



City of Grand Island

Tuesday, June 28, 2011

Council Session

Item G7

**#2011-151 - Approving Memorandum of Understanding with
South Central Economic Development District, Inc.**

Staff Contact: Joni Kuzma

Council Agenda Memo

From: Joni Kuzma, Community Development Administrator

Meeting: June 28, 2011

Subject: Approving Memorandum of Understanding with South Central Economic Development District, Inc.

Item #'s: G-7

Presenter(s): Joni Kuzma, Community Development Administrator

Background

In May 2011, the City of Grand Island was awarded a \$605,000 Economic Development - Community Development Block Grant for direct financial assistance to a for-profit business for purchasing equipment. The grant will fund equipment purchases and result in the creation of 20 jobs, 11 of which would be held by or offered to persons of Low-to-Moderate Income, and be maintained for at least 12 months from May 4, 2011.

Of the grant, \$600,000 will be used for equipment purchase and \$5,000 will be used by the City of Grand Island for General Administration. Case New Holland has committed matching funds of \$1,900,000 for a projected total project cost of \$2,500,000.

The State of Nebraska required the City, as a part of the grant application, to enter into a Memorandum of Understanding with the Nebraska Department of Economic Development, CNH America LLC and the South Central Economic Development District, Inc. This MOU was entered into for purposes of grant fund distribution and direction from the Department of Economic Development for ongoing management of program income generated from this grant.

Discussion

The Memorandum of Understanding set forth the terms and conditions of Community Development Block Grant (CDBG) funding of the Case IH #10-ED-016 grant and identified South Central Economic Development District, Inc. (SCEDD) as the Nonprofit Development Organization (NDO) the state selected to carry out CDBG assisted activities on behalf of the City of Grand Island for this grant. However, the MOU specifically states that the City and the specified NDO (SCEDD) must execute a separate administrative agreement. The City will maintain grantee status from the State of

Nebraska, provide certified grant administration, submit required reporting and reimbursement forms, and process invoices.

At this time the Council is requested to approve a Memorandum of Understanding between the City of Grand Island and the South Central Economic Development District, Inc. for carrying out the terms of the grant for business reimbursement and to specify use of program income generated from grant repayment proceeds. A copy of the Department of Economic Development Memorandum of Understanding is provided for council review as well as the MOU between the City and SCEDD.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve the application
2. Postpone the issue to future date
3. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the Memorandum of Understanding between the City of Grand Island and the South Central Economic Development District, Inc..

Sample Motion

Move to approve the Memorandum of Understanding between the City of Grand Island and the South Central Economic Development District, Inc. for Community Development Block Grant #10-ED-016 and authorize the Mayor to sign all related documents.

**Memorandum of Understanding
between the City of Grand Island
and the South Central Economic Development District, Inc.**

This agreement is made and entered into this 28th day of June, 2011, by and between the CITY OF GRAND ISLAND, NEBRASKA, a municipal corporation, hereinafter referred to as the "CITY" and SOUTH CENTRAL ECONOMIC DEVELOPMENT DISTRICT, INC. a non-profit corporation, hereinafter referred to as "SCEDD".

The purpose of this agreement is to define the respective rights and responsibilities between CITY and SCEDD as it as it relates to a joint and cooperative action for distribution of Community Development Block Grant #10-ED-016 Economic Development Loan and resulting Income Reuse monies within the jurisdiction of the Nebraska counties served by SCEDD.

The term of this MOU shall last until it is amended or dissolved with the agreement of the CITY and SCEDD through resolutions passed by the City Council and the executive board of SCEDD.

For purposes of this grant, both parties agree to the terms and conditions for use of these funds as follows:

1. CITY agrees to transfer award monies and program income reuse monies from this grant to SCEDD for payment of grant expenditures with limitations on the purpose that meet program reuse guidelines within SCEDD's Reuse Plan
2. SCEDD agrees to notify the CITY of applications for use of program income reuse monies from this grant and ensure first right of refusal to the CITY for use of the funds in Hall County;
3. CITY further allows distribution of program income reuse monies for use within the jurisdictional boundaries of SCEDD all in accordance with attached Exhibits 1 and 2 (Title 24 and map of SCEDD service area), incorporated herein by this reference in its entirety;
4. SCEDD agrees to allocate program income reuse monies to qualified business(es) meeting program income reuse guidelines all in accordance with attached Exhibit 3 (SCEDD's Reuse Plan), incorporated herein by this reference in its entirety;
5. SCEDD agrees to evaluate business application(s), coordinate obligation(s), and drawdown of monies in accordance with the laws of the State of Nebraska, Non-profit Development Organization standards and CDBG guidelines;

6. CITY shall not be responsible for providing any cash matching funds for future projects as identified above. Funding sources shall be Awards and Program Reuse Funds in accordance to attached Exhibits 1 and 2.

