

**City of Carson City
Agenda Report**

Date Submitted: 11/08/10

Agenda Date Requested: 11/16/10

Time Requested: 5 min.

To: Carson City Board of Supervisors

From: Larry Werner, City Manager

Subject Title: Action to approve the submittal of an application to the U.S. Department of Commerce, Economic Development Administration, for the amount of \$2.1 million dollars, to be used for infrastructure improvements at the proposed City Center project.

Staff Summary: This grant, if awarded, will be used to supplement the investment for public infrastructure improvements at the proposed City Center project.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to approve the submittal of an application to the U.S. Department of Commerce, Economic Development Administration, for a grant in the amount of \$2.1 million dollars, to supplement required funds for infrastructure improvements at the proposed City Center project.

Explanation for Recommended Board Action: Staff is seeking grant funding to alleviate some of the public financial investment in the proposed City Center project.

Applicable Statue, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: \$2.1 million dollars

Explanation of Impact: Expenses will be reimbursed under this sub-grant award.

Funding Source: Federal Grant (20% to 50% match required). The match is based upon the level of regional economic stress at the time of application. The matching funds will come primarily from Water and Sewer Construction Funds.

Alternatives: Do not approve the submittal of a grant application.

Supporting Material: U.S. Department of Commerce, Economic Development Administration grant summary for Public Works and Economic Development Investments.

Prepared By: Heidi Eskew-Herrmann, Grants Coordinator

Reviewed By: _____
(Department Head)

(City Manager)

(District Attorney)

(Finance Director)

Date: _____
Date: 11/8/2010
Date: 11/8/10
Date: 11/8/10

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

PART 305—PUBLIC WORKS AND ECONOMIC DEVELOPMENT INVESTMENTS**Subpart A—General**

Sec.

- § 305.1 Purpose and scope.
- § 305.2 Award requirements.
- § 305.3 Application requirements.
- § 305.4 Projects for design and engineering work.

Subpart B—Requirements for Approved Projects

- § 305.5 Project administration by District Organization.
- § 305.6 Allowable methods of procurement for construction services.
- § 305.7 Services performed by the Recipient's own forces.
- § 305.8 Recipient-furnished equipment and materials.
- § 305.9 Project phasing and Investment disbursement.
- § 305.10 Bid underrun.
- § 305.11 Contract awards; early construction start.
- § 305.12 Project sign.
- § 305.13 Contract change orders.
- § 305.14 Occupancy prior to completion.

Authority: 42 U.S.C. 3211; 42 U.S.C. 3141; Department of Commerce Organization Order 10-4.

Source: 71 FR 56675, Sept. 27, 2006, unless otherwise noted.

Subpart A—General**§ 305.1 Purpose and scope.**

Public Works and Economic Development Investments (“*Public Works Investments*”) intend to help the nation's most distressed communities revitalize, expand and upgrade their physical infrastructure to attract new industry, encourage business expansion, diversify local economies and generate or retain long-term private sector jobs and investments. The primary goal of these Investments is the creation of new, or the retention of existing, long-term private sector job opportunities in communities experiencing significant economic distress as evidenced by chronic high unemployment, underemployment, low per capita income, outmigration, or a Special Need. These Investments also intend to assist communities in attracting private capital investment and higher-skill, higher-wage job opportunities and to promote the successful long-term economic recovery of a Region.

§ 305.2 Award requirements.

(a) *Project scope.* Public Works Investments may fund the following activities:

- (1) Acquisition or development of land and improvements for use in a public works, public service or other type of development facility; or
- (2) Acquisition, design and engineering, construction, rehabilitation, alteration, expansion, or improvement of such a facility, including related machinery and equipment.

(b) *Requirements.* A Public Works Investment may be made if EDA determines that:

(1) The Project will, directly or indirectly:

(i) Improve the opportunities for the successful establishment or expansion of industrial or commercial plants or facilities in the Region where the Project is located;

(ii) Assist in the creation of additional long-term employment opportunities in the Region; or

- (iii) Primarily benefit the long-term unemployed and members of low-income families in the Region;
 - (2) The Project will fulfill a pressing need of the Region, or a part of the Region, in which the Project is located; and
 - (3) The Region in which the Project is located has a CEDS and the Project is consistent with the CEDS.
- (c) Not more than fifteen (15) percent of the annual appropriations made available to EDA to fund Public Works Investments may be made in any one (1) State.

§ 305.3 Application requirements.

- (a) Each application for Public Works Investment Assistance must:
- (1) Include evidence of eligibility, as provided in part 301 of this chapter;
 - (2) Include, or incorporate by reference, a CEDS (as provided in §303.7 of this chapter);
 - (3) Demonstrate how the proposed Project meets the criteria of §305.2; and
 - (4) Demonstrate how the proposed Project meets the proposal evaluation criteria set forth in §301.8 of this chapter.
- (b) The Investment Rate for Public Works Investments will be determined in accordance with §301.4 of this chapter.

§ 305.4 Projects for design and engineering work.

In the case of Public Works Investment Assistance awarded solely for design and engineering work, the following additional application requirements and terms shall apply:

- (a) EDA may determine that a separate Investment for design and engineering is warranted due to the technical complexity or environmental sensitivity of the construction Project;
- (b) The purpose of the Investment may be limited to the development and production of all documents required for the construction of the proposed construction Project in a format and in sufficient quantity to permit advertisement and award of a construction contract soon after securing construction financing for the Project;
- (c) EDA will not disburse any portion of the Investment Assistance until it receives and certifies compliance with the Investment award of all design and engineering contracts; and
- (d) EDA's funding of the Project for design and engineering work does not in any way commit EDA to fund construction of the Project.

