



TOWN OF FAIRFAX

STAFF REPORT

June 7, 2017

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*

SUBJECT: Adoption of a resolution authorizing execution of Community Development Block Grant (CDBG) program and HOME program Cooperation Agreement with the County of Marin

RECOMMENDATION

Adopt a resolution authorizing execution of a three-year CDBG program and HOME program Cooperation Agreement with the County of Marin.

DISCUSSION

The Community Development Block Grant Program provides grants from the U.S. Department of Housing and Urban Development (HUD) to local governments for housing, community facility, and human service programs serving lower-income people. The HOME Investment Partnerships Program (HOME) provides additional assistance for housing activities. Marin County qualifies for both the CDBG and HOME programs because the cities/towns have signed cooperation agreements to participate with the County government in a single joint countywide program. In 2014, all of the cities and towns in Marin entered into three-year CDBG Cooperation Agreements enabling the County to obtain formula funds on a countywide basis. In order to continue the CDBG and HOME programs in Marin County, the County is asking all cities and towns to renew their Cooperation Agreements by June 15, 2017.

The attached 2017 Cooperation Agreement is similar to the 2014 agreement. However, there are some changes based on anticipated significant cuts to the CDBG and HOME budgets in the federal budget and directions from HUD staff. Those changes are summarized as follows:

- Reducing the planning areas from six to three: San Rafael Planning Area, Novato Planning Area and the Rural and Small Communities Planning Area.
- Funding recommendations will be made using geographic equity as a principle, especially in public services.
- Minor changes as required to comply with the latest HUD guidelines for CDBG Urban County qualification.

FISCAL IMPACT

The Town does not receive funds directly from this program, but the CDBG allocation countywide would be impacted without this agreement.

ATTACHMENT

Resolution with Cooperation Agreement attached

AGENDA ITEM # 7

RESOLUTION 17-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AUTHORIZING EXECUTION OF COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM AND HOME PROGRAM
COOPERATION AGREEMENT WITH THE COUNTY OF MARIN**

WHEREAS, it is mutually desired by the Town of Fairfax and the County of Marin that they enter into a Cooperation Agreement in accordance with the Housing and Community Development Act of 1974, as amended, in order to jointly undertake community renewal and lower-income housing assistance activities;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Fairfax hereby approves and authorizes the Mayor to execute on behalf of said Town, the three-year Cooperation Agreement with the County of Marin for the Community Development Block Grant Program, the HOME Investment Partnerships Program, and the Emergency Solutions Grants Program, attached hereto as Exhibit 1; and

BE IT FURTHER RESOLVED that the Town hereby adopts the policies included in said Cooperation Agreement.

The foregoing resolution was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 7th day of June 2017 by the following vote:

AYES:

NOES:

ABSENT:

JOHN REED, MAYOR

Attest:

Michele Gardner, Town Clerk

Exhibit 1 – Cooperation Agreement

COOPERATION AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2017, by and between TOWN OF FAIRFAX, hereinafter referred to as "City," and COUNTY OF MARIN, hereinafter referred to as "County."

WITNESSETH

WHEREAS, _____ is a duly constituted municipal corporation under the laws of the State of California, and is empowered thereby to undertake essential community renewal and lower-income housing assistance activities; and

WHEREAS, COUNTY OF MARIN is a duly constituted subdivision of the State of California, and is also empowered by State law to undertake essential community renewal and lower-income housing assistance activities; and

WHEREAS, Government Code Sections 6500, et seq., authorize two or more public agencies to jointly exercise any power common to both; and

WHEREAS, it is mutually desired by the parties hereto to enter into a Cooperation Agreement, in accord with the Housing and Community Development Act of 1974, as amended, and applicable Federal rules and regulations adopted pursuant thereto, whereby the parties shall jointly undertake community renewal and lower-income housing assistance activities, including those funded by the Community Development Block Grant Entitlement Program (CDBG), the HOME Investment Partnerships Program (HOME), and the Emergency Solutions Grants Program (ESG); and

