City Auditor's Office

21-04 Community Redevelopment Agency Performance Audit

Report Issued: February 18, 2022

Audit Report No. 21-04

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TO: Mayor Gunter and Council Members

FROM: Andrea R. Russell, City Auditor ARR

DATE: February 18, 2022

SUBJECT: 21-04 Community Redevelopment Agency Performance Audit

The City Auditor's Office has completed a performance audit of the South Cape Community Redevelopment Agency (CRA). The audit was conducted in conformance with Generally Accepted Government Auditing Standards by the authority granted through City Ordinances 28-02 and 79-10.

We would like to express our sincere appreciation to the City Manager in his capacity as the Executive Director of the CRA and his department management and staff for the courtesy, cooperation and proactive attitude extended to the team members during the audit. If you have any questions or comments regarding this audit, please contact Andrea Russell at 242-3380.

C: Rob Hernandez, City Manager, CRA Executive Director
Dolores Menendez, City Attorney
Kimberly Bruns, City Clerk
Linda Biondi, CRA Board of Commissioners Chair
CRA Board of Commissioners
Maureen Buice, Assistant to the City Manager
Audit Committee

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EXECUTIVE SUMMARY

The City Auditor's Office conducted a performance audit of the South Cape CRA. This audit was not included in the City Auditor's FY21 approved Audit Plan. It was an addition to the FY21 audit plan and was completed at the request of both the City Manager, acting in his capacity as the CRA Executive Director, and the CRA Board of Commissioners Chair.

Based on the test work performed, we concluded overall that the CRA processes comply materially with applicable state statutes, CRA By-Laws, and City Ordinances. In general, administration of the CRA follows City policies and procedures including processes for procurement, hiring, and financial. While this is not an issue in the daily operations of the CRA; it could lead to unclear processing with the implementation of future incentive programs and projects due to increasing complexity and the various stakeholders such as the City, CRA, and businesses that would be involved in future programs. This is discussed in further detail in the Findings and Recommendations section.

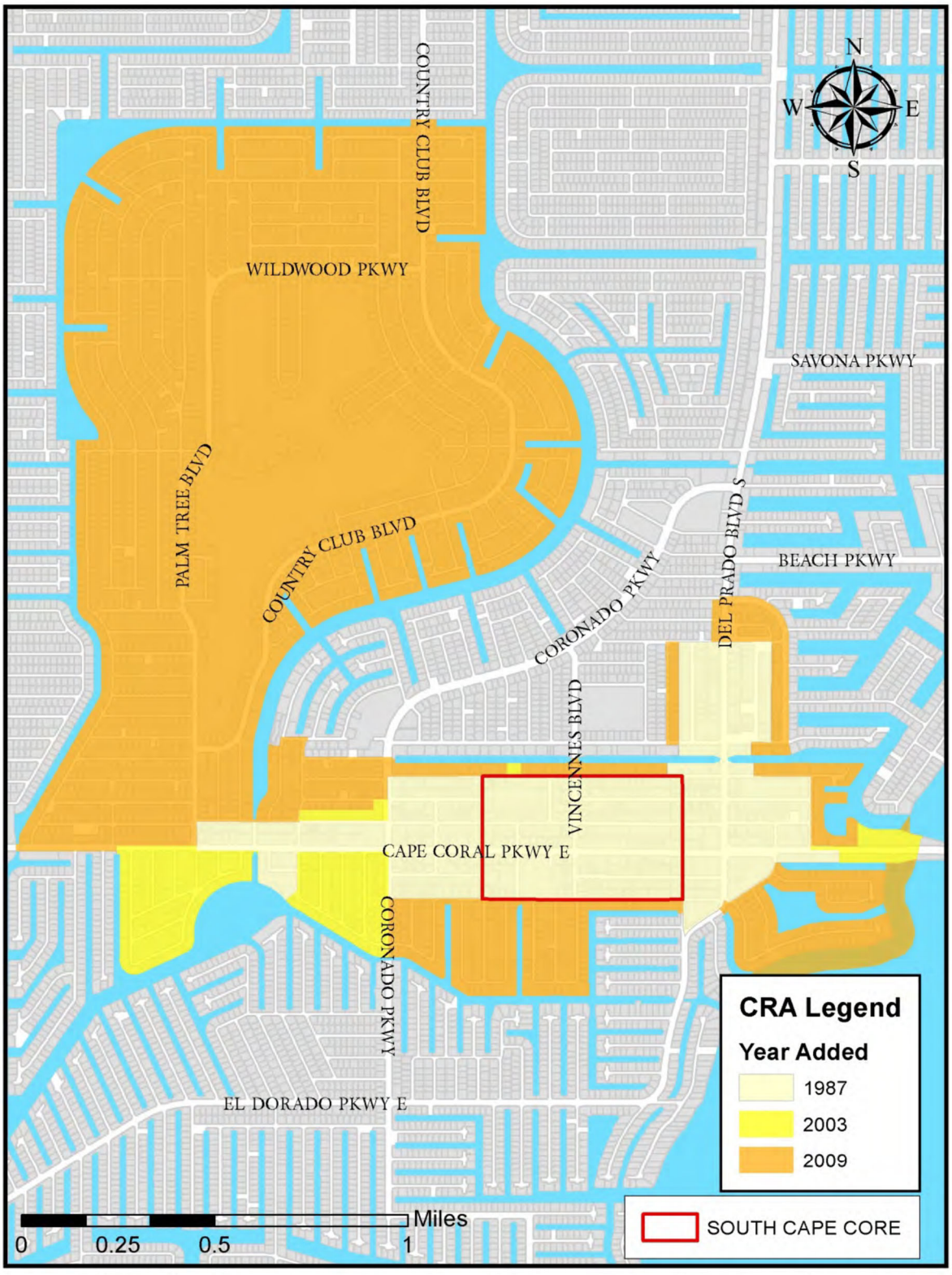
While we noted certain controls needed improvement in the South Cape Cares loan program, tested as part of the audit, no material control deficiencies or instances of non-compliance were noted.

