

RESOLUTION 2017-32

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, APPROVING THE COOPERATION AGREEMENT WITH MARICOPA COUNTY RELATING TO A COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND RATIFYING THE TOWN MANAGER'S EXECUTION OF THE RELATED COOPERATION AGREEMENT.

WHEREAS, the Town of Fountain Hills (the "Town") and Maricopa County, Arizona (the "County") desired to enter into a Cooperation Agreement (the "Agreement") relating a Community Development Block Grant Program; and

WHEREAS, due to timing restrictions, the Town Manager executed the Agreement before receiving approval from the Town Council; and

WHEREAS, the Town Council desires to approve the Agreement and ratify the Town Manager's execution of the Agreement.

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. The recitals above are hereby incorporated as if fully set forth herein.

SECTION 2. The Town Council hereby (i) approves the Agreement attached hereto as Exhibit A, and incorporated herein by reference and (ii) ratifies the Town Manager's execution of the Agreement.

SECTION 3. The Mayor, the Town Manager, the Town Clerk and the Town Attorney are hereby authorized and directed to cause the execution of the Agreement and to take all steps necessary to carry out the purpose and intent of this Resolution.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, September 19, 2017.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:



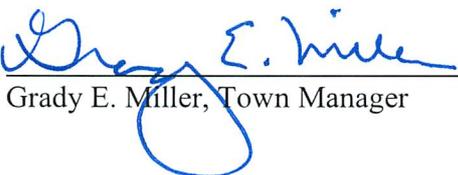
Linda M. Kavanagh, Mayor



Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:



Grady E. Miller, Town Manager



Andrew J. McGuire, Town Attorney

EXHIBIT A
TO
RESOLUTION 2017-32

[Agreement]

See following pages.

C-22-17-065-3-01

**A COOPERATION AGREEMENT BETWEEN THE COUNTY OF MARICOPA
AND
PARTICIPATING MUNICIPALITY
FOR A COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM**

THIS AGREEMENT is made and entered into this 23rd day of August, 2017 by and between the County of Maricopa, a political subdivision of the State of Arizona, hereinafter called "County", and the Town of Fountain Hills, located in the County of Maricopa, hereinafter called "Municipality".

WITNESSETH

Whereas two laws have been enacted, Public Law 93-383, the Housing and Community Development Act of 1974, Title I as amended, and Public Law 101-625, HOME Investment Partnership Act at Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, as amended; hereafter called "the Acts"; and

Whereas the County, as an "Urban County " as that term is used in the Acts, is eligible to receive funds under the Acts, has final responsibility for selecting Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME) and Emergency Solutions Grant (ESG) activities, and is authorized to undertake or to assist in the undertaking of essential community development and housing assistance activities which shall be funded from annual CDBG, HOME and ESG grants from federal Fiscal Years 2018, 2019, 2020 appropriations and from any program income generated from the expenditure of such funds, and

Whereas the CDBG, HOME and ESG regulations issued pursuant to the Acts provide that qualified urban Counties must submit a Consolidated Plan and Annual Action Plans hereafter called "Plan" or "Plans", and Consolidated Annual Performance and Evaluation Reports (CAPERs) to the U. S. Department of Housing and Urban Development (HUD) for use of funds and that cities and towns within the metropolitan area not qualifying as metropolitan cities may join the County in said Plans and CAPERs and thereby become a part of a more comprehensive Urban County effort.

NOW THEREFORE, the County and Municipality agree as follows:

1. This Agreement shall cover the CDBG Entitlement program, the HOME Investment Partnership (HOME) and Emergency Solutions Grants (ESG) Programs.