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

1. The parties hereto agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities, pursuant to the Housing and Community Development Act of 1974, as amended, the HOME Investment Partnerships Act, as amended, and the Stewart B. McKinney Homeless Assistance Act, as amended. City agrees to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities. This Agreement shall become effective October 1, 2017, and be in effect until terminated, but termination may not occur before September 30, 2020. In any event, this agreement shall remain in effect until the Community Development Block Grant, HOME Investment Partnerships Program, and Emergency Solutions Grants Program funds from appropriations for federal fiscal years 2018, 2019, and 2020 and any program income received with respect to activities carried out during the three-year qualification period are expended and the funded activities completed. Neither County nor City may terminate or withdraw from this Cooperation Agreement while it remains in effect.
2. Upon certification of Marin County, including all or a portion of the incorporated cities, as an "urban county" for federal fiscal years 2018, 2019, and 2020, under the Housing and Community Development Act of 1974, as amended, and applicable rules and regulations adopted pursuant thereto, a Priority Setting Committee shall be formed consisting of one (1) representative designated by each of the cities with a population over 50,000 and one (1) representative designated by the Board of Supervisors. All other participating cities and towns may each designate up to one representative. With mutual consent of the Board of Supervisors and each of the participating cities, the Priority Setting Committee may be expanded to include one or more additional community member(s) who represent the interests of racial and ethnic minorities, individuals with disabilities, and/or other protected classes. Each representative

shall have equal voting rights on the Committee. The Committee shall prepare a proposed budget for the use of funds, and any other documentation required by the U.S. Department of Housing and Urban Development (HUD) for the Community Development Block Grant Program, the HOME Investment Partnerships Program, and the Emergency Solutions Grants Program, including, but not limited to, a list of specific projects to be undertaken and priorities for implementation for both housing and community development projects.

In preparing its proposed plans, project priorities, proposed budget, and other documentation, the Committee shall disseminate complete information to citizens of Marin County concerning its proposals and alternatives; shall conduct public hearings to obtain the views of citizens on community development and housing needs; and shall provide citizens with adequate opportunity to participate in the development of programs and priorities.

To ensure adequate participation in the planning process, three planning areas will be designated which will include the cooperating incorporated cities as well as adjacent unincorporated areas. These will be the Novato Planning Area, the San Rafael Planning Area, and the Rural and Small Communities Planning Area.

3. After deduction of administrative expenses, forty percent (40%) of the net Community Development Block Grant monies and one hundred percent (100%) of the net HOME Investment Partnerships Program monies allocated annually to the County of Marin as an "urban county" under the Housing and Community Development Act of 1974, as amended, and the HOME Investment Partnerships Act, as amended, shall be allocated for housing purposes on a countywide basis. The portion of CDBG funds described in the immediately preceding sentence shall be known as "CDBG Countywide Housing funds." Distribution of such funds will be made by the Board of Supervisors, on recommendation of the Priority Setting Committee. Such distribution will be consistent with HUD guidelines and evaluation criteria developed by participating cities and the county, to ensure consistency and facilitate implementation of countywide housing goals.
 3. The Priority Setting Committee will seek to allocate funds based on the principles of geographic equity and the general Community Development Block Grant funding distribution formula used by HUD to determine Marin County's allocation, the latest available countywide data on population, the extent of poverty, and the extent of housing overcrowding, with the provision that the extent of poverty be counted twice. However, a different distribution formula is hereby expressly authorized if and when necessary to comply with Title I of the Housing and Community Development Act of 1974, as amended. Recommendations for the use of funds shall be made by the Priority Setting Committee, as described above in Section 2, and then referred to the Marin County Board of Supervisors. The Marin County Board of Supervisors will make the final funding decisions. If any project submitted by County as a portion of the Community Development Block Grant documentation is found to be ineligible by HUD, the proposed project shall not be funded. In such an event, the County, acting in concert with the Priority Setting Committee may submit an alternative priority project which is within the original cost and in line with the stated needs and objectives of County, provided such a resubmission conforms with the rules and regulations of the Department of Housing and Urban Development for the administration of Title I of the Housing and Community Development Act of 1974, as amended.
4. Upon completion of Priority Setting Committee deliberations, the proposed budget and other documentation shall be submitted to the Marin County Board of Supervisors for review and approval. The Marin County Board of Supervisors will have final responsibility for selecting Community Development Block Grant (CDBG), HOME, and ESG activities and submitting the Consolidated Plan and other documentation to HUD.

