

AN ORDINANCE 2009-01-29-0072

APPROVING THE FISCAL YEAR 2009 CITY OF SAN ANTONIO
COMMUNITY INFRASTRUCTURE AND ECONOMIC DEVELOPMENT
(CIED) FUND GUIDELINES.

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WHEREAS, the CPS Energy Board of Trustees (herein referred to as the “Board”), is the governing body for electric and gas utility systems (such systems hereafter referred to as “CPS Energy”) owned by the City of San Antonio (“City”); and

WHEREAS, the Community Infrastructure and Economic Development (“CIED”) Fund was created by the Board for the purpose of benefiting the community and improving the quality of life of CPS Energy customers by funding electric system improvements and other projects that have public safety and public welfare benefits, that support the Board’s commitment to environmental stewardship, and that expand the economy of the CPS Energy service territory, thereby increasing net electric revenues for the economic benefit of CPS Energy and its customers as a whole; and

WHEREAS, the Board approved CIED Fund Policy (the “CPS CIED Policy”) to be used by CPS Energy in evaluating the merits of projects, distributing CIED funds, and administrating the use of such funds; and

WHEREAS, in accordance with the CPS CIED Policy the City must recommend a project to the Board for consideration and evaluation under the CPS CIED Policy prior to receiving any CIED Funds and the City has determined that in order to make such recommendations, the City must develop and implement its own set of guidelines (“City CIED Guidelines”) that must be met prior to the City recommending a project to the Board; and

WHEREAS, City staff has developed such City CIED Guidelines for FY 2009 and with the approval of the City Council’s Economic and Community Development Committee is seeking the approval of the City Council to implement the City CIED Guidelines; **NOW, THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City CIED Guidelines for Fiscal Year 2009, attached as Exhibit A and made a part of this ordinance, are hereby approved and shall be used for evaluating projects to be recommended to the CPS Energy Board of Trustees for evaluation under the CPS CIED Policy.

SECTION 2. The City CIED Guidelines shall be in effect for Fiscal Year 2009 and must be renewed annually.

SECTION 3. The City CIED Guidelines are supplementary and shall not supersede the CPS CIED Fund Policy.

SECTION 4. This Ordinance shall become effective immediately upon its passage by eight (8) affirmative votes of the City Council and if passed and approved upon fewer than eight (8) votes after the tenth (10th) day after passage hereof.

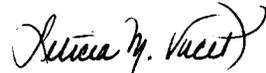
PASSED AND APPROVED this 29th day of JANUARY 2009.



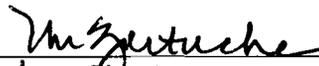
M A Y O R

PHIL HARDBERGER

ATTEST:


City Clerk

APPROVED AS TO FORM: _____


for City Attorney

**City of San Antonio Guidelines
Community Infrastructure and Economic Development Fund (CIED)
Overhead Conversion Projects for FY 2009
Submitted by Economic Development Department
January 29, 2009**

1. Background

1.1 The OCF was created in 1993 and set aside 1% of all electric base revenue each month to fund projects that placed electric utility lines underground. On January 19, 2005, the CPS Energy Board established the CIED Fund to replace the former Overhead Conversion Fund (OCF). On February 1, 2005, the CPS Energy Board expanded the OCF to allow for the funding of environmental stewardship and economic development projects, in addition to overhead conversion projects. At that time, the City's balance of available funding in the CIED Fund was approximately \$44 million. In early 2006, at the request of City Council, the City Manager, City Attorney and Finance Director renegotiated the distribution of CPS Energy payments to the City within the cap of 14%. The formula changes were approved by the Council and CPS Energy Board. Over the past two and one half years, City Council has approved \$21.4 million for overhead conversion projects and \$20.7 million for economic development projects. Furthermore, over the past three fiscal years (FY06-08) the 1% CIED allocation has been transferred to the General Fund pursuant to Ordinance 2006-02-09-0170 effective February 9, 2006 and the annual Adopted Budget. However, due to savings from two recently completed CIED funded projects that came in under budget and of the availability of \$2.8 million no longer necessary for the Texas A&M project, there is now \$5.2 million available in the CIED fund at CPS Energy.