7. During life of this Interlocal Agreement, SCEDD will account for reuse funds in semi-annual reports to CITY due by January 15 and July 15 every reporting period.

In agreement to the foregoing terms:

Approved by the City Council and executed by CITY on:

City of Grand Island, Nebraska

ATTEST:

By _____
Jay Vavricek, Mayor

RaNae Edwards, City Clerk

Executed by SCEDD on _____

South Central Economic Development District, Inc.

By _____
Sharon Hueftle, Executive Director

[Code of Federal
Regulations] [Title 24,
Volume 3]
[Revised as of April 1, 2004]
From the U.S. Government Printing Office via GPO Access
[CITE:

24CFR570.482]

[Page 105-109]

TITLE 24--HOUSING AND URBAN
DEVELOPMENT

CHAPTER V--OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY
PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

PART 570 COMMUNITY DEVELOPMENT BLOCK GRANTS--Table of Contents

Subpart I_State Community Development Block Grant
Program

Sec. 570.482 Eligible activities.

(a) General. The choice of activities on which block grant funds are expended represents the determination by state and local participants, developed in accordance with the state's program design and procedures, as to which approach or approaches will best serve these interests. The eligible activities are listed at section

105(a) of the Act.

(b) Special assessments under the CDBG program. The following policies relate to special assessments under the CDBG program:

(1) Public improvements initially assisted with CDBG funds. Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may be imposed as follows:

(i) Special assessments to recover the CDBG funds may be made only against properties owned and occupied by persons not of low and moderate **income. These assessments constitute program income.**

(ii) Special assessments to recover the non-CDBG portion may be made, provided that CDBG funds are used to pay the special assessment in behalf of all properties owned and occupied by low and moderate income persons; except that CDBG funds need not be used to pay the special assessments in behalf of properties owned and occupied by moderate

income persons if, when permitted by the state, the unit of general local government certifies that it does not have sufficient CDBG funds to pay the assessments in behalf of all of the low and moderate income owner-occupant persons. Funds collected through such special assessments **are not program income.**

(2) Public improvements not initially assisted with CDBG funds. CDBG funds may be used to pay special assessments levied against property when this form of assessment is used to recover the capital cost of eligible public improvements initially financed solely from sources other than CDBG funds. The payment of special assessments with CDBG funds constitutes CDBG assistance to the public improvement. Therefore, CDBG funds may be used to pay special assessments provided that:

(i) The installation of the public improvements was carried out in compliance with requirements applicable to activities assisted under this subpart, including labor, environmental and citizen participation requirements;

(ii) The installation of the public improvement meets a criterion for national objectives. (See Sec. 570.483(b)(1), (c), and (d).)

(iii) The requirement of Sec. 570.482(b)(1)(ii) are met.

(c) Provision of assistance for microenterprise development. Microenterprise development activities eligible under section 105(a)(23) of the Housing and Community Development Act of 1974 (the Act), as amended, (42 U.S.C. 5301 et seq.) may be carried out either through the recipient directly or through public and private organizations, agencies, and other subrecipients (including nonprofit and for-profit subrecipients).

(d) Provision of public services. The following activities shall not be subject to the restrictions on public services under section 105(a)(8) of the Housing and Community Development Act of 1974, as amended:

(1) Support services provided under section 105(a)(23) of the Housing and Community Development Act of 1974, as amended, and paragraph (c) of this section;

(2) Services carried out under the provisions of section 105(a)(15) of the Housing and Community Development Act of 1974, as amended, that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

(3) Services of any type carried out under the provisions of section 105(a)(15) of the Act, pursuant to a strategy approved by a State under the provisions of Sec. 91.315(e)(2) of this title.

(e) Guidelines and objectives for evaluating project costs and financial requirements--

(1) Applicability. The following guidelines, also referred to as the underwriting guidelines, are provided to assist the recipient to evaluate and select activities to be carried out for economic development purposes. Specifically, these guidelines are applicable to activities that are eligible for CDBG assistance under section 105(a)(17) of the Act, economic development activities eligible under section 105(a)(14) of the Act, and activities that are part of a community economic development project eligible under section 105(a)(15) of the Act. The use of the underwriting guidelines published by HUD is not mandatory. However, states electing not to use these guidelines would be expected to ensure that the state or units of general local government conduct basic financial underwriting prior to the provision of CDBG financial assistance to a for-profit business.

