

R-22

May 10, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt a Resolution to request and accept State Rental Assistance Cashflow Loan Program funds to allow the City of Long Beach Emergency Rental Assistance Program to continue, without interruption, assisting eligible renters who have experienced economic impacts due to the COVID-19 pandemic; and,

Authorize the City Manager, or designee, to execute all necessary documents with the California Department of Housing and Community Development to receive State Rental Assistance Cashflow Loan funds, and execute the Standard Agreement necessary to implement and comply with related State regulations. (Citywide)

DISCUSSION

On December 27, 2020, the Federal Consolidated Appropriations Act of 2021 authorized the Emergency Rental Assistance Program (ERAP) and appropriated \$25 billion in federal rental assistance (ERA1). California Senate Bill (SB) 91 established the State's program for administering its share of ERAP funds. On February 9, 2021, the City Council directed City staff to request the City of Long Beach's (City) reserved Block Grant amount of \$16.4 million from the State, conform the City's program to the State ERAP rules, and self-administer a local tenant assistance program (Option B) combining the State Block Grant with the previously received \$13.8 million direct Federal Allocation, totaling \$30.2 million in new funding to the City. On March 16, 2021, the City Council adopted a Resolution authorizing the City Manager to execute all Block Grant award documents necessary to accept the State ERAP funding.

On March 11, 2021, the American Rescue Plan Act established the federal Emergency Rental Assistance Program (ERA2), and authorized the direct allocation of funds to states, the units of local government, territories, and high-need grantees. In this round, the City was considered both a regular grantee and a high-need grantee, and therefore received a total direct federal allocation of \$22.1 million. In addition, the City received its reserved \$13.1 million State Block Grant, totaling \$34.3 million in combined ERA2 funding.

California SB115 established the State Rental Assistance Cashflow Loan Program (Program) for Option B cities, including Long Beach (Attachment A). The Program provides the City immediate funding, in the form of a forgivable loan, to continue providing rental relief to all eligible households as the City awaits additional federal funding from either ERA1 or ERA2 surplus funds to fund the Long Beach Rental Assistance Program (LB-ERAP). Under the Program, funds will be made available once all previously awarded Federal Direct and State

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Block Grant funds (ERA1 and ERA2 funds) have been fully obligated and/or spent to a zero balance. US Treasury defines obligation as both payments made and cases approved and ready for payment. Long Beach's ERA1 funds are fully spent while \$27.4 million in ERA2 funds are spent or fully obligated. The Program provisions include:

- The loan is available to eligible local jurisdictions operating ERAPs outside of the Program (Option B cities) who have obligated and/or spent all allocated federal funds down to a zero balance.
- If the City does not receive additional federal funding via the Request for Reallocated Funds process by June 30, 2023, and if such funds cannot be utilized for reimbursements, the State of California Department of Finance will forgive an amount up to the amount not covered by the federal allocation.
- Amounts allocated to State Department of Housing and Community Development (HCD) under SB115 will not accrue interest.
- Program expenditures must be for eligible applications that were received on or before March 31, 2022, including administrative costs.

Based on the current pace with which LB-ERAP is approving cases and issuing payments, the City is expected to fully obligate and/or spend all of its US Treasury Federal Direct and State Block Grant allocated funds by the end of June 2022.

The Program loan amount is determined by HCD based on the amount indicated in the Request for Reallocated Funds submitted by the City to the US Treasury. The City has submitted a Request for Reallocated Funds to the US Treasury for estimated excess obligations based on prior LB-ERAP monthly expenditure averages, which total approximately \$28 million. These requests were submitted based on potentially available ERA1 Reallocated Funds. Staff will submit additional Requests for Reallocated Funds under ERA2.

Based on the request for reallocated funds from the US Treasury, the maximum City request for Program funds is \$28,033,840. If approved, the funds can be immediately used when current federal funds are fully obligated and/or spent.

As of March 31, 2022, the LB-ERAP total remaining requested assistance is \$87.1 million. This figure accounts for remaining cases in progress and unreviewed cases. This figure is much higher than the remaining \$10.5 million in ERA2 funds. It should be noted that ERA1 funds are fully spent.

