



# CITY COUNCIL AGENDA STATEMENT



February 16, 2021

File ID: 20-0010

## TITLE

- A. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AUTHORIZING THE ACCEPTANCE OF A CONSOLIDATED APPROPRIATIONS ACT OF 2021 ALLOCATION FROM THE UNITED STATES DEPARTMENT OF TREASURY FOR AN EMERGENCY RENTAL ASSISTANCE PROGRAM AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)
- B. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AUTHORIZING THE CITY TO PURSUE AND ACCEPT A BLOCK GRANT FROM STATE OF CALIFORNIA DEPARTMENT OF BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY (BCSH) FOR AN EMERGENCY RENTAL ASSISTANCE PROGRAM, AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE A STANDARD AGREEMENT WITH BCSH FOR THE IMPLEMENTATION OF A STATE EMERGENCY RENTAL ASSISTANCE PROGRAM PURSUANT TO SENATE BILL 91, AND APPROPRIATING FUNDS THEREFOR (4/5 VOTE REQUIRED)
- C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA WAIVING COMPETITIVE BIDDING REQUIREMENTS PURSUANT TO CHULA VISTA MUNICIPAL CODE SECTION 2.56.070(B)(3) AND APPROVING A CONTRACTOR/SERVICE PROVIDER AGREEMENT WITH SOUTH BAY COMMUNITY SERVICES (SBCS) TO PROVIDE AN EMERGENCY RENTAL AND UTILITY ASSISTANCE PROGRAM FUNDED BY STATE AND FEDERAL CONSOLIDATED APPROPRIATIONS ACT OF 2021 ALLOCATIONS

## RECOMMENDED ACTION

Council adopt the resolutions.

## SUMMARY

The Consolidated Appropriations Act of 2021 provides \$25 billion nationally from the United States Department of Treasury (the "Treasury") to help low-income renters financially impacted by the COVID-19 pandemic. Known as the Emergency Rental Assistance (ERAP) program, funds are available to eligible low-income households (those earning less than 80 percent of the area median income (AMI)), with priority given to very low-income households (those earning less than 50 percent or those experiencing unemployment for the last ninety days). Funds can be applied to rent and utility payments, including arrears, up to a maximum of 12 months of total assistance. The City of Chula Vista has received a direct allocation in the amount of \$8,161,124 from Treasury. With the passage of State Senate Bill 91, the City is also eligible to

apply for an additional \$8,719,349 from the State of California Department of Business, Consumer Services and Housing Agency (BCSH) for the implementation of a State of California Emergency Rental Assistance Program (SERAP). Leveraging the City's direct allocation from Treasury, along with State funds, the available assistance increases to approximately \$16.9 million for those low-income households in Chula Vista to avoid further economic hardship, including risk of becoming homeless. This item also seeks to waive competitive bidding requirements pursuant to Chula Vista Municipal Code section 2.56.070(B)(3) and approval of City's standard two-party agreement template to contract with an outside service provider, SBCS, formerly known as South Bay Community Services, using State and City ERAP funds.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activities for compliance with the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The proposed activities are not considered "Projects" as defined under Section 15378 of the State CEQA Guidelines because the action consist of a governmental funding mechanism or other government fiscal activity, is not site specific, and will not result in a direct or indirect physical change in the environment. Under National Environmental Policy Act (NEPA), tenant based rental assistance, is categorically excluded from any further review. Therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, and NEPA Code of Federal Regulations at 50.19(b) (3), (11), and (12) these activities are not subject to CEQA or NEPA.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

On January 13, 2021, the Housing Advisory Commission was provided with a brief overview of the ERAP based on preliminary information that was available at that time.

## **DISCUSSION**

On December 27, 2020, the Consolidated Appropriations Act of 2021 was signed into law authorizing the Treasury to make payments directly to all states and certain eligible local governments to provide emergency rental assistance to eligible households. Local governments with a population that exceeds 200,000, inclusive of the City of Chula Vista, are entitled to a direct allocation. The City has received a direct federal allocation of \$8,161,124. Within San Diego County, other local governments receiving direct allocations include the County of San Diego on behalf of the urban county and the 15 smaller cities (\$48 million) and the City of San Diego (\$46 million).

The State of California (State) received a direct allocation of \$1.5 billion from the Treasury. With the passage of State Senate Bill (SB) 91 on January 29, 2021, the State provided three (3) options for those cities and counties who received a direct allocation from the Treasury to also receive funding from the State, as discussed in greater detail below.

### **Emergency Rental Assistance Program (ERAP)**

The following provides a summary of the federal ERAP guidelines, applicable to both the City and State:

**Eligible Households** must meet the following criteria:

1. Low-income renters, households earning less than 80 percent of the Area Median Income (AMI), with priority for the following:

- a. Very Low-Income Households earning less than 50 percent of the AMI; or
- b. Households where at least one household member is receiving unemployment insurance and has been unemployed for at least 90-days.

