

## Emergency Business Assistance Program<sup>1</sup> – Suggested Plan Language<sup>2</sup>

From time to time, a public emergency or disaster may cause severe, temporary economic disruption to the redevelopment area such that slum and blight are likely to arise unless government intervenes. In the case of such an emergency, the CRA may establish an Emergency Business Assistance Program when it determines business assistance is necessary to help protect its redevelopment objectives, to protect its investment into capital improvements such as \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, and to help alleviate the danger of slum and blight spreading within the redevelopment area. The scope and form of the business assistance provided will depend on the available resources as well as the character of the emergency.

The CRA may provide business assistance in any form allowable under the Redevelopment Act and general law, including but not limited to:

- Providing businesses with consulting services in applying for other forms of government assistance, such as stimulus funds or disaster loans.
- Direct monetary relief in the form of bridge loans or payments.
- Targeted purchasing of redevelopment services.
- Expedited spending on other redevelopment objectives, such as storefront rehabilitation.

The Program may include eligibility criteria to ensure that the assistance goes to otherwise-resilient businesses which are in danger of closing due to the emergency. The criteria shall include the following requirements in addition to any other criteria the CRA determines to be necessary or desirable:

- Physical presence in the redevelopment area.
- Demonstrated financial viability absent the emergency.
- Demonstrated need caused by the emergency.

The CRA may attach conditions to the business assistance as necessary or desirable to ensure the assistance is used for its intended public purpose, such as:

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<sup>1</sup> The Act and various AG opinions interpreting the same have expressed a clear preference if not requirement that CRA funds be spent on bricks and mortar type improvements in the plan and in the district. Nevertheless, the current COVID-19 pandemic makes offering direct financial assistance to businesses that are at the core of redevelopment and thereby protecting a CRA's prior investment in brick and mortar improvements in the district a reasonable course to consider. This suggested language is an attempt to suggest how this might be done but is not a guaranty that such language will be upheld in a court challenge.

<sup>2</sup> This suggested language is subject to any existing restrictions on such program based on Interlocal agreements, bond covenants and the like and should be vetted through counsel. We also recommend that the CRA itself administer any business assistance program to strengthen the program as a valid redevelopment effort for the benefit of the redevelopment area. Additionally, the Attorney General has indicated that CRAs themselves should administer redevelopment spending under the Act. *See Op. Att'y Gen. Fla. 2010-40* (opining that CRAs may spend funds to promote the redevelopment area but may not provide grants to nonprofit organizations which similarly promote development).

- A requirement that the recipient spend any business assistance funds only on locations within the redevelopment area.
- A temporary prohibition against shareholder dividends.
- A requirement that the business remain open and/or maintain certain staffing levels for a period of time.
- Recordkeeping requirements regarding the use of any funding.
- A requirement of a personal guarantee from a chief executive or owner of the business.
- When appropriate, a requirement to provide in-kind services to the CRA for other redevelopment efforts.
- In the case of assistance in the form of loans, partial forgiveness of the loans in the case that the business successfully performs the requirements above.