

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia
Jennifer A. Maguire

**SUBJECT: REPAYMENT TO H.U.D. FOR
INELIGIBLE EXPENDITURE OF
E.S.G. FUNDS**

DATE: November 15, 2010

Approved

Date

11/18/10

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

It is recommended that the City Council adopt a resolution to:

1. Adopt the following Appropriation Ordinance amendments in the Housing Trust Fund:
 - a. Increase the appropriation to the Housing Department in the Housing and Homeless Projects by \$110,790.
 - b. Decrease the Ending Fund Balance by \$110,790.
2. Authorize the Director of Housing to forward to the U.S. Department of Housing and Urban Development \$114,110 as repayment for ineligible expenditures of Emergency Shelter Grant program funds.

OUTCOME

Approval of the recommended action will keep the City in good standing with HUD and eligible to continue receiving federal funding for housing and community development programs.

BACKGROUND

The Emergency Shelter Grant (ESG) program provides entitlement grants from the U.S. Department of Housing and Urban Development (HUD) to provide a variety of services to homeless individuals and families. San Jose receives approximately \$440,000 annually under this program and, through the annual Consolidated Plan process, allocates funds to local nonprofits primarily for the operation of homeless shelters.

HUD periodically conducts "program reviews" (akin to audits) of localities' use of entitlement program funds. In a letter dated October 14, 2010, HUD informed the Housing Department that \$114,093 of ESG funds had been spent by the City on an ineligible activity and that those funds need to be repaid.

ANALYSIS

Over five fiscal years (2004-05 through 2008-09), the City disbursed \$114,093 of ESG funding to Unity Care for the operation of a shelter for homeless youth. HUD has determined that this was an ineligible use of ESG funds because, under federal law, these youth were not technically homeless because they were wards of the State. This amount constituted about five percent of the total ESG funds disbursed in those five years.

The subsidy provided to Unity Care filled a legitimate need to fill a gap in the funding available to the organization to cover the cost of housing of its young clientele, and the subsidy would have been a legitimate use of the Housing Trust Fund (HTF). Unity Care administered its youth shelter program effectively, providing a needed service to the community.

HUD requires that it be reimbursed for any portion of its grants that are used for ineligible purposes. Unity Care was able to return \$3,320 (\$3,303 plus \$17 for interest on the funds) of unspent funds to the City, which has been credited to the ESG appropriation in the Multi-Source Housing Fund. The only other funding source available to the Housing Department for making the remaining \$110,790 of this required repayment is the Housing Trust Fund (HTF) since, in effect, the City is reimbursing HUD for its support of an HTF-eligible purpose.

Once repayment of \$114,110 is received by HUD, a portion will be credited to the City's ESG account and available for use in supporting activities that serve other homeless activities.

EVALUATION AND FOLLOW-UP

That portion of the repayment credited to the City's ESG account will be recommended for award to appropriate homeless shelter and/or service providers through the Consolidated Plan process.

POLICY ALTERNATIVES

Alternative #1: *Do not repay HUD for the expenditure of ESG funds on ineligible uses.*

Pros: The City could retain \$114,110 to spend on other programs and activities.

Cons: Failure to repay HUD for ineligible uses of federal funds could imperil the City's continued annual receipt of funding in not only the ESG program, but also other HUD entitlement programs such as HOME, CDBG and HOPWA.

Reason for not recommending: The repayment of \$114,110 to HUD is a minor consideration to maintain a healthy relationship with a federal agency that regularly provides substantial funding to the City for housing and community development programs.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

The proposed action does not meet any of the above criteria. Nonetheless, this report will be posted on the City Council Agenda Website for the December 7, 2010 meeting.

COORDINATION

Preparation of this report was coordinated with the City Attorney's Office.

BUDGET REFERENCE

The table below identifies the funds and appropriations proposed to fund the repayment to HUD.

Fund #	Appn #	Appn. Name	Total Appn	Amt. for Repayment	2010-2011 Adopted Budget (Page)	Last Budget Action (Date, Ord. No.)
Current Funding Available						
448	2236	Emergency Shelter Grants	\$448,577	\$3,320	N/A	10/19/10; Ord. No. 28829
Additional Funding Recommended						
440	3834	Housing & Homeless Projects	\$110,790*	\$110,790	N/A	06/29/10; Ord. No. 28765
Total Funding			\$559,367	\$114,110		

* The recommended actions in this memorandum will appropriate \$110,790 to the Housing and Homeless Projects appropriation from the Housing Trust Fund's Ending Fund Balance, which currently has a balance of \$1,698,618.

HONORABLE MAYOR AND CITY COUNCIL

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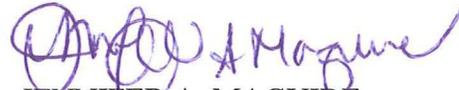
CEQA

CEQA: Not a project

/s/

LESLYE CORSIGLIA

Director of Housing



JENNIFER A. MAGUIRE

Budget Director

For questions please contact LESLYE CORSIGLIA, DIRECTOR OF HOUSING, at 535-3851.