2. The period of performance of this Agreement shall:
 - a. Be for the federal Fiscal Years 2018, 2019 and 2020, (July 1, 2018 through June 30, 2021) under the plan which shall commence on the date of HUD approval of the County's Annual Action Plan and
 - b. Remain in effect until the CDBG, HOME and ESG funds and the program income received with respect to activities carried out during the three-year qualification period and any successive qualification period, if applicable, are expended and the funded activities completed.
 - c. The County and the Municipality cannot terminate or withdraw from the cooperation agreement while it remains in effect. Subject to renewal in Paragraph 3, this Agreement shall remain in effect until either funds are expended, or the funded activities are completed, or 3 years, whichever occurs first.
3. Automatic Renewal:
 - a. The Agreement may be automatically renewed for participation in successive three-year qualification periods, unless the County or the Municipality provides written notice it elects not to participate in a new qualification period.
 - b. By the date specified in the HUD urban county qualification notice for the next qualification period, the County shall notify the Municipality in writing of the Municipality's right not to participate.
 - c. A copy of the County's notification to the Municipality will be sent to the HUD Field Office by the date specified in Section II of the urban county qualification schedule.
 - d. Failure by either party to adopt an amendment to the Agreement incorporating all changes necessary to meet the requirements for cooperation agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period and to submit the amendment to HUD by the due date, shall void the automatic renewal of such qualification period.
4. The County and the Municipality agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities.
5. The County and the Municipality will take all actions necessary to assure compliance with the County's certification required by 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. The Parties will also comply with Section 109 of Title I of the Housing and Community Development Act of 1974, as amended, which incorporates Section 504 of the Rehabilitation Act of 1973, as amended and the

Age Discrimination Act of 1975, as well as, the Americans with Disabilities Act of 1990 and all other applicable laws.

6. The County and the Municipality recognize the prohibition of urban county funding for activities or in support of a Municipality that does not affirmatively further fair housing within the Municipality's own jurisdiction or that impede the County's actions to comply with its fair housing certification.
7. The County and the Municipality recognize that pursuant to 24 CFR 570.501 (b), the Municipality is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement set forth in 24 CFR 570.503.
8. The County and the Municipality recognize that:
 - a. The County is the governmental entity required to execute any grant agreement received pursuant to its Plan, and that the County shall thereby become legally liable and responsible thereunder for the proper performance of the Plan and program.
 - b. The County has final responsibility for selecting CDBG, HOME, and ESG activities and submitting the Consolidated Plan to HUD for the County and the HOME Consortium.
 - c. Further, the Municipality agrees to hold the County harmless from any loss, damage or liability that may arise out of the performance or failure to carry out the requirements of this program where the Municipality has been given responsibility over any aspect of the program by the County.
9. The County and the Municipality agree that a fully executed amendment or amendments to this Agreement shall be entered into only as required for the purpose of complying with any grant agreement received or regulations issued pursuant to the Acts.
10. The County and Municipality agree that the terms, conditions and obligations of this Agreement are enforceable and shall remain in effect until such time as the Agreement is not renewed pursuant to Paragraphs 2 and 3. Notwithstanding the foregoing, if any action is taken by any federal agency or instrumentality to suspend, decrease or terminate its fiscal obligation affecting the capacity of the Parties to continue this Agreement, the Parties may amend, suspend, decrease or terminate its obligations under or in connection with this Agreement.
11. This Agreement is subject to the provisions of A.R.S. § 38-511.
12. To assist the County in performing its functions under the Acts, there shall be a Community Development Advisory Committee, hereafter called "CDAC", authorized by the County Board of Supervisors consisting of representatives from the County districts and cooperating municipalities. CDAC's recommendations shall be advisory and shall not bind the County.

13. The County Agrees to include the Municipality in its Plans under the Acts.
14. The participating Municipality understands that it:
 - a. May not apply for grants from appropriations under the State CDBG Programs for fiscal years during the period in which it participates in the County's CDBG Program.
 - b. May receive a formula allocation under the HOME Program only through the County. Thus, even if the County does not receive a HOME formula allocation, the Municipality cannot form a HOME consortium with other local governments and shall not participate a HOME consortium except through the County.
 - c. May receive a formula allocation under the ESG Program only through the County.
15. The Municipality 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.
16. The Municipality agrees that it shall be included in the Plan the County makes to HUD for Title I Housing, and CDBG, HOME and ESG funds, and that the population of the Municipality shall be utilized along with the population of other municipalities and the unincorporated areas of the County to qualify the County at the population level necessary to be an Urban County as defