$36 million in HMF funds, which has resulted in the construction and/or rehabilitation of about 840-units.

**FISCAL IMPACT**

If the request to forgive the CDBG loan in its entirety is approved, it would reduce projected loan payment revenues to the CDBG Revolving Loan Fund in 2038 by an additional \$400,000. This would be in addition to the roughly \$420,000 in interest that was previously waived by the Council in 2014. The Revolving Loan Fund (RLF) supports the City's efforts in enhancing and expanding affordable housing opportunities for low-income residents. RLF funded project examples include: rehabilitation of Crescent Terrace Apartments (48-units of senior rental housing) and the annual Home Improvement Program.

### ***Reversion of Assets - A CDBG Requirement:***

The current CDBG loan is subject to HUD regulations (24 CFR 570.503(7)(ii)): Reversion of Assets. This refers to a CDBG requirement that any real property acquired or improved with more than \$25,000 in CDBG funds is either:

- Used to meet one of the three National Objectives of the CDBG program until five-years after the end of the loan term (i.e. April 2043).
- Disposed of in a manner that results in the City being reimbursed for the current fair market value of the property, not including expenses of non-CDBG funds for the acquisition of, or improvement to the property.

Therefore, if SCS sells its current property prior to April 2043, SCS must pay the City an amount equal to the current market value of the property, less any portion of the value that can be attributed to expenditures of non-CDBG funds. The payment would be considered program income, deposited into the City's CDBG fund, and this aspect of the loan agreement is not forgivable. CDBG funds made up approximately 18% of the original purchase price.

### **PUBLIC CONTACT**

Public contact was made through posting of the Housing and Human Services Commission agenda on the City's official-notice bulletin board, on the City's website, and the availability of the agenda and report in the Office of the City Clerk.

### **ALTERNATIVES**

1. Recommend that Council Approve the CDBG Loan Forgiveness for Sunnyvale Community Services (SCS) in the amount of \$400,000, and make a formal policy statement that this action shall not be seen as a precedent for other borrowers, and is made only due to the increasing service provided by SCS to the Sunnyvale community.
2. Recommend that Council does not approve the CDBG Loan Forgiveness request from Sunnyvale Community Services.

### **RECOMMENDATION**

Alternative 1: Recommend that Council Approve the CDBG Loan Forgiveness for Sunnyvale Community Services (SCS) in the amount of \$400,000, and make a formal policy statement that this action shall not be seen as a precedent for other borrowers, and is made only due to the increasing service provided by SCS to the Sunnyvale community.

As staff evaluated SCS's loan forgiveness request, several variables were factored into the decision-making process, including:

1. Supportive Service Enhancement and Expansion

- a. By forgiving the CDBG loan principal of \$400,000, it will support SCS's ability to purchase a new, larger facility that will more adequately meet the service-needs of its customers, our community members, and eventually expand those services, so that more low-income residents can benefit from the services SCS provides. The goal is that the eventual expansion of services, once the facility is purchased and prepared for operations, will be an equal or greater value than the forgiven loan amount.
2. Increased Demand for Services
  - a. Since 2014, SCS has had a 35 percent increase in clients served
  - b. Since 2014, SCS has had a 178 percent increase in volunteers managed
  - c. Since 2014, SCS has extended its operating hours to better serve clients
3. Geographic Location of Services
  - a. SCS will continue to operate within the boundaries of the City of Sunnyvale, with the intention of enhancing and expanding their service volume.
4. Borrower does not generate rental income
  - a. The loan provided to SCS was for a public facility that provides services to the community, but does not generate rental income, leaving less revenue to be used for debt-service.

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Reviewed by: Trudi Ryan, Director, Community Development

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

## **ATTACHMENTS**

1. Reserved for Report to Council
2. Report to Council No. 14-0701, dated October 28, 2014
3. Excerpt of City Council Minutes of October 28, 2014
4. Letter from Sunnyvale Community Services, dated May 1, 2019
5. Follow-up Letter from Sunnyvale Community Services, dated June 27, 2019