



Office of the City Manager

CONSENT CALENDAR  
July 25, 2017

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Paul Buddenhagen, Director, Health, Housing and Community Services  
 Subject: Authorizing City Manager Approval for Community Development Block Grant (CDBG) Community Facility Improvement Contracts Under \$200,000; Amending BMC Chapter 7.18

RECOMMENDATION

Adopt first reading of an Ordinance, by two-thirds vote of the Council, amending Chapter 7.18 of the Berkeley Municipal Code to authorize the City Manager to enter into and amend contracts of up to \$200,000 with applicants recommended for funding by staff and the Housing Advisory Commission under the City's Community Development Block Grant (CDBG) program for community facility improvements.

FISCAL IMPACTS OF RECOMMENDATION

Council approval requires no additional funding and reduces staff time.

CURRENT SITUATION AND ITS EFFECTS

At the November 1, 2016 Council meeting, Council approved a restructuring of the annual CDBG community facility improvement RFP process, changing it from an annual RFP to a rolling RFP. The restructuring was intended to create efficiencies in the application review process and decrease the time between application submission and award. HUD requires prospective contractors to obtain construction bids, and the bids are only valid for 90 days. Because of this HUD requirement, and the length of time it takes for the city to review and for council to authorize the City Manager to enter into a contract, the applicant must repeat the bidding process.

The City Manager recommends that City Council increase her authority to enter into contracts for the community facility improvement program from the current level of \$50,000 to \$200,000. This recommendation is aligned with existing City policy regarding the threshold for Council authorization of City public project improvements as contained in Ordinance No. 6,875-N.S., which states: "Expenditures for specific improvements (public projects), including play area improvements and equipment in public parks which exceed the amount of \$200,000 shall require Council approval pursuant to Article XI, Section 67 of the Charter of the City of Berkeley."

On June 1, 2017 the Housing Advisory Commission (HAC), which makes recommendations to Council regarding CDBG funding, voted unanimously to recommend an exemption from Council approval for community facility improvement construction projects under \$200,000, (M/S/C: Amezcua/Johnson. Ayes: Amezcua, Johnson, Lewis, Lord, Martinucci, Slaughter, Tregub, Vasquez and Wolfe. Noes: None. Abstain: None. Absent: None.).

Annually, Housing and Community Services (HCS) staff and the HAC would continue to recommend that Council allocate a set amount of funding for community facility improvement projects as part of the HUD Annual Action Plan approval process in April. Applications under the new rolling RFP will be accepted beginning in September 2017 on a first come first serve until all annual funds have been allocated. The HAC's Community Development Block Grant (CDBG) Subcommittee and city staff will continue, as in prior years, to review applications and conduct optional site visits to determine project eligibility, project readiness, and community impact. The CDBG Subcommittee and staff will make funding recommendations to the full HAC. If the full HAC and staff agree on funding for proposals under \$200,000, the City Manager would be authorized to enter into contracts with the recommended applicants. If the HAC and City Manager do not agree, the two recommendations would be presented to Council for approval. If Council approves this recommendation, proposed projects under \$200,000 would have a one to four week approval process -- a significantly reduced timeline -- thus benefiting the community by shifting to a timelier program. The program will continue to focus on CDBG priorities for substantial rehabilitation for health and safety, American's with Disabilities Act (ADA), and/or energy efficiency improvements.

#### BACKGROUND

The CDBG Program is a federal program that has been in effect since 1975. The City of Berkeley is an Entitlement Community, and receives an annual CDBG allocation. The primary objective of the CDBG Program is the development of viable urban communities, by providing decent housing and a suitable living environment, and expanding economic opportunities, principally for persons of low- and moderate-income. At least 70% of the total CDBG funds must be used for activities that benefit low- and moderate-income persons; at least 51% of the beneficiaries of individual activities must be low- and moderate-income persons. Eligible CDBG activities are defined by federal program regulations. Eligible uses of CDBG funds that will be considered under this RFP include rehabilitation of community facilities that are open to the public and primarily serve a low-income population.

Eligible costs under this category include design fees that result in construction, significant renovation costs, project management costs, and permits and fees. CDBG funds can only be used for community facilities located in Berkeley that primarily serve low-income Berkeley residents and are owned (or have site control through a five year lease) by the agency applying for the funds. Priority is given to projects that show

significant compelling needs that include ADA improvements, health and safety, and/or energy efficiency measures.

#### ENVIRONMENTAL SUSTAINABILITY

CDBG funded projects are required to have an Environmental Review. City staff conduct these reviews based on information provided by the applicant as well as information regarding the proposed construction. Projects that include energy efficiency measures are prioritized for funding.

#### RATIONALE FOR RECOMMENDATION

This proposed change is beneficial to entities applying for CDBG community facility improvement awards, because it allows for a significantly shorter timeline for smaller construction projects, those under \$200,000. Agencies are currently required to obtain three bids as an attachment to their application for an accurate estimate of costs. These bids have a limited shelf-life, and if an agency is awarded funding, it must obtain fresh bids (no older than 90 days) a second time to maintain compliance with HUD regulations. The proposed change would result in projects under \$200,000 having an award timeline of less than 30 days, as opposed to an approximate 90-day timeline. This streamlined schedule benefits community partners.

#### ALTERNATIVE ACTIONS CONSIDERED

Maintain City Council approval of all community facility improvement projects. This will result in a less streamlined process, duplicative efforts by agency staff and delays in construction projects. This timeline is lengthy and does not allow for a true “rolling application” as the program has been envisioned to reduce the burden on community partners and be more responsive to emergent community needs.

#### CONTACT PERSON

Rhianna Babka, Associate Management Analyst, HHCS, (510) 981-5410

#### Attachments:

- 1: Ordinance – track changes
- 2: Ordinance – clean copy

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE CHAPTER 7.18 EXPENDITURE  
LIMITATIONS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 7.18, sections .7.18.010 is amended to read as follows:

**Chapter 7.18**

**EXPENDITURE LIMITATIONS**

**Sections:**

**7.18.010 Expenditures pursuant to Charter Article XI, Sections 67 and 67.5.**

**7.18.020 Expenditures pursuant to Charter Article XI, Section 67.4--  
Emergencies.**

**Section 7.18.010 Expenditures pursuant to Charter Article XI, Sections 67  
and 67.5.**

A. Except as otherwise provided in this Title, expenditures pursuant to Article XI, Sections 67 and 67.5 of the Charter of the City of Berkeley, which exceed the amount of \$50,000 shall require Council approval.

B. Expenditures for specific improvements (public projects), including play area improvements and equipment in public parks which exceed the amount of \$200,000 shall require Council approval pursuant to Article XI, Section 67 of the Charter of the City of Berkeley.

C. Expenditures for Community Development Block Grant funded Community Facility Improvement Projects, which exceed the amount of \$200,000 shall require Council approval pursuant to Article XI, Section 67 of the Charter of the City of Berkeley.

D. Expenditures for the purchase of supplies, equipment, and materials which exceed the amount of \$100,000 shall require Council approval. (Ord. 7035-NS § 1, 5/06/08: Ord. 6875-NS § 1 (part), 2005: Ord. 6786-NS § 1 (part), 2003: Ord. 6522-NS § 2, 1999: Ord. 6361-NS § 1, 1997: Ord. 6248-NS § 1, 1994: Ord. 5777-NS § 1, 1986: Ord. 4992-NS § 1, 1977)

**Section 7.18.020 Expenditures pursuant to Charter Article XI, Section 67.4--  
Emergencies.**

A. Expenditures pursuant to Article XI, Section 67.4 of the Charter of the City which exceed the amount of \$100,000 shall require Council approval; and expenditures for public construction projects and playground improvements and equipment which exceed the amount of \$200,000 shall require Council approval.

B. Notwithstanding subsection A of this section, in the event of a declared emergency under Chapter 2.88, the expenditure limitation under Article XI, Section 67.4 of the Charter of the City shall be an amount not exceeding the amount appropriated by the Council in the most recent appropriation ordinance for the fund from which an expenditure is made and for the purpose authorized for such fund.

C. Whenever purchases are made pursuant to this section, the City Manager shall promptly inform the Council as to the nature and amount. (Ord. 6875-NS § 2 (part), 2005: Ord. 6786-NS § 2 (part), 2003: Ord.6552-NS § 4, 2000: Ord. 4992-NS § 2, 1977)

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

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