



TRI-AGENCY ECONOMIC DEVELOPMENT AUTHORITY

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Memorandum

AGENDA DATE: January 25, 2022

TO: Del Norte County Board of Supervisors

FROM: Tri-Agency Economic Development Authority

SUBJECT: Del Norte County's Contribution to Tri-Agency's Budget

REQURST FOR BOARD ACTION:

- 1.) Approve a contribution of \$70,000 to the Tri-Agency Economic Development Authority;**
- 2.) Discuss and give possible direction to staff to include a \$70,000 contribution in future proposed budgets as an annual contribution.**

Background

The Tri-Agency Economic Development Authority ("Tri-Agency") is a joint powers agency organized under the Joint Exercise of Powers Act, Government Code Section 6500 *et seq.* Tri-Agency is governed by a board made up of two members from each of the three member agencies, the Harbor, the City and the County. Originally formed in the aftermath of the 1964 tsunami to help drive the economic recovery, Tri-Agency has played an important role in the community's economic development ever since.

Tri-Agency is responsible for bringing two revolving loan programs into the community, one from the Department of Commerce, administered since 1976 through the Del Norte County Economic Development Corporation ("DNEDC"), and a second one from the USDA, administered directly by Tri-Agency since 1997. In addition, Tri-Agency is responsible for numerous strategic planning and coordinating efforts, from forming the Council of Economic Advisors, to creating the county's first Comprehensive Economic Development Strategy ("CEDS"), a necessary prerequisite for eligibility for numerous federal grant and assistance

programs. Tri-Agency has also been instrumental in projects involving the sewer and airport, and in the creation of the Visitor's Bureau, currently a part of the Chamber of Commerce. Tri-Agency is currently working to foster the development of a wind energy industry off the coast of Del Norte County, where some of the most productive wind fields in the world are located.

Tri-Agency's Intermediary Relending Program

In 1997, Tri-Agency borrowed \$400,000 from USDA Rural Development under an "Intermediary Relending Program." The interest on the loan was one percent per annum and the term was 30 years. Tri-Agency defaulted on the loan in 2011; USDA accelerated the loan in 2012. At that time the principal balance was \$263,799.61 with unpaid interest of \$4,603.84. As of Tri-Agency's last settlement offer in October 2020, unpaid interest had risen to \$20,966.29. Tri-Agency has struggled to function since it defaulted on its loan from USDA in 2011. The member agencies stopped making annual contributions, and a lawsuit between Tri-Agency and its then executive director left the agency bereft of funds and staff support.

The USDA loan program, though ultimately a failure, was not always one. For nearly a decade it helped numerous small businesses grow and thrive. The initial loans made by Tri-Agency were, with one exception, successful. Those initial loans were:

Adkins, (Hole in the Wall)	\$75,000
Net Help Enterprises	\$50,000
Joshi (City Center Motel)	\$105,000
Borders, Edward	\$52,000
Epperson (Plaza Imports)	\$15,000
Jones, Brad	\$56,729
Lighthouse Books	\$45,000

All of these loans were repaid by 2006, with the exception of Joshi's. Joshi's City Center Motel went into receivership in 2008, still owing Tri-Agency about \$54,000. The receiver recorded a super-priority lien certificate and deed of trust against the property. After a judicial foreclosure on the deed of trust and an award of costs, the property was sold in 2017. Tri-

Agency's junior lien was extinguished in the sale without Tri-Agency receiving any money. (California Code of Civil Procedure Section 701.630.)

The second round of lending was far less successful. The owner of the Bistro Garden's restaurant fell ill and the restaurant failed. In an attempt to refill the building with a functioning restaurant as quickly as possible, the Harbor, which owned the building, and Tri-Agency, whose loan was secured by the restaurant equipment and fixtures, released the owner from the debt in exchange for immediately vacating the building and releasing the fixtures to Tri-Agency. The Ambrosia Grill, to which Tri-Agency issued several loans secured by equipment and fixtures, declared bankruptcy in 2010. Tri-Agency received the fixtures, valued at \$25,000, and the remaining unsecured \$42,000 debt was discharged. Plaza Imports owes Tri-Agency \$14,000, an unsecured debt long past the statute of limitations and now uncollectable. The Surfside Grill failed, leaving Tri-Agency with a junior position on the building and two deeds of trust on the owner's residence. When that building was foreclosed upon, Tri-Agency came away with the \$37,100. In 2020, Tri-Agency was able to bring the owner of the residence to a favorable settlement at \$115,000, on a debt of \$115,706, not including interest. There is now, with certainty, no remaining foreclosable security, and Tri-Agency owns no other assets.

Debt Settlement with USDA

There have been numerous attempts to settle Tri-Agency's debt with USDA. USDA has consistently demanded that Tri-Agency dissolve as an agency as a condition of any compromise of the total debt. In response to Tri-Agency's most recent offer in 2020, USDA agreed they would settle the debt, but said they would still send the debt to the Treasury Department for collection. This means the debt would still exist. The Tri-Agency joint powers agreement prohibits the dissolution of the agency with outstanding debt. Failure to follow the formalities of the JPA could result in the Treasury Department having a viable claim against the member agencies under an "alter-ego" theory. Thus the settlement was not possible.

