CITY OF CARSON

701 E. Carson St.

Legislation Details (With Text)

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Title: CONSIDER RESOLUTION NO. 22-135, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING (1) FORGIVENESS OF ALL LOANS GIVEN TO SMALL BUSINESSES IN RESPONSE TO THE COVID-19 PANDEMIC, (2) REIMBURSEMENT OF LOAN PAYMENTS ALREADY PAID, AND (3) FORM OF TERMINATION AGREEMENT TERMINATING LOAN DOCUMENTS USING AMERICAN RESCUE PLAN ACT OF 2021 FUNDS

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Attachments: 1. Resolution No. 22-135_Forgiving Small Business Loans, 2. Termination Agreement Small Business Loans FORM, 3. Letter to Loan Program Recipients_Loan Forgiveness

Date	Ver.	Action By	Action	Result

Report to Mayor and City Council

Tuesday, June 21, 2022

Consent

SUBJECT:

CONSIDER RESOLUTION NO. 22-135, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING (1) FORGIVENESS OF ALL LOANS GIVEN TO SMALL BUSINESSES IN RESPONSE TO THE COVID-19 PANDEMIC, (2) REIMBURSEMENT OF LOAN PAYMENTS ALREADY PAID, AND (3) FORM OF TERMINATION AGREEMENT TERMINATING LOAN DOCUMENTS USING AMERICAN RESCUE PLAN ACT OF 2021 FUNDS

I. SUMMARY

On April 13, 2020, the Disaster Council approved a contract with the California Community Economic Development Association ("CCEDA"), a California non-profit organization, to quickly create and implement a focused business assistance program for Carson businesses, with a special emphasis on the COVID-19 response and accessing funding through federal programs offered through the Small Business Administration. At the same meeting, the Disaster Council considered the establishment of a $500,000 Small Business Loan/Grant Program ("Program"). On April 21, 2020, the City Council approved the establishment of the Program to assist small businesses in Carson withstand the economic impacts of the COVID-19 pandemic and associated lockdowns and appropriated the

necessary funds.

On March 15th, 2022, City Council approved disbursement plan of $17.7 million in American Rescue Plan Act (ARPA) funds. In the plan, $765,000 was allocated for Small Business Loan Forgiveness and Loan Reimbursement, with the intention of forgiving all loans in the program. This report includes the resolution for the City Council to adopt to actually forgive the loans and making the findings of public purpose behind the forgiveness, and a description of the process staff would take to notify borrowers and work through the legal issues.

II. RECOMMENDATION

1. APPROVE Resolution No. 22-135, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, APPROVING (1) FORGIVENESS OF ALL LOANS GIVEN TO SMALL BUSINESSES IN RESPONSE TO THE COVID-19 PANDEMIC, (2) REIMBURSEMENT OF LOAN PAYMENTS ALREADY PAID, AND (3) FORM OF TERMINATION AGREEMENT TERMINATING LOAN DOCUMENTS"; and

2. DIRECT Staff to undertake the notification process to the borrowers and process the forgiveness applications expeditiously.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

The City created a Small Business Loan Program in early 2020 to assist Carson businesses handle the COVID-19 pandemic, particularly lockdowns and other restrictions. The purpose of the Program was to provide, among other things:

- Bridge funding for small businesses likely to receive federal disaster assistance; and

- Low-cost working capital loans to maintain small businesses who may not qualify for federal disaster assistance; and

- Working capital loans to nonprofit organizations and small businesses who are providing essential services, or transitioning from an existing model to provide essential services, that directly address the health or economic impacts of COVID-19; and

- Cash grants to micro entrepreneurs and other highly vulnerable populations who will not qualify for federal disaster relief.

Applications opened once the program guidelines were in place and were processed on a first-come, first-served basis. Over an 18-month period the City made 35 loans in the original amount of $530,000. Borrowers did not need to make payments for the first 6 months, after which loans were to be paid over a three-year period. Loans ranged from $5,000 to $30,000. The total amount of payments paid by all borrowers to date is

$66,999.55. Some borrowers have not made any payments, and the largest payment balance is $7,000.

On March 15th, 2022, City Council approved disbursement plan of $17.7 million in American Rescue Plan Act (ARPA) funds. In the plan, $1,765,000 was allocated for Small Business Loan Forgiveness and Loan Reimbursement, with the intention of forgiving all loans in the program. Under this action the City Council would formally forgive the loans by resolution and approve the guidelines and the process staff would undertake to notify the borrowers and handle the accounting for the forgiveness.

The Resolution

The resolution will formally forgive the loans made under the Program and make the findings that forgiveness is in the public benefit. It will also authorize (1) reimbursement to small businesses of loan payments already made to City, (2) termination and cancellation of all loan documents, including loan agreements, promissory notes, security agreements, personal guarantys, and UCC-1 filings, and (3) execution of all agreements and documents related to such termination by the City Manager.

Notification

Borrowers will receive a letter from the City notifying them that their loan was forgiven by the City and to provide instructions on how to apply for the loan forgiveness/reimbursement (Exhibit 3). The letter will also advise the borrowers to consult their tax consultant on the effect accepting this loan forgiveness/reimbursement will have on their federal and state tax payment. Under Federal law, borrowers will be issued an IRS Form 1098 by the City for the amount of the forgiveness, which may be taxable depending on their circumstances.

Issues of Equity

As noted above, the 35 loans ranged from $5,000 to $30,000 totaling $530,000. The total amount of payments paid by all borrowers to date is $66,999.55. Some borrowers have not made any payments, and the largest payment balance by any single borrower so far is $7,000. The Council should consider the equity of forgiving only the existing loan balances (and not requiring any more loan payments) vs. forgiving the amount of the original loan, which would mean the City would refund all payments made so far by any borrower. The first scenario creates a moral hazard that rewards borrowers that accepted a loan but never made a payment with full forgiveness, vs. the second scenario where borrowers made timely payments for more than a year under the terms of the agreement and only receive forgiveness for the remaining balance. Staff is recommending the latter, where borrowers which did make payments on their loans would have those payments refunded.

The loans were given to small businesses to provide economic relief during a time of crisis. Forgiving the loans now (especially in light of City's receipt of ARPA monies for allocation toward Small Business Loan Forgiveness and Loan Reimbursement) will further the program's objective of contributing toward continued viability of the businesses, thereby providing continued public benefits to the community in the form of taxes and availability of goods and services.

V. <u>FISCAL IMPACT</u>

Based on the recommendation to forgive the original balances of all the loans in the Program portfolio and rebate all loan payments made by current borrowers, the fiscal impact to the City would be $530,000. The net cost to the City's General Fund is zero, as the City already made an allocation of ARPA funds in March for the full value of the loans.

VI. <u>EXHIBITS</u>

1. Resolution No. 22-135 (pgs. 4-5)
2. Termination Agreement Small Business Loans Form (pgs. 6-8)
3. Letter to Loan Program Recipients Loan Forgiveness (pg.9)

Prepared by: <u>John S. Raymond, Assistant City Manager-Economic Development</u>