BACKGROUND

Florida State Statute (FSS) 163, Part III provides the requirements for local governments to designate zones as community redevelopment areas where certain conditions exist. These conditions include, but are not limited to, the presence of substandard or inadequate structures; a shortage of affordable housing; inadequate infrastructure; insufficient roadways; and inadequate parking.

City Ordinance 39-86 originally established the City Council as the Community Redevelopment Agency. In 1987, Ordinance 49-87 adopted the first Redevelopment Plan and Ordinance 51-87 established the Redevelopment Trust Fund. In January 2018, pursuant to FSS 163.357, Council approved Ordinance 1-18 to establish an appointed Board of Commissioners of the CRA, thereby removing the responsibility from Council. The City Manager was designated as the Executive Director for the CRA. The South Cape Downtown Community Redevelopment Plan (The Plan) "endeavors to provide a clear road map to identify the resources and strategies available to bring to South Cape a positive change for residents, property owners, tenants and visitors alike." The Plan is comprehensive and provides a history, current state and redevelopment goals, objectives, and policies.

Over the years, numerous projects such as, 47th Terrace Streetscape, have been implemented, as well as identification of additional areas considered to be included in the CRA area. The following is a map of the CRA from inception to current.



CRA Boundary Expansion Areas

Prepared By: The City of Cape Coral Planning Division

There are also various ways the City seeks to encourage growth in the CRA including: development and expansion of incentive programs, aesthetic, and infrastructure improvement; diversification of funding; as well as facilitation of several large projects for new business to the area.

Policies and programs for the CRA are set by the five-member Board of Commissioners. Day to day administration is overseen by the City Manager, who functions as the CRA Executive Director. The CRA has one staff member assigned as a Specialist, who handles administrative functions for the Executive Director and the Board of Commissioners and works closely with the City's Economic Development Office. In general, the board meets once a month. The budget for FY19 was approximately $2.2 million and FY20 was approximately $2.3 million.

AUDIT OBJECTIVES

- Evaluate controls in place to determine if administration of the CRA supports the South Cape Downtown Community Redevelopment Plan.

- Evaluate if CRA funding is administered in accordance with all applicable statutes and regulations.

STATEMENT OF AUDITING STANDARDS

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS AND RECOMMENDATIONS

FINDING 2021-01 CRA administrative procedures need improvement
Rank: Medium

Condition:
The CRA is located in the South Cape and its mission is to enhance the South Cape and create a vibrant urban village. The CRA encourages investment, both public and private, to boost economic growth and improve the quality of life in the CRA area. The CRA Board of Commissioners is the formal governing body for the CRA and sets policies and programs. There are two City employees, the City Manager, as the Executive Director, and the CRA Specialist, who are charged with administering the CRA daily activities, since the board is made up of private citizens and business owners who do not work for the City. Daily administrative tasks are performed by the CRA Specialist. As part of the audit, we requested the policies and procedures for the day-to-day administration of the CRA. While policy is set by FSS, By-Laws

and City Ordinances, there are no administrative procedures formally documented for daily activities or special projects.