This matter was reviewed by Principal Deputy City Attorney Richard F. Anthony on March 29, 2022 and by Revenue Management Officer Geraldine Alejo on April 8, 2022.

TIMING CONSIDERATIONS

City Council approval is requested on May 10, 2022 to ensure that when remaining federal funds are fully spent, LB-ERAP can continue, without interruption, to assist current eligible applicants who have applied for assistance on or before March 31, 2022.

EQUITY LENS

The City has incorporated the Equity Toolkit in this recommendation as requested by the City Council on April 21, 2020. This recommendation will provide rental and utility payment assistance to low-income residents most impacted by COVID-19. All households with income at or below 80 percent of the Area Median Income (AMI), who have experienced financial hardship due to COVID-19, and who have demonstrated housing instability are eligible to apply. As of March 16, 2022, 97 percent of all awarded funds were directed to residents who earn less than 50 percent of AMI. Moving forward with LB-ERAP, the City will focus on assisting the lowest income residents with past due rental and utility payments.

FISCAL IMPACT

If approved, the City may receive an HCD Cashflow Loan in an amount up to \$28,033,840, which is equal to the request for ERAP funding submitted by the City to the US Treasury. The HCD Cashflow loan will provide an immediate funding source to continue the LB-ERAP once the initial federal funding is depleted and while the City waits for ERA funding approval. The HCD loan is restricted to allowable rental and utility assistance payments for eligible applicants, as well as administrative costs (up to 15 percent) which includes the City's contract with Yardi Systems, Inc., for assistance with LB-ERAP program implementation. If the US Treasury approves the City's combined ERA funding request of \$28,033,840, those ERA funds will be used to repay the HCD Cashflow Loan. If the US Treasury does not approve the City's funding request, then the loan will be forgiven, and the City will not be required to repay the loan.

The loan is not currently appropriated. If approved, the department will return to the City Council with a request for appropriation to continue the LB-ERAP program, offset by revenues received from the HCD Cashflow Loan. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing Council priorities. There is no local job impact associated with this recommendation to request appropriations.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,


OSCAR W. ORCI
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:


THOMAS B. MODICA
CITY MANAGER

ATTACHMENTS: RESOLUTION
ATTACHMENT A - STATE ERA ADDENDUM

1 RESOLUTION NO.

2
3 A RESOLUTION OF THE CITY COUNCIL OF THE
4 CITY OF LONG BEACH AUTHORIZING A STATE RENTAL
5 ASSISTANCE PROGRAM LOAN AWARD
6

7 WHEREAS, on December 27, 2020, the Consolidated Appropriations Act,
8 2021 (Pub.L. No. 116-260) (the “Act”) was signed into law. Section 501 of Division N of
9 the Act established the federal Emergency Rental Assistance Program (“ERA1”), and
10 authorized the direct allocation of emergency rental assistance funds to states, units of
11 local government, tribal communities, and territories. The ERA1 funds are intended to
12 assist households that are unable to pay rent and utilities due to the COVID-19
13 pandemic; and

14 WHEREAS, on March 11, 2021, the American Rescue Plan Act of 2021
15 (Pub.L. No. 117-2) (“ARPA”) was signed into law. Section 3201 of Subtitle B of Title III of
16 ARPA established the federal Emergency Rental Assistance Program (“ERA2”), and
17 authorized the direct allocation of funds to states, the District of Columbia, units of local
18 government, territories, and high-need grantees. The ERA2 funds are intended to assist
19 low-income households that have experienced financial hardship during or due to the
20 COVID-19 pandemic, are unable to pay for rent and utilities, and are at risk of
21 experiencing homelessness or housing instability; and

22 WHEREAS, California Assembly Bill No. 832 (Chapter 27, Statutes of 2021)
23 (“AB 832”) provides the legal basis for the State of California’s administration of its share
24 of ERA1 and ERA2 funds (the “State Rental Assistance Program,” “SRA,” or “SRA
25 Funds”). AB 832 amended Sections 50897, 50897.1, 50897.2, 50897.3, and 50897.4 of,
26 and added Sections 50897.2.1 and 50897.3.1 to, the Health and Safety Code. Health and
27 Safety Code section 50897.1, subdivision (a)(1) authorizes the Department of Housing
28 and Community Development (the “Department”) to administer the SRA Funds in

1 accordance with state and federal law; and

2 WHEREAS, California Senate Bill No. 115 (Chapter 2, Statutes of 2022)
3 (“SB 115”) authorized eligible local jurisdictions and federally recognized tribal
4 governments to request cashflow loans from the Department for Emergency Rental
5 Assistance Program expenditures. Such expenditures must be for complete, eligible
6 applications by households that were received on or before March 31, 2022, including
7 administrative costs that are consistent with the provisions of Chapter 17 (commencing
8 with Section 50897) of Division 31 of Part 2 of the Health and Safety Code, as applicable;
9 and

10 WHEREAS, in enacting SB 115, the Legislature’s intent was to provide
11 local programs with immediate cash, in the form of temporary cashflow loans, to
12 maximize rental relief to all eligible households as the local programs await additional
13 federal funding from either ERA1 or ERA2. If the anticipated federal funding is not
14 received by June 30, 2023, and if such funds cannot be utilized for reimbursements, the
15 Department of Finance will forgive an amount up to the amount not covered by the
16 federal allocation; and

17 WHEREAS, as authorized by SB 115, the Department will make such
18 cashflow loans available pursuant to terms and conditions developed by the Department.
19 Such terms and conditions may include, but are not limited to, reporting; a repayment
20 schedule; interest charged at the rate earned by moneys in the Pooled Money Investment
21 Account; and remittance mechanisms that include the withholding of future state and
22 federal funding administered by the Department; and

23 WHEREAS, the City of Long Beach (“City”) is participating in the SRA
24 under “Option B,” as that term is defined in subdivision (i) of Section 50897 of the Health
25 and Safety Code; or is a federally recognized tribal government, consistent with the
26 state’s implementation of Chapter 17 (commencing with Section 50897) of Division 31 of
27 Part 2 of the Health and Safety Code; and

28 WHEREAS, City applied to the U.S. Department of the Treasury

1 (“Treasury”) for a reallocation of ERA1 funds (the “ERA1 Reallocation”) by submitting one
2 or more appropriate requests for reallocated funds to Treasury’s portal (“Reallocation
3 Request”) by January 21, 2022. City will apply to the Treasury for a reallocation of ERA2
4 funds (the “ERA2 Reallocation”) once those reallocation moneys become available. The
5 ERA1 Reallocation and the ERA2 Reallocation are also referred to herein, individually
6 and collectively, as the “ERA Reallocation(s)”; and

7 WHEREAS, City desires to request and accept a temporary cashflow loan
8 of funds from the Department, as authorized by SB 115 (this amount, the “SRA Loan
9 Award”), while it awaits the additional federal funding described above; and

10 WHEREAS, City plans to administer any ERA Reallocation in accordance
11 with the applicable federal law (the Act and/or ARPA); the applicable Treasury
12 interpretive guidance; and all such requirements as may be subsequently amended and
13 applicable; and

14 WHEREAS, City acknowledges that every SRA Loan Award is subject to
15 and shall be administered in accordance with the state’s requirements for Round 2 of the
16 State Rental Assistance Program, including, without limitation, the applicable
17 requirements of AB 832; SB 115; the Department’s State Rental Assistance Program
18 Guidelines, dated September 27, 2021; and all such requirements as may be
19 subsequently amended (collectively, the “SRA Loan Award Requirements”); and

20 WHEREAS, City further acknowledges that every SRA Loan Award is
21 subject to the terms and conditions of a Department-approved STD 213, Standard
22 Agreement (“Standard Agreement”), all other documents required or deemed necessary
23 or appropriate UNDER STATE OR FEDERAL LAW to disburse, evidence, and secure the
24 SRA Loan Award, and all amendments thereto (collectively, the “SRA Loan Award
25 Documents”);

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1 NOW, THEREFORE, the City Council of the City of Long Beach resolves as
2 follows:

3 Section 1. City is hereby authorized and directed to request and accept
4 an SRA Loan Award totaling Twenty-Eight Million Thirty-Three Thousand Eight Hundred
5 Forty Dollars (\$28,033,840). Such amount matches the Reallocation Request submitted
6 in November 2021 or in January 2022 and does not exceed the amount set forth in the
7 City’s last-in-time Reallocation Request submitted to Treasury.

8 Section 2. City is hereby authorized and directed to enter into, execute,
9 and deliver the SRA Loan Award Documents, which shall include a Standard Agreement
10 in a total amount not to exceed Sixty Four Million Eight Hundred Thousand Dollars
11 (\$64,800,000).

12 Section 3. City is hereby authorized and directed to assume
13 responsibility for administering the SRA Loan Award in accordance with all SRA Loan
14 Award Requirements.

15 Section 4. Thomas B. Modica, City Manager, or designee, is authorized
16 to execute the SRA Loan Award Documents on behalf of the City for participation in the
17 State Rental Assistance Program – Round 3

18 Section 5. This resolution shall take effect immediately upon its adoption
19 by the City Council, and the City Clerk shall certify the vote adopting this resolution.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
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I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of _____, 2022 by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

Recusal(s): Councilmembers: _____

City Clerk

Addendum to State Rental Assistance Program Guidelines – Emergency Rental Assistance (ERA) Rounds 1 and 2 Implementation

State ERAP Short-Term Cashflow Loans

The following apply to all cashflow loans made by the Department pursuant to Senate Bill No. 115, Budget Act of 2021 (Chapter 2, Statutes of 2022).

I. Authority

On February 9, 2022, the Budget Act of 2021 (“Budget Act”) was signed into law. Section 3 of the Budget Act establishes short-term cashflow loans for eligible Option B jurisdictions participating in the Emergency Rental Assistance Program. This addendum to the State Rental Assistance Program Guidelines – Emergency Rental Assistance (ERA) Rounds 1 and 2 Implementation is intended to implement the requirements of Section 3 of the Budget Act. Health and Safety Code section 50897.1, subdivisions (k)(1) and (2), which the Budget Act incorporates, authorize HCD to adopt, amend, and repeal rules, guidelines, or procedures necessary to carry out the foregoing.

II. Cashflow Loans

A. Eligibility

Eligible Option B jurisdictions may request a short-term cashflow loan from the Department for ERA expenditures (including allowable administrative costs) on Completed Applications for eligible rent and utilities assistance as described in Health and Safety Code section 50897.1 subdivision (b) (“Cashflow Loan”). Such Completed Applications must be received on or before March 31, 2022 for rent and/or utilities due on or before March 31, 2022.

An applicant for a Cashflow Loan must have applied for Reallocation Funding from the U.S. Treasury either in November 2021 or January 2022 to be eligible for a Cashflow Loan from the Department. Any Cashflow Loan made by the Department pursuant to this Addendum shall not exceed the amount of Reallocation Funding requested by the applicant from the U.S. Treasury. Written proof of such amount requested must be provided to the Department when applying for a Cashflow Loan.

Applicants and recipients for/of Cashflow Loans must continue to apply for the U.S. Treasury Reallocation Funding process, inclusive of ERA1 and ERA2, and must provide the Department written proof of such efforts.

State Rental Assistance Program

B. Appropriate uses

Use of Cashflow Loan funds is restricted to allowable payments for rent arrears, utility arrears, and local administrative expenses, as defined in the U.S. Treasury's guidance related to ERA2. Assistance provided with funds from Cashflow Loans is limited to rent and/or utilities due on or before March 31, 2022 for eligible households as defined by federal law and described elsewhere in the State Rental Assistance Program Guidelines.

C. Applications

In order to be eligible for a Cashflow Loan from the Department, an applicant for a Cashflow Loan must provide the following:

- (1) A properly adopted resolution from the applicant's governing board authorizing application for and acceptance of the Cashflow Loan from the Department;
- (2) Documentation evidencing the average monthly number of households assisted and dollar assistance provided by the applicant using ERA funds;
- (3) Proof, as demonstrated by the November 2021 or January 2022 Reallocation Request submitted to the U.S. Treasury, that the applicant has demand for assistance that exceeds all federal ERA funds received by the applicant (including any reallocated dollars that the U.S. Treasury makes available);
- (4) Any other documents or information requested by the Department.

D. Disbursements

Once the required application items listed above in II.C hereof and all other required documentation, including an executed Standard Agreement, have been received by the Department in a condition satisfactory to the Department, the Department will make the Cashflow Loan funds available.

Any Cashflow Loans made by the Department will be distributed to successful applicants on a monthly basis and will account for the applicant's ability to process payments and distribute funds to recipients or clients.

For any Cashflow Loans made by the Department, the Department will initially fund 40 percent of the approved Cashflow Loan amount ("Initial Loan Amount"). Once the Cashflow Loan recipient has demonstrated to the Department that it has expended 75 percent of the Initial Loan Amount, then the Department will make 50 percent of the remaining 60 percent available to the Cashflow Loan recipient ("Second Loan Amount"). Once the Cashflow Loan recipient has demonstrated to the Department that it has expended the Initial Loan Amount and 75 percent of the Second Loan Amount, then the Department will make the remaining amount available to the Cashflow Loan recipient.

State Rental Assistance Program

If the Cashflow Loan recipient is processing a payment (payfile) with assigned state Cashflow Loan dollars immediately prior to federal reallocation funds being made available, that payfile may proceed. However, the Cashflow Loan recipient must expend the reallocated federal funds made available for subsequent payfile(s) until such time as no federal funds remain. When the Cashflow Loan recipient has exhausted the federal reallocated funds, it may use remaining Cashflow Loan funds to fund eligible households for allowable assistance during the covered period.

Additional mechanics of the Cashflow Loan are detailed in the Standard Agreement between the Department and recipient.

E. Reporting

Financial reports specifically related to the use of Cashflow Loans will be required weekly, on a day and in an electronic format that is acceptable to the Department. At minimum, these weekly reports shall include the following data:

- (1) Total funding obligated for the payment of allowable rent and utilities arrears costs for approved applications from Eligible Households for the week and cumulatively;
- (2) Total expenditures for the payment of allowable rent and utilities arrears costs for approved applications from Eligible Households for the week and cumulatively;
- (3) Projected obligations and expenditures for the upcoming week based on eligible applications received and processed;
- (4) Number of household applications received, processed, and approved for the week and cumulatively;
- (5) Administrative expenses obligated and expended from Cashflow Loan funds cumulatively.

Failure to report will constitute a breach of the Standard Agreement and may result in the suspension of further disbursement and/or the immediate recapture of Cashflow Loan funds.

F. Recapture

If a Cashflow Loan recipient does not fulfill all terms and conditions of such loan including, but not limited to, using Cashflow Loan funds only to fund rent and utilities assistance distributions to eligible households and associated administrative expenses, then all loan funds expended for ineligible activities are subject to recapture by the Department.

If a Cashflow Loan recipient has funds in excess of the need for allowable assistance payments during the covered period, the unused funds shall be returned to the Department within 45 calendar days of the final eligible payment made with Cashflow Loan funds.

State Rental Assistance Program

G. Repayment

It is anticipated that Cashflow Loan recipients may receive future reallocations of federal ERA funds from the U.S. Treasury. If such reallocations exceed the Cashflow Loan recipient's total need for ERA funds to pay eligible households for allowable assistance during the covered period, and to the extent the Cashflow Loan is determined by the U.S. Treasury to be reimbursable and a permitted use of reallocated federal funds, the Cashflow Loan recipient shall repay the Department the excess amount of reallocated federal funds, up to the total amount of Cashflow Loan received.

Any reallocated federal funds not able to be utilized for Cashflow Loan reimbursement per U.S. Treasury guidance may be used in accordance with U.S. Treasury's award terms and guidance.