(2) Objectives. The underwriting guidelines are designed to provide the recipient with a framework for financially underwriting and selecting CDBG-assisted economic development projects which are financially viable and will make the most effective use of the CDBG funds. Where appropriate, HUD's underwriting guidelines recognize that different levels of review are appropriate to take into account differences in the size and scope of a proposed project, and in the case of a microenterprise or other small business to take into account the differences in the capacity and level of sophistication among businesses of differing sizes. Recipients are encouraged, when they develop their own programs and underwriting criteria, to also take these factors into account. These underwriting guidelines are published as appendix A to this part. The objectives of the underwriting guidelines are to ensure:

- (i) That project costs are reasonable;
- (ii) That all sources of project financing are committed;
- (iii) That to the extent practicable, CDBG funds are not substituted for non-Federal financial support;
- (iv) That the project is financially feasible;
- (v) That to the extent practicable, the return on the owner's equity investment will not be unreasonably high; and
- (vi) That to the extent practicable, CDBG funds are disbursed on a pro rata basis with other finances provided to the project.

(f) Standards for evaluating public benefit--

(1) Purpose and applicability. The grantee is responsible for making sure that at least a minimum level of public benefit is obtained from the expenditure of CDBG funds under the categories of eligibility governed by these standards. The standards set forth below identify the types of public benefit that will be

recognized for this purpose and the minimum level of each that must be obtained for the amount of CDBG funds used. These standards are applicable to activities that are eligible for CDBG assistance under section 105(a)(17) of the Act, economic development activities eligible under section 105(a)(14) of the Act, and activities that are part of a community economic development project eligible under section 105(a)(15) of the Act. Certain public facilities and improvements eligible under section 105(a)(2) of the Act, which are undertaken for economic development purposes, are also subject to these standards, as specified in Sec. 570.483(b)(4)(vi)(F)(2). Unlike the guidelines for project costs and financial requirements covered under paragraph (a) of this section, the use of the standards for public benefit is mandatory.

(2) Standards for activities in the aggregate. Activities covered by these standards must, in the aggregate, either:

(i) Create or retain at least one full-time equivalent, permanent job per \$35,000 of CDBG funds used; or

(ii) Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

(3) Applying the aggregate standards.

(i) A state shall apply the aggregate standards under paragraph (e)(2) of this section to all funds distributed for applicable activities from each annual grant. This includes the amount of the annual grant, any funds reallocated by HUD to the state, any program income distributed by the state and any guaranteed loan funds made under the provisions of subpart M of this part covered in the method of distribution in the final statement for a given annual grant year.

(ii) The grantee shall apply the aggregate standards to the number of jobs to be created/retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to activities.

(iii) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, the grantee may elect to count the activity under either the jobs standard or the area residents standard, but not both.

(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the aggregate standards.

(v) Any activity subject to these standards which meets one or more of the following criteria may, at the grantee's option, be excluded from the aggregate standards described in paragraph (f)(2) of this section:

(A) Provides jobs exclusively for unemployed persons or participants in one or more of the following programs:

- (1) Jobs Training Partnership Act (JTPA);
- (2) Jobs Opportunities for Basic Skills (JOBS); or
- (3) Aid to Families with Dependent Children (AFDC);

(B) Provides jobs predominantly for residents of Public and Indian Housing units;

(C) Provides jobs predominantly for homeless persons;

(D) Provides jobs predominantly for low-skilled, low- and moderate- income persons, where the business agrees to provide clear opportunities for promotion and economic advancement, such as through the provision of training;

(E) Provides jobs predominantly for persons residing within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(F) Provides assistance to business(es) that operate(s) within a census tract (or block numbering area) that has at least 20 percent of its residents who are in poverty;

(G) Stabilizes or revitalizes a neighborhood income that has at least 70 percent of its residents who are low- and moderate-income;

(H) Provides assistance to a Community Development Financial Institution (as defined in the Community Development Banking and Financial Institutions Act of 1994, (12 U.S.C. 4701 note)) serving an area that has at least 70 percent of its residents who are low- and moderate-income;

(I) Provides assistance to an organization eligible to carry out activities under section 105(a)(15) of the Act serving an area that has at least 70 percent of its residents who are low- and moderate-income;

(J) Provides employment opportunities that are an integral component of a project designed to promote spatial de-concentration of low- and moderate-income and minority persons;

(K) With prior HUD approval, provides substantial benefit to low-income persons through other innovative approaches;

(L) Provides services to the residents of an area pursuant to a strategy approved by the State under the provisions of Sec. 91.315(e)(2) of this title;

(M) Creates or retains jobs through businesses assisted in an area pursuant to a strategy approved by the State under the provisions of Sec. 91.315(e)(2) of this title.