### **San Diego County Income Limits**

*Effective April 1, 2020*

<b>Household Size</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
Low-Income (80% AMI)	\$ 64,700	\$ 73,950	\$ 83,200	\$ 92,400	\$ 99,800	\$ 107,200
Very Low-Income (50% AMI)	\$ 40,450	\$ 46,200	\$ 52,000	\$ 67,000	\$ 71,650	\$ 76,250

*Income determination is based on the household's total income in 2020 or the monthly income the household is receiving at the time of application. If the income determination is made based on the applicant's monthly income, a redetermination of eligibility is required after 3 months.*

2. Experiencing a COVID-19 financial hardship (one or more individuals in the household)
  - c. Qualified for unemployment benefits or can attest in writing that he or she has experienced a reduction in household income; or
  - d. Incurred significant costs, or experienced other financial hardship due, directly or indirectly, to the pandemic.
3. Demonstrated risk of experiencing homelessness or housing instability.

**Funding Assistance** can be made available for the following based on guidance from the Treasury:

- Assistance will be limited to rental units, including apartments, mobile homes and single-family homes, within the City of Chula Vista.
- Rental arrears from April 2020 to the present.
- Future rent payments, up to three months at a time.
- A maximum of 12 months of total rental assistance (arrears and future payments).
- Assistance to paid directly to the landlord or utility company, benefitting the tenant and the landlord.

To receive federal ERAP funding, staff submitted the required application and ERAP certification form to the Treasury on January 7, 2021 (Attachment 1). On January 20, 2021, the City of Chula Vista was notified of its successful application to the Treasury and its award of \$8,161,124.

### **State of California Emergency Rental Assistance Program (SERAP)**

In accordance with SB 91, there are three (3) SERAP options (A-C) for those cities and counties with populations in excess of 200,000 and therefore, receiving direct federal ERAP allocations. All three options provide additional funding to assist low-income households (see Attachment 1). Options A and B reserve State funding specifically for the jurisdiction, if it agrees to implement additional State priorities and requirements aimed at maximizing the number of beneficiaries statewide under the SERAP, known as a State Conforming program. Under Option C, jurisdictions would opt out of the State Conforming Program and operate their own ERAP, utilizing their federal ERAP allocation. However, a State ERAP would still be

available to Chula Vista residents. Under Option C, a City ERAP and State ERAP would be operating simultaneously within the community with two differing program requirements.

State Conforming Program requirements mirror the federal ERAP requirements above with key differences outlined below:

To implement the federal priorities for very low-income households and unemployed persons, the State requires **three funding rounds** in the following order of priority:

Round 1	Households with income below 50% AMI or with at least one household member who has been unemployed for at least 90 days
Round 2	Below 80% AMI and in a community (census tracts) disproportionately impacted by COVID-19
Round 3	Households earning less than 80% of the Area Median Income and not address by rounds 1&2

**Funding Assistance** prioritizes payment of arrears to maintain persons in housing with limited funding available for future rent payment.

- Arrears from April 2020 through March 2021 (covered period) to be paid at 80% of unpaid rent with the landlord/property owner forgiving the remaining 20% of rental debt;
- Residents may receive 25% of unpaid rent for the covered period if landlords/property owners are unwilling to participate (80% paid/25% forgiven); and,
- Future rental assistance is limited to 25% of rent for all qualified renters in order maintain housing consistent with the eviction protection requirements under SB 91.

Staff recommends that Council adopt Resolution B, authorizing the City Manager, or designee, to enter into the State’s Standard Agreement with BCSH for the implementation of the SERAP – Option B pursuant to SB 91. This allows the City to leverage the additional \$8.7 million available through a State SERAP block grant, maximizing the households assisted, while maintaining direct oversight of the program. A more detailed analysis of Options A, B and C is included as Attachment 3. With both the County of San Diego and City of San Diego also participating in Option B, the San Diego region will be implementing a consistent ERAP and provides opportunities for effective coordination amongst the jurisdictions.

Commitment and Expenditure Deadlines

Beginning on September 30, 2021, the Treasury Secretary shall recapture excess funds, as determined by the Secretary, not obligated for the eligible purposes, with all ERAP funds to be expended by December 31, 2021, unless extended by Congress. In accordance with the ERAP regulations, the City must obligate at least 65 percent of its federal ERAP or \$5,304,731 by September 30, 2021. Under the SERAP, the obligation deadline is earlier, June 1, 2021, to allow any unspent funds to be reallocated by the State to other California jurisdictions with a high demand for funding before Treasury seeks to recapture the SERAP funds on September 30<sup>th</sup>. Any unspent funds at program end will be reverted back to the Treasury. The following table summarizes the expenditure deadlines by program.

FUNDING TIMELINES					
	ERAP Funding	65% <sup>1</sup>	35% <sup>2</sup>	65% <sup>1</sup>	35% <sup>2</sup>
		6/1/2021	8/1/2021	9/30/2021	12/31/2021
<b>Federal</b>	\$ 8,161,124			\$ 5,304,731	\$ 2,856,393
<b>State</b>	\$ 8,719,350	\$ 5,667,577	\$ 3,051,772		
<b>TOTAL</b>	\$ 16,880,474				

#### Program Administration

Given the significant allocation received, expenditure deadlines, and limited City staffing, the City will partner with qualified subrecipients to implement the Program. With their own respective Housing Authorities currently administering federal rental assistance programs (e.g. Section 8 rental assistance), the City of San Diego and County of San Diego will be administering their own ERAP.