Subpart B—Requirements for Approved Projects

§ 305.5 Project administration by District Organization.

- (a) When a District Organization is not the Recipient or co-Recipient of Investment Assistance, the District Organization may administer the Project for the Recipient if EDA determines fulfillment of the following conditions:
- (1) The Recipient has requested (either in the application or by separate written request) that the District Organization for the Region in which the Project is located administer the Project;
 - (2) The Recipient certifies and EDA finds that:
 - (i) Administration of the Project is beyond the capacity of the Recipient's current staff and would require hiring additional staff or contracting for such services;

(ii) No local organization or business exists that could administer the Project in a more efficient or cost-effective manner than the staff of the District Organization; and

(iii) The staff of the District Organization would administer the Project without sub-contracting the work; and

(3) The allowable costs for the administration of the Project by the District Organization's staff will not exceed the amount that would be allowable to the Recipient.

(b) EDA must approve the request either by approving the application in which the request is made or by separate specific written approval.

§ 305.6 Allowable methods of procurement for construction services.

(a) Recipients may use alternate construction procurement methods to the traditional design/bid/build procedures (including lump sum or unit price-type construction contracts). These methods include but are not limited to design/build, construction management at risk and force account. If an alternate method is used, the Recipient shall submit to EDA for approval a construction services procurement plan and the Recipient must use a design professional to oversee the process. The Recipient shall submit the plan to EDA prior to advertisement for bids and shall include the following, as applicable:

(1) Justification for the proposed method for procurement of construction services;

(2) The scope of work with cost estimates and schedules;

(3) A copy of the proposed construction contract;

(4) The name and qualifications of the selected design professional; and

(5) Procedures to be used to ensure full and open competition, including the selection criteria.

(b) For all procurement methods, the Recipient must comply with the procurement standards set forth in 15 CFR parts 14 or 24, as applicable.

[71 FR 56675, Sept. 27, 2006, as amended at 73 FR 62866, Oct. 22, 2008]

§ 305.7 Services performed by the Recipient's own forces.

In certain circumstances, the Recipient may wish to consider having a portion or all of the design, construction, inspection, legal services or other work and/or services in connection with the Project performed by personnel who are employed by the Recipient either full-time or part-time. EDA may approve the use of such "in-house forces" if:

(a) The services are routinely performed by the Recipient for all construction Projects performed by the Recipient (for example, inspection or legal); or

(b) The Recipient has a special skill required for the construction of the Project (for example, construction of unique Indian structures); or

(c) The Recipient has made all reasonable efforts to obtain a contractor but has failed to do so because of uncontrollable factors such as the remoteness of the Project site or an overabundance of construction work in the Region; or

(d) The Recipient demonstrates substantial cost savings.

§ 305.8 Recipient-furnished equipment and materials.

The Recipient may wish to incorporate into the Project equipment or materials that it will secure through its own efforts, subject to the following requirements:

(a) EDA must approve any use of Recipient-furnished equipment and materials. EDA may require that major equipment items be subject to a lien in favor of EDA and may also require a statement from the Recipient regarding expected useful life and salvage value of such equipment;

(b) EDA may require the Recipient to establish that the expense claimed for such equipment or materials is competitive with current local market costs; and

(c) Acquisition of Recipient-furnished equipment and/or materials under this section is also subject to the requirements of 15 CFR parts 14 or 24, as applicable.

§ 305.9 Project phasing and Investment disbursement.

(a) EDA may authorize in advance the award of construction contracts in phases, provided the Recipient submits a request that includes each of the following:

(1) Valid reasons justifying why the Project must be phased;

(2) Description of the specific elements to be completed in each phase;

(3) Detailed construction cost estimates for each phase;

(4) Time schedules for completing all phases of the Project;

(5) Certification that the Recipient can and will fund any overrun(s); and

(6) Certification that the Recipient is capable of paying incurred costs prior to the first disbursement of EDA funds.

(b) EDA will begin disbursement of funds after receipt of evidence sufficient to EDA of compliance with all Investment award conditions. EDA may approve the disbursement of funds prior to the tender of all construction contracts if the Recipient can demonstrate to EDA's satisfaction that a severe financial hardship will result without such approval.

§ 305.10 Bid underrun.

If at the construction contract bid opening, the lowest responsive bid is less than the total Project cost, the Recipient will notify EDA to determine whether Investment funds should be deobligated from the Project.

§ 305.11 Contract awards; early construction start.

EDA must determine that the award of all contracts necessary for design and construction of the Project facilities is in compliance with the terms and conditions of the Investment award in order for the costs to be eligible for EDA reimbursement. Pending this determination, the Recipient may issue a notice permitting construction under the contract to commence. If construction commences prior to EDA's determination, the Recipient proceeds at its own risk until EDA review and concurrence. The EDA regional office will advise the Recipient of the requirements necessary to obtain EDA's determination.

§ 305.12 Project sign.

The Recipient shall be responsible for the construction, erection and maintenance in good condition throughout the construction period of a sign or signs at a conspicuous place at the Project site indicating that the Federal government is participating in the Project. The EDA regional office will provide mandatory specifications for the signage.

§ 305.13 Contract change orders.

(a) If it becomes necessary to alter the construction contracts post-execution, the Recipient and contractor shall agree to a formal contract change order.

(b) All contract change orders must receive EDA review for compliance with the terms and conditions of the Investment award, even if the Recipient is to pay for all additional costs resulting from the change or the change order reduces the contract price.