5. For any Planning Area with a population of 50,000 or more (according to population estimates issued by the U.S. Department of Housing and Urban Development), the system described in Section 3 of this Agreement for allocation of Community Development Block Grant funds will, at the option of the largest city in the Planning Area be modified as follows:

The City Council of the largest city in the Planning Area will prepare the proposed list of projects for the use of (a) that Planning Area's funds, and (b) that Planning Area's "proportional share" of CDBG Countywide Housing funds allocated according to the formula described in Section 3 of this Agreement. The City Council will establish its own system for setting local funding priorities, but its process for selecting projects must include a public hearing and consistency with all regulations. The City Council must consider the needs of all eligible persons who reside within census tracts associated with the City, including those residing outside the city limits, but will not be subject to any quotas with regard to the type or location of projects. The resulting recommendations will be referred to the full Priority Setting Committee and then to the Marin County Board of Supervisors for review and approval. The Priority Setting Committee will recommend allocation of HOME and ESG funds on a countywide basis, but may restrict the CDBG Countywide Housing funds remaining under its jurisdiction to geographic areas not implementing the provisions of this paragraph.

This Section 5 shall not be applied in any year that the total Community Development Block Grant monies allocated to Marin County is less than \$500,000. In any year that the total Community Development Block Grant monies allocated to Marin County is less than \$500,000, the Priority Setting Committee will make all funding recommendations pursuant to the system described in Section 3.

6. City may terminate its participation in this Cooperation Agreement and membership on the Priority Setting Committee by a single majority vote of its governing body. Such termination shall take effect only at the end of the federal three-year urban county qualification period in which the action is taken. The next such qualification period will end September 30, 2020. Subsequent urban county qualification periods will end September 30 on every third year following that date.
7. This Cooperation Agreement shall not exempt any project from the required local government planning approval process. Community Development Block Grant, HOME, and ESG funds received by County may be allocated to projects only through the process described in this Cooperation Agreement.
8. Pursuant to the Cooperation Agreement, County, acting through the Board of Supervisors, shall be the primary general-purpose local governmental unit under the Housing and Community Development Act of 1974, as amended. It shall be the responsibility of County to apply for grants, to administer all funds received, and to undertake or assist in undertaking essential community renewal and lower income housing assistance activities. County shall have the authority to carry out activities which will be funded from annual Community Development Block Grants, from HOME Investment Partnerships Program funds, and from Emergency Solutions Grants Program funds from Federal Fiscal Years 2018, 2019, and 2020 appropriations and from any program income generated from the expenditure of such funds. Records shall be

kept by County in accordance with approved accounting procedures, and said records shall be available for public inspection at all times.

9. County, City, and all other cooperating cities shall take all actions necessary to assure compliance with the urban county's certification under section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, regarding Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and affirmatively furthering fair housing. County, City, and all other cooperating cities shall also take all actions necessary to assure compliance with Section 109 of Title I of the Housing and Community Development Act of 1974 (which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975), and other applicable laws.

Use of urban county funds for activities in, or in support of, any cooperating city that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with the county's fair housing certification shall be prohibited.

Pursuant to 24 CFR 570.501(b), City is subject to the same requirements applicable to sub recipients, including the requirement of a written agreement as described in 24 CFR 570.503.