South Cape Cares Forgivable Loan Program
Because of impacts to CRA businesses due to the COVID 19 pandemic, the CRA administered the South Cape Cares forgivable loan program in June 2020. While there was a formal application and review process in place, there was no overall documented procedures to clearly state roles, responsibilities, or detailed procedures performed to award the loans and administer the program. It appears the loans were awarded appropriately based on established criteria; however, it should be noted that all of the vendor checklists in the files we reviewed, while present in the files, were incomplete. In one instance, due to no formal or documented monitoring process, a social media post alerted the CRA Specialist one of the businesses that received a loan check, had been closed. One of the requirements for the loan was the business must remain in operation. A stop payment was put on the check and the business did not receive funds; however, if the social media post wasn't seen, the check would have been issued in error to a business ineligible for the funds.

Cape Competes Incentive Program
Late in 2021, the City Manager brought forth to Council a series of incentive programs for the entire Cape that included tax and business development incentives. The CRA was included in the program. At the time of the audit, the program was still going through the process to be enacted. It was brought before Council and approved in December 2021. The Cape Competes Guidelines will be presented to the CRA Board of Commissioners, for adoption at a special meeting scheduled for March 2022. As part of the audit, we reviewed the program guidelines. While they provide a lot of information and details about the programs, there were some areas that will need more detailed procedures to assist with the administration of the programs included in Cape Competes, once they are implemented. One of the most important areas that needs to be formalized and documented is roles and responsibilities, since the programs would affect several departments in the City such as the CRA, Finance, Economic and Business Development, and Development Services. It is important to detail and document roles and responsibilities and procedures to ensure proper communication across departments and provide efficient processes for both the city and the businesses participating in the programs.

As with the CRA in general and incentive program requirements, there are FSS that provide overall, general requirements; however, at times state statutes are too high level to provide details necessary for daily administration. Detailed procedures should be in place to assist in proper administration of the CRA and any associated programs.

Criteria:
- FSS 163 Part III
- CRA By-Laws
- Ordinance 1-18; 51-87; 81-21
- Chapter 27 City Code of Ordinances
- South Cape Cares loan application, program process flow, and checklist
- FSS 166.021 (Cape Competes incentive program funding and guidelines)
- Cape Competes Economic and Business Development Guidelines

Cause:

- Lack of documented roles, responsibilities, policies, and procedures
- Reliance on by-laws, statutes, and ordinances to perform detail or day-to-day operations

Effect:

- Potential non-compliance with FSS, regulations, by-laws, ordinances, and guidelines
- Potential loss of funding or repayment of funds received to granting agency if not properly administered
- Improper administration of incentive or loan programs

RECOMMENDATIONS:

2021-01a: Document administrative policies and procedures for the CRA. The policies and procedures should clearly define roles and responsibilities and provide procedures detailed enough to allow for appropriate administration of the CRA and associated programs.

2021-01b: Develop formal documented administrative policies and procedures for the Cape Competes Economic and Business Development Incentive Program based on program guidelines. The procedures should clearly define roles, responsibilities and provide procedures detailed enough to allow for appropriate administration of the incentive programs for all City departments involved in the process.

Management Response and Corrective Action Plan:

2021-01a Select one of these boxes: ☒ **Agree** ☐ **Partially agree*** ☐ **Disagree***
***For partially agree or disagree provide reasoning on why:

2021-01a As a component unit of the City, the work of the Community Redevelopment Agency (CRA) is guided by the CRA Redevelopment Plan with the City Manager serving as the Executive Director and city departments providing support as necessary. Consequently, administrative, purchasing, personnel and other management functions generally follow the administrative regulations and operational policies and procedures established by the City.

2021-01a **Management Action Plan Coordinator:** *CRA Executive Director*

2021-01a **Anticipated Completion Date:** *Implemented February 18, 2022*

2021-01b Select one of these boxes: ☒ **Agree** ☐ **Partially agree*** ☐ **Disagree***
***For partially agree or disagree provide reasoning on why:

2021-01b As of this audit response, the CRA Board of Commissioners has not adopted the Cape Competes Program. However, we believe that the program guidelines provide reasonable administrative guidance to facilitate implementation and oversight. The development of additional procedures may be burdensome. Every development opportunity is unique with its own challenges. Therefore, it is important to have flexibility in crafting incentive packages for a particular project rather than rigid policies and procedures that don't allow for deviation.