The current strategy is to pay the entire debt, but reamortize it. This can be done over a five year period pursuant to federal regulations. (7 C.F.R. 1956.124.) This will require Tri-Agency to have an annual financial commitment from its member agencies. The debt must be paid, or Tri-Agency will continue to exist, using staff time it cannot afford, filing financial

statements with the Controller, accumulating banking fees and other liabilities, without any income. The larger question is whether the member agencies are committed to Tri-Agency as a functioning economic development driver going forward. Thus the request is not merely money to pay a reamortized debt, but also potentially to pay a contractor or employee to provide administrative support, and fund the types of professional studies needed to help advance economic projects in the community.

DNEDC's Revolving Loan Program

In 1976, Tri-Agency received a \$2.6 million grant from the Department of Commerce. Part of this grant was a \$1.5 million dollar revolving loan program that was administered by the DNEDC as a sub-recipient. Tri-Agency has not been an active participant in the program ever since. In 2018, all the responsibility for the program was formally transferred from Tri-Agency to DNEDC. Any failure of DNEDC to comply with the terms of the grant, and any money potentially owed by DNEDC, are not the problems or responsibilities of Tri-Agency.

The Del Norte's Comprehensive Economic Development Strategy

The CEDS is a document created jointly by the Harbor, the City and the County. It sets forth the fundamental economic strategy for the community for five years at a time. The CEDS "provides an action plan for collaboration between government, private sector businesses, non-profit community organizations and the public to accomplish shared goals for economic development in Del Norte County." (CEDs pg. 1.) One of the recommendations from the CEDs is to: "[c]onsider developing the Del Norte Economic Development Corporation into a stronger coordinating entity for all the jurisdictions in the County. According to the CEDs:

"While small business loans are available through the North Coast Small Business Development Corporation and the Del Norte County Economic Development Corporation, there is a need to create stronger business mentoring resources to truly help local businesses meet their expansion potential...The Del Norte Economic Development Corporation could be strengthened to better coordinate countywide economic development efforts." (CEDs pgs. 37-38.)

There are two reasons why Tri-Agency, and not DNEDC, is the correct entity to be the coordinator of countywide economic development efforts. The first is that Tri-Agency is a government entity, subject to the Brown Act and Public Records Act, with members from each of the three entities that created the CEDs. This provides a public forum to conduct these activities, and a method for the three CEDs agencies to come together to collaborate.

The other reason Tri-Agency is a more appropriate entity than DNEDC to be the countywide hub of economic development collaboration is that DNEDC, a private entity, is currently under a federal investigation connected to its lending activities.

Budget

Attached is a proposed budget for Tri-Agency, developed to show the use of the funds should the Board of Supervisors provide them. A budget cannot be adopted by Tri-Agency before it has the funds, so this has not been formally acted upon. However, Tri-Agency is open to comments, criticisms, or conditions the Board might have related to the use of the funds. It would be Tri-Agency's intention in the near term to use most of the funding to formalize a debt compromise and develop a consistent and predictable payment plan. A small amount of funds would be used to operate and build the Tri-Agency's capacity for coordinating efforts.

TRI-AGENCY BUDGET
FISCAL YEAR 20XX/20XX

<u>Line Item</u>	<u>Description</u>	<u>Proposed FY 2X/2X Budget</u>
<u>REVENUE:</u>		
9XXXX	Interest	\$0.00
9XXXX	Contributions (Del Norte County)	\$70,000.00
9XXXX	Contributions (City of Crescent City)	\$30,000.00
9XXXX	Contributions (Harbor District)	\$10,000.00
9XXXX	Miscellaneous Revenue/Reimbursements	\$0.00
Total Revenue:		\$110,000.00
<u>EXPENDITURES:</u>		
Salaries and Benefits		
1XXXX	Payroll	\$0.00
1XXXX	Payroll Taxes	\$0.00
1XXXX	Retirement	\$0.00
1XXXX	Employee Benefits	\$0.00
1XXXX	Employee Life Insurance	\$0.00
1XXXX	Workers Compensation	\$0.00
Total Salaries and Benefits:		\$0.00
Services and Supplies		
2XXXX	Communications	\$0.00
2XXXX	Liability Insurance	\$0.00
2XXXX	Property Insurance	\$0.00
2XXXX	Maintenance - Office Equipment	\$0.00
2XXXX	Maintenance - Vehicle	\$0.00
2XXXX	Printing	\$500.00
2XXXX	Postage	\$100.00
2XXXX	Office Supplies	\$100.00
2XXXX	Memberships	\$0.00
2XXXX	Professional Services	\$25,000.00
2XXXX	Rents/Leases	\$0.00
2XXXX	Minor Equipment	\$0.00
2XXXX	Audit Services	\$1,500.00
2XXXX	Travel/Training	\$0.00
2XXXX	Vehicle Fuel	\$0.00

2XXXX	Utilities	\$0.00
Total Operating Expenses:		\$27,200.00
Other Charges		
3XXXX	Loan Repayment (yearly until paid)	\$82,800.00
3XXXX	Department Allotment	\$0.00
Total Non- Operating Expenses:		\$82,800.00
Revenue Over (Under)		\$0.00