(4) Standards for individual activities. Any activity subject to these standards which falls into one or more of the following categories will be considered by HUD to provide insufficient public benefit, and therefore may under no circumstances be assisted with CDBG funds:

- (i) The amount of CDBG assistance exceeds either of the

following, as applicable:

(A) \$50,000 per full-time equivalent, permanent job created or **retained; or**

(B) \$1,000 per low- and moderate-income person to which goods or services are provided by the activity.

(ii) The activity consists of or includes any of the following:

(A) General promotion of the community as a whole (as opposed to the promotion of specific areas and programs);

(B) Assistance to professional sports teams;

(C) Assistance to privately-owned recreational facilities that serve a predominantly higher-income clientele, where the recreational benefit to users or members clearly outweighs employment or other benefits to low-and moderate-income persons;

(D) Acquisition of land for which the specific proposed use has not yet been identified; and

(E) Assistance to a for-profit business while that business or any other business owned by the same person(s) or entity(ies) is the subject of unresolved findings of noncompliance relating to previous CDBG assistance provided by the recipient"

(5) Applying the individual activity standards" (i) Where an activity is expected both to create or retain jobs and to provide goods or services to residents of an area, it will be disqualified only if the amount of CDBG assistance exceeds both of the amounts in paragraph (f)(4)(i) of this section.

(iii) The individual activity tests in paragraph (f)(4)(i) of this section shall be applied to the number of jobs to be created or retained, or to the number of persons residing in the area served (as applicable), as determined at the time funds are obligated to **activities**.

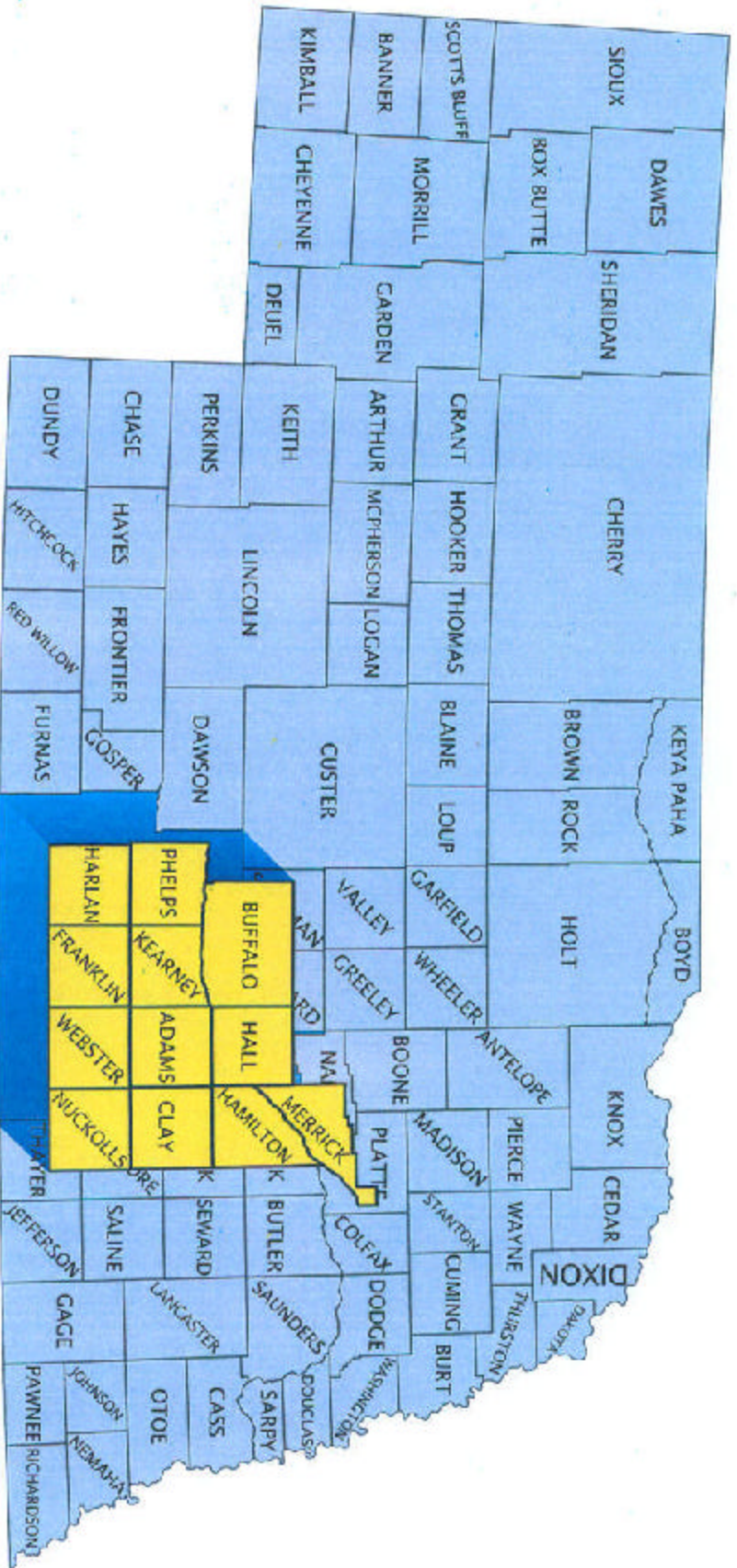
(iv) Where CDBG assistance for an activity is limited to job training and placement and/or other employment support services, the jobs assisted with CDBG funds shall be considered to be created or retained jobs for the purposes of applying the individual activity standards in paragraph (f)(4)(i) of this section"