Software is being purchased that enables city staff to manage intake, compliance, reporting, contacts, funding, and loan management activities in one comprehensive program that is specifically designed for housing and economic development activities and programs. The purchase request for the software purchase was submitted to the Procurement Division.

2021-01b Management Action Plan Coordinator: *CRA Executive Director*

2021-01b Anticipated Completion Date: *March 1, 2023*

SCOPE AND METHODOLOGY

Based on the work performed during the planning phase and the assessment of risk, the audit covered the processes in place for January 1, 2018, through June 30, 2021. Testing was performed using applicable FSS, CRA By-Laws, City Ordinances, tax roll information, South Cape Downtown Redevelopment Plan, Cape Competes Program Guidelines and City policies and procedures that were in effect during the scope.

Original records as well as copies were used as evidence and verified through physical examination. Sample size and selection were based on the CAO Sample Methodology. To gain a better understanding of the CRA processes we walked through selected areas such as the Cape Cares Forgivable Loan Program with City staff. We judgmentally selected a sample of loan applications for the South Cape Cares loan program to determine if the loans were administered in accordance with the program requirements. We also reviewed the Cape Competes program guidelines, prior to Council approval of the programs, to determine if the appropriate details were included in guidelines to allow for proper administration of the incentive programs. It is important to note the program was approved by Council and at the time of the audit had not gone before the CRA board for approval. Finally, we reviewed journal entries and support for the FY19 and FY20 tax funding allocations to the CRA trust fund.

The tests and procedures described above support the audit objectives to determine if:

- Controls were in place over the administration of the CRA to support goals and objectives according to the Plan and,
- Controls over funding and allocation of funds complied with applicable laws and ordinances.

In order to achieve the audit objectives, we used data from the City's financial accounting system. The information is tested by the external auditors as part of the Annual Comprehensive Financial Report. Based on the results of their procedures, no additional data reliance testing was deemed necessary.

Unless specifically stated otherwise, based on our selection methods, and testing of transactions and records, we believe that it is reasonable to project our results to the population and ultimately draw our conclusions for testing, findings, and recommendations on those results. Additionally, for proper context we have presented information concerning the value and/or size of the items selected for testing compared to the overall population and the value and/or size of the exceptions found in comparison to the items selected for testing.

APPENDIX A

Finding Classification
Findings are grouped into one of three classifications: High, Medium, or Low. Those findings that are categorized as low are not included in the report but rather are communicated separately to management. Classifications prioritize the findings for management to address and also indicate the level of testing required to determine if a finding's Corrective Action Plan is fully implemented in accordance with recommendations and Management's Response.

High: A finding that is ranked as "High" will have a significant impact on the organization. It is one that *prevents* the achievement of a substantial part of significant goals or objectives, or noncompliance with federal, state, or local laws, regulations, statutes, or ordinances. Any exposure to loss or financial impact for a High finding is considered *material*. Examples include direct violation of City or Department policy, blatant deviation from established policy and procedure, such as actions taken to circumvent controls in place, material non-compliance with federal, state, or local laws, regulations, statutes or ordinances, or an area where significant cost savings could be realized by the Department or the City through more efficient operations.

High findings require immediate management attention and should take management's priority when considering implementation for corrective action.

Medium: A "Medium" finding is one that *hinders* the accomplishment of a significant goal or objective or non-compliance with federal, state, or local laws, regulations, statutes, or ordinances, but can't be considered as preventing the accomplishment of the goal or objective or compliance with federal, state or local laws, regulations, statutes or ordinances. Exposure to loss or potential or actual financial impact is *significant but not material* to the Department or City. Examples include lack of monitoring of certain reports, insufficient policies and procedures, procedure in place or lack of procedure that can result in *potential* noncompliance with laws and or regulations.

Medium findings require management attention within a time frame that is agreed upon by the Department and the City Auditor. Priority for implementation of management's corrective action should be considered in light of other High or Low findings.

Low: A "Low" finding is one that warrants communication to management but is one that isn't considered as hindering the accomplishment of a significant goal or objective and isn't causing noncompliance with federal, state, or local laws, regulations, statutes or ordinances. Financial impact or risk of loss is minimal to none; however, low findings can *hinder the effectiveness or quality of department operations and thus are communicated to management separately. Low ranked findings are not included in the final audit report.*

The City Auditor's Office will not follow up on the status of Low findings communicated to Management.