1.2 During the FY 2009 Budget process staff recommended the establishment of CIED Guidelines for the allocation and administration of the available \$5.2 million in CIED funds for overhead conversion projects. Staff, therefore, has developed these Guidelines for the administration of available and remaining CIED funds for this specific purpose during FY 2009. This FY 2009 program assumes that the other telecomm/cable providers (e.g., Time Warner, AT&T) will not participate in funding their costs associated with any overhead conversion projects approved in FY 2009 under these Guidelines unless the overhead conversion project is related to a City street widening or straightening project.

2. Definitions

These Guidelines incorporate by reference the definitions contained in the CPS Energy CIED Fund Policy, as amended from time to time. The definition of an overhead conversion project as stated in Section 5.14 is as follows: "Projects that relocate and/or redesign existing or planned overhead transmission and/or distribution facilities for aesthetic purposes."

3. Purpose of the CIED Fund

3.1 The purpose of the CIED Fund, as outlined in the Policy approved by the CPS Energy Board of Trustees, is to benefit the community and improve the quality of life of CPS Energy's customers.

3.2 Specifically, the CIED Fund provides the City with additional financial resources for overhead conversion projects.

4. CIED Fund Eligible Expenditures

4.1 CIED Fund Eligible Expenditures are defined in Section 5.8 of the CPS Energy Policy. An important limitation is that in general, "Eligible Expenditures" must be costs that under generally accepted accounting principles are capitalized.

4.2 The City of San Antonio will use remaining \$5.2 million available CIED Fund monies for Overhead Conversion Projects only in conducting a FY 2009 program.

5. CIED Fund Eligible Projects

The CIED Fund can be used toward approved overhead conversion projects as defined in Section 5.14 of the CPS Energy CIED Policy) and Section 2 of these Guidelines.

6. City's Eligibility Criteria and Requirements for Overhead Conversion Projects

To be eligible to apply for support from the CIED Fund for a City overhead conversion project, the project must meet the following additional criteria and requirements:

- (a) A project must have construction initiated by CPS Energy within one year of City Council action recommending the project and completed within two years of such approval or by a date established between the City and CPS Energy. If the project is not initiated within one year, the funds committed to the project will revert to potentially fund other CIED projects. If the overhead conversion project is being done in conjunction with a TXDOT project, then the applicant, with assistance from City staff, must coordinate with TXDOT before making application for CIED funds; and
- (b) The applicant (e.g., neighborhood association, developer, etc.) will be asked about their willingness and ability to help pay for the costs of the telecomm/cable providers which is typically about 33% of the total project costs. Any commitment of funding provided by the applicant would be considered by staff in developing recommendations for City Council consideration with respect to project scope and funding. Other sources of funds may be used to cover project costs as necessary.

7. Authorization for Funding from the CIED Fund

7.1. All agreements and allocations for the use of the CIED Fund must be first approved by City Council Resolution, as required in the CPS Energy Policy. The Resolution will

identify the amount of funding to be allocated for a given project and the timeline within which the funds must be expended.

7.2. Staff may use any applicant funding to pay for the costs of the other telecomm/cable providers. If necessary, staff may also recommend to City Council and CPS Energy transfer of an amount from the available \$5.2 million in FY 2009 CIED Fund dollars to the city in order for the city to identify necessary funds to pay for the costs of the other telecomm/cable providers, if the other telecomm/cable providers and/or the applicant do not provide sufficient funds to cover these costs. The use of such funds will be subject to the 14% cap imposed on the transfer of such funds to the City by CPS Energy.

8. Administration of CIED Funds:

If a project is approved, CIED Fund monies will be allocated to the project by CPS Energy. CPS Energy will manage and administer the design, construction and CIED Fund funding for all electric infrastructure projects.