CITY OF MILPITAS
MEMORANDUM
CITY COUNCIL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING SUBCOMMITTEE

<table>
<thead>
<tr>
<th>Item Title:</th>
<th>Community Development Block Grant (CDBG) Funding</th>
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<tbody>
<tr>
<td>Category:</td>
<td>Community Development</td>
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<tr>
<td>Meeting Date:</td>
<td>6/15/2020</td>
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<tr>
<td>Staff Contact:</td>
<td>Sharon Goei, 408-586-3260; Robert Musallam, x3275; Adam Marcus, x3244</td>
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</tbody>
</table>
| Recommendation:       | a. Provide staff direction on funding allocations for FY 20-21 CDBG funds and CDBG Coronavirus (CDBG-CV) funds.  
                        | b. Direct staff to amend the FY 19-20 Annual Action Plan, create draft FY 20-21 Annual Action Plan, substantial amendments to the Consolidated Plan and Citizen Participation Plan for City Council consideration. |

**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, to allow 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
At this meeting, staff presented a summary of applications received and reported findings on tiny home village research. Staff was able to identify 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 supported staff 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.
- **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.

**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
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. This is 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 formula CDBG funds that can be spent on different types of activities. Capital projects are capped at 65%, public service programs are capped at 15%, and administration is capped at 20% of the annual formula allocation.

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. Below is a summary of the changes to date:

- **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 prepare a short summary of the substantial changes for the City Council.

- **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.

- **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 was able to secure 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 exhaustive 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.

<table>
<thead>
<tr>
<th>COVID-19 Related Activities</th>
<th>Gilroy, Mountain View, Palo Alto, Santa Clara, Sunnyvale</th>
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<tbody>
<tr>
<td>Rent Relief</td>
<td></td>
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<tr>
<td>Homelessness Prevention</td>
<td>Cupertino, Palo Alto, Santa Clara, Urban County</td>
</tr>
<tr>
<td>Senior Services</td>
<td>Cupertino, Palo Alto, Santa Clara, Urban County</td>
</tr>
<tr>
<td>Small Business Relief/Job Retention</td>
<td>Cupertino, Gilroy, San Jose</td>
</tr>
<tr>
<td>Emergency Repairs</td>
<td>Cupertino, San Jose, Santa Clara</td>
</tr>
<tr>
<td>Food access</td>
<td>Palo Alto, San Jose, Santa Clara</td>
</tr>
<tr>
<td>Shelter/Hotel Vouchers</td>
<td>San Jose, Urban County</td>
</tr>
</tbody>
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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.
Outreach on Subcommittee Direction
The Sub-Committee directed staff to research the feasibility of funding several activities. Staff conducted interviews and have included details about these in Attachment B.

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 businesses. 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 C for details.

Staff also looked at 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. This analysis found that most sub-recipients had spent nearly half of their funds by the end of Q2 with a few exceptions. For details please see Attachment C.

Program Administration
HUD allows for 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 both 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.

This year, staff has spent and anticipates spending more time 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 assistance program. This year, Project Sentinel has requested $56,290 for fair housing services, an increase from the total they received last year through the CDBG program administration allocation. It should be noted that 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.

<table>
<thead>
<tr>
<th></th>
<th>2019-2020</th>
<th>%</th>
<th>2020-2021 + CV</th>
<th>%</th>
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<tbody>
<tr>
<td>Total Funds*</td>
<td>$608,734</td>
<td>100%</td>
<td>$1,074,324</td>
<td>100%</td>
</tr>
<tr>
<td>Max Administration (20%)</td>
<td>$121,747</td>
<td>20%</td>
<td>$214,865</td>
<td>20%</td>
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<td>Program Administration (City)</td>
<td>$111,747</td>
<td>18.4%</td>
<td>$158,575</td>
<td>16%</td>
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<tr>
<td>Project Sentinel</td>
<td>$10,000</td>
<td>1.6%</td>
<td>$56,290</td>
<td>4%</td>
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*Prior year funds have already used administration funds and are not included.

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)
$397,911 CDBG-CV Funds (Must be used for COVID-19 activities)
$1,364,363 Total
Funding Allocations
The CDBG Subcommittee will consider the above research and information and will recommend allocations to the City Council. To date, assuming the City retains $158,575 for program administration, the requested consideration exceeds the amount of CDBG funds available. See Attachment B for brief description of the proposed activities and the amounts that have been requested.

Consolidated Plan & Annual Action Plan
Upon receiving direction from the Subcommittee, staff will draft amendments to the FY19-20 Annual Action Plan, create substantial amendments to the Consolidated Plan and Citizen Participation Plan, and prepare a draft FY 20-21 Annual Action Plan for the City Council to consider.

Attachments:
A. List of Eligible and Ineligible CDBG activities
B. List of Proposed Activities
C. Progress on CDBG Funding Goals