Given the first funding deadline for obligating \$5.7 million by June 1, 2021, staff is recommending that the City provide a direct grant to SBCS, as a current City subrecipient administering the City's Rental Assistance Program, of a minimum of \$5.7 million for both rent and utility assistance. This will provide assistance to Chula Vista low income renters, as quickly as possible, and represents the most efficient path to meeting the required timelines. The balance of the available ERAP funds are anticipated to be allocated as follows:

ERAP ACTIVITIES	AMOUNT (\$)
SBCS ERAP	5,700,000
Request For Proposals (RFPs) for Qualified Subrecipients ( <i>max of 3 entities</i> )	10,927,400
City contract administration, compliance and outreach and marketing	122,284
State contract administration and compliance	130,790
<b>TOTAL</b>	<b>16,880,474</b>

#### Subrecipient Selection Process

Administration of an ERAP requires specialized knowledge of providing case management that leads to successful applications and calculation of payments to landlords for eligible clients. Federal funding, with its complex and various regulations, also requires a level of experience, knowledge, and capacity to ensure compliance. With the quick funding obligation and expenditure deadlines and anticipated sizable awards to each subrecipient, subrecipients must have significant financial and management capacity to deploy the resources while maintaining compliance with Federal and State regulations.

SBCS, the proposed administrator for the initial phase of the ERAP, has a regional presence with vast and long-standing experience in case management services, rental assistance programs, including emergency assistance, and compliance with Federal and State governmental regulations. They have direct experience

<sup>1</sup> Obligate 65% of funds or subject to recapture for reallocation to other jurisdictions

<sup>2</sup> Unspent funds revert to State/US Treasury

in managing rental assistance programs in Chula Vista and other south bay communities utilizing federal, State, and local funding. SBCS has managed several housing programs on behalf of the City since 2007. The City's current Subrecipient Agreement for the rental assistance program, allows SBCS to act as the City's administrator through June 30, 2021. Under this agreement, SBCS currently operates a Tenant Based Rental Assistance Program targeting victims of domestic violence and families at risk of homelessness using City HOME funding.

Staff is recommending that SBCS administer a minimum of \$5.7 million in ERAP funds, and up to \$8 million. Based on the above, the use of the competitive bidding process set forth in Chula Vista Municipal Code (CVMC) section 2.56.070 is impractical and that the City's best interests would be better served by waiving said bidding requirements and to contract with SBCS, particularly given the strict time lines required by the state and federal governments to encumber and expend said funds and the urgent need for said funds by the citizens of Chula Vista. Staff recommends that Council adopt Resolution C, (1) waiving the competitive bid requirements pursuant to Chula Vista Municipal Code section 2.56.070(B)(3) and (2) authorizing the City Manager to enter into City of Chula Vista Contractor/Service Provider Services Agreement with SBCS, funded by State and City ERAP allocations.

An additional \$10,927,400 will be made available through an RFP process in order to have multiple agencies implementing the City's ERAP to support the efficient expenditure of program funds. Staff, recommends limiting the number of contracted subrecipients due to the complexities overseeing federal regulations, specifically ensuring that there is no duplication of benefits/beneficiaries between providers. All respondents will need to demonstrate experience in implementing similar programs and experience and capacity to adhere to the Treasury regulations for the ERAP. It is anticipated that the RFP will be released in late February 2021, with a shortened time frame to respond so that the ERAP may be implemented as quickly as possible for the benefit of the community, as well as to meet the September 2021 obligation deadline and the December 31, 2021 expenditure deadline.

### Conclusion

With many residents facing layoffs and reduced work hours due to COVID-19, the deployment of emergency rental assistance funds will have a direct impact in assisting affected residents with basic living expenses like housing and utilities, increasing housing stability during a public health crisis. Staff recommends that the City Council accept Option B from the State of California, appropriate the administrative funds in the current fiscal year, and approve the Standard Agreement with the State of California.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

However, Councilmember McCann may have a conflict of interest given his ownership interest in rental property and property management business. Otherwise, Staff is not independently aware and has not been informed by any other City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

There is no fiscal impact to the City's General Fund as project costs and administrative costs are covered by the federal ERAP and SERAP allocations provided under the Consolidated Appropriations Act of 2021.

### **ONGOING FISCAL IMPACT**

There is no ongoing fiscal impact related to this allocation as no matching funds are required and the deadline for expenditure of all funds is December 31, 2021. The costs associated with the administration of the ERAP program is covered by the respective allocation.

### **ATTACHMENTS**

Attachment 1: ERAP Grant Conditions

Attachment 2: Summary of Options A-C

Attachment 3: Analysis of Options A-C

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