County, City, all other cooperating cities, metropolitan cities, urban counties, units of general local government, Indian tribes, and insular areas that directly or indirectly receive funds provided under Title I of the Housing and Community Development Act of 1974, as amended, may not sell, trade, or otherwise transfer all or any portion of such funds to another such entity in exchange for any other funds, credits, or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

10. City shall inform County of any income generated by the expenditure of Community Development Block Grant funds, HOME Investment Partnerships Program funds, or ESG funds received by City. Any such program income shall be paid to County for use for eligible activities in accordance with all Community Development Block Grant, HOME Investment Partnerships Program, and ESG requirements as may then apply. County has the responsibility for monitoring and reporting to HUD on the use of any such program income, thereby requiring appropriate recordkeeping and reporting by City as may be needed for this purpose. In the event of close-out or change in status of City, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to County.
11. The following standards shall apply to real property acquired or improved in whole or in part using Community Development Block Grant, HOME, or ESG funds that is within the control of a participating City.
 - a. City shall give County timely notification of any modification or change in the use of the real property from that planned at the time of acquisition or improvement including disposition.
 - b. City shall reimburse County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of funds other than Community Development Block Grant, HOME, or ESG) of property acquired or improved with Community Development Block Grant, HOME, or ESG funds that is sold or transferred for a use which does not qualify under the Community Development Block Grant, HOME, or ESG regulations.

- c. City shall pay to County any program income generated from the disposition or transfer of property prior to or subsequent to the close-out, change of status or termination of the cooperation agreement between County and City. Any program income shall be allocated by County for eligible activities in accordance with all Community Development Block Grant, HOME, or ESG requirements as may then apply.
12. The parties hereto agree that the final responsibility for analyzing needs, setting objectives, developing plans, selecting projects for community development and housing assistance, selecting Community Development Block Grant, HOME, and ESG activities, and filing the Consolidated Plan and other required documentation rests with County, as required by the Housing and Community Development Act of 1974, as amended.
13. The City shall defend, save, hold harmless and indemnify the County, its officers, agents and employees from all liabilities and claims for any fines, penalties, bodily injury, death, sickness or damages of any type from any cause whatsoever that arises from or is connected with (i) the City's failure to comply with any requirement of the CDBG Act and the HOME Act or the regulations, guidelines, bulletins or circulars that are issued pursuant thereto, and (ii) any City activity that is financed by funds granted hereunder pursuant to the CDBG Act and the HOME Act. Without limiting the foregoing, the provisions of this paragraph apply fully in the event the City participates in the Section 312 Federal Rehabilitation Loan Program in conjunction with the Community Development Block Grant and HOME Investment Partnerships Act programs.
14. By executing this Community Development Block Grant Program Cooperation Agreement, City understands that it may not apply for grants under the State Community Development Block Grant Program from appropriations for fiscal years during the period in which it participates in the urban county's Community Development Block Grant Program; that it will be part of the urban county for the HOME Program and ESG if the urban county receives HOME and ESG funding, respectively; that it may receive formula allocations under the HOME Program and ESG only through the urban county; and that, even if County does not receive a HOME formula allocation, City cannot form a HOME consortium with other local governments except through the urban county. This does not preclude City or County from applying to the State for HOME or ESG funds, if the State allows.
15. The cooperating unit of general local government has adopted and is enforcing:
 - a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 - b. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

The phrase "cooperating unit of general local government" has the same meaning in this Cooperation Agreement as it does in HUD Notice #CPD-13-04.

IN WITNESS WHEREOF, the parties have executed the above instrument on the day and year first above written.

COUNTY OF MARIN

CITY OF FAIRFAX

By: _____
Judy Arnold, President
Board of Supervisors

By: _____
Mayor

ATTEST:

ATTEST:

Deputy Clerk of the Board

Town Clerk

MASTER FORM APPROVED AS TO FORM:

Tarisha Bal
Deputy County Counsel
County of Marin