(6) Documentation. The state and its grant recipients must maintain sufficient records to demonstrate the level of public benefit, based on the above standards, that is actually achieved upon completion of the CDBG-assisted economic development activity(ies) and how that compares to the level of such benefit anticipated when the CDBG assistance was obligated" If a state grant recipient's actual results show a pattern of substantial variation from anticipated results, the state and its recipient are expected to take those actions

reasonably within their respective control to improve the accuracy of the projections" If the actual results demonstrate that the state has failed the public benefit standards, HUD may require the state to meet more stringent standards in future years as appropriate.

(g) Amendments to economic development projects after review determinations. If, after the grantee enters into a contract to provide assistance to a project, the scope or financial elements of the project change to the extent that a significant contract amendment is appropriate, the project should be reevaluated under these and the recipient's guidelines. (This would include, for example, situations where the business requests a change in the amount or terms of assistance being provided, or an extension to the loan payment period required in the contract.) If a reevaluation of the project indicates that the financial elements and public benefit to be derived have also substantially changed, then the recipient should make appropriate adjustments in the amount, type, terms or conditions of CDBG assistance which has been offered, to reflect the impact of the substantial change. (For example, if a change in the project elements results in a substantial reduction of the total project costs, it may be appropriate for the recipient to reduce the amount of total CDBG assistance.) If the amount of CDBG assistance provided to the project is increased, the amended project must still comply with the public benefit standards under paragraph (f) of this section.

[57 FR 53397, Nov. 9, 1992, as amended at 60 FR 1949, Jan. 5, 1995; 61 FR 54921, Oct. 22, 1996]



South Central Economic Development District

308-995-3190

www.scedd.us

RESOLUTION 2011-151

WHEREAS, the City of Grand Island, Nebraska, was awarded a \$605,000 Economic Development - Community Development Block Grant for direct financial assistance to a for-profit business for purchasing equipment; and

WHEREAS, \$600,000 in grant funds will be used for equipment purchase and \$5,000 will be used by the City of Grand Island for General Administration, and

WHEREAS, the City entered into a Memorandum of Understanding with the Nebraska Department of Economic Development, CNH America LLC and the South Central Economic Development District, Inc. purposes of grant fund distribution and direction from the Department of Economic Development for ongoing management of program income generated from this grant,; and

WHEREAS, the City and the specified Nonprofit Development Organization of the South Central Economic Development District, Inc. must execute a separate administrative agreement for these activities, and

WHEREAS, the Council is requested to approve a Memorandum of Understanding between the City of Grand Island and the South Central Economic Development District, Inc. for carrying out the terms of the grant for business reimbursement and to specify use of program income generated from grant repayment proceeds; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the City of Grand Island, Nebraska is hereby authorized to enter into a Memorandum of Understanding between the City of Grand Island and the South Central Economic Development District, Inc. for carrying out the terms of the grant for business reimbursement and to specify use of program income generated from grant repayment proceeds and the Mayor is hereby authorized and directed to execute such proceedings on behalf of the City of Grand Island for such grant programs.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, June 28, 2011.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form ☐ _____
June 24, 2011 ☐ City Attorney