

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

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Date: May 6, 2016

CAO File No. 0220-01024-2754

Council File No. 12-1549-S4

Council District: All

To: The Mayor  
The Council

From: Miguel A. Santana, City Administrative Officer



Reference: Economic and Workforce Development Department Transmittal dated September 1, 2015;  
Additional information received through April 29, 2016

Subject: **CITYWIDE INDUSTRIAL COMMERCIAL REVOLVING LOAN FUND SETTLEMENT RECEIPTS**

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### SUMMARY

In a transmittal dated September 1, 2015, the Economic and Workforce Development Department (EWDD) requests Mayor and Council approval of various actions for economic development activities and asset management functions (C.F. 12-1549-S4), including the re-establishment of a Citywide Industrial-Commercial Revolving Loan Fund (RLF), and receipt and appropriation authority over settlement funds received from related litigation. EWDD is requesting to establish a new fund from proceeds received as the result of a litigation settlement agreement regarding the previous RLF program (C.F. 15-0356) which was originally funded by the U.S. Department of Commerce Economic Development Administration (EDA). EWDD also requests authority for appropriation and expenditure over these proceeds on an as-needed basis. The Mayor's Office has indicated that the City is currently in negotiations with the EDA regarding the final disposition of these funds.

We recommend approval of the establishment of a new Special Fund in order to transfer and track litigation settlement funds from the City's previous RLF program, and appropriation authority for EWDD in an amount up to \$25,000 in order to fulfill payment obligations for contractual services related to the settlement agreement. EWDD states that, as of April 29, 2016, a total of \$933,059.54 has been received by the City and placed temporarily in EWDD's Fund 45L – Miscellaneous Sources Funds, and that no additional receipts from the settlement are expected. In order to preserve the Council and Mayor's ability to oversee and review the Department's programs, we recommend that EWDD report back, with the assistance of the City Attorney, regarding an evaluation of the City's management and funding options for a long-term commercial and revolving loan fund, once final disposition of the settlement proceeds has been resolved between the City and EDA.

### BACKGROUND

In the 1970s and again in the 1990s, the City received grant funding for a revolving loan fund from the

EDA. The federal grants capitalized the City's RLF under Title IX of the Public Works and Economic Development Act of 1965. The purpose of the RLF was to foster economic development in designated underserved areas through small business investment lending and job creation. The total cumulative federal award was \$2,460,000 through the 1990s. In the early 1980s, the City created and then contracted with a non-profit entity, the Los Angeles Local Development Corporation (LALDC), to manage the RLF as the City's Operating Agency in compliance with the applicable federal government codes, regulations, and directives. In 2003, the final Operating Agency Contract (City Contract C-99342) between the City and the LALDC expired. LALDC remained in possession of all RLF assets and did not submit reports to the City nor the EDA.

In 2006, pursuant to the Mayor's Office, the EDA placed the City on notice of material noncompliance of the federal program regulations. The City retained independent accountants to construct the required financial reports and negotiated a temporary regulatory compliance extension with EDA. In 2011, after protracted discussions with LALDC, the City filed a Civil Complaint to recover the City and federal assets in the RLF. After a judicially ordered settlement conference, the lawsuit was settled in February 2015. RLF assets in the settlement package total approximately \$900,000, consisting of the assignment of two loans and the remainder in cash in an amount of approximately \$75,000 (as adjusted through calculation of the final principal balance of the two loans at the time of assignment). The City through the Mayor's Office is currently working with the EDA to resolve its outstanding liability under the original RLF grants. Pending the results of these discussions, EWDD will be responsible for managing the recovered RLF loans and cash balances.

We recommend approval of the request to create a separate fund to enable EWDD to transfer and track the settlement receipts. Upon resolution of outstanding grant issues with EDA, EWDD should report back to the Council and Mayor with an evaluation of the City's management and funding options for a long-term commercial and industrial revolving loan fund, including recommendations for the disposition of the current recovered RLF assets. Additionally, we recommend approval to grant EWDD expenditure authority in these funds in an amount of up to \$25,000 to fulfill payment for auditing contractual services performed on behalf of the City which allowed the City to receive a settlement agreement in the litigation (C.F. 15-0356).

## **RECOMMENDATIONS**

That the Council, subject to the approval of the Mayor,

1. Instruct the General Manager, EWDD, or designee, to:
  - a. Report back in 30 days, with the assistance of the City Attorney, with an evaluation of the City's management and funding options for a long-term commercial and industrial revolving loan fund, including recommendations for the disposition of the settlement funds recovered for the former Citywide Industrial Commercial Revolving Loan Program Fund under Title IX of the Public Works and Economic Development Act of 1965;
  - b. Prepare Controller instructions and/or make any necessary technical adjustments consistent with Council and Mayor action on this Report, subject to approval of the CAO, and instruct the

Controller to implement those instructions;

2. Authorize and instruct the Controller to:

- a. Establish an interest-bearing fund entitled "LA City Industrial-Commercial Revolving Loan Fund XXX" to be administered by EWDD to track receipts and disbursements related the City's former Economic Development Agency's Revolving Loan Fund;
- b. Establish a receivable within the newly established LA City Industrial-Commercial Revolving Loan Fund No. XXX from the Los Angeles LDC, Inc. for \$933,060 received from the Los Angeles Local Development Corporation and other borrowers;
- c. Transfer the cash collected from claim settlements and loan principal and interest payments up to \$933,060 and share of interest income earned temporarily recorded in the Miscellaneous Fund No. 45L to the newly-established LA City Industrial-Commercial Revolving Loan Fund No. XXX;
- d. Establish a new account XXX Consulting and Professional Services within the newly established LA City Industrial-Commercial Revolving Loan Fund No. XXX, and upon receipt of claim settlements, loan payments and other collections, appropriate therefrom up to \$25,000 for related consultant and professional services. Appropriations over \$25,000 and additional appropriation accounts require further Council approval; and
- e. Transfer cash, appropriations, encumbrances, expenditures and other financial transactions related to the loan program previously recorded in the Miscellaneous Fund No. 45L to the newly established LA City Industrial-Commercial Revolving Loan Fund No. XXX.

## **FISCAL IMPACT STATEMENT**

There is no impact to the General Fund. The recommendations comply with the City Financial Policies in that the Special Revenue Fund to be created would be supported by non-General Funds.

*MAS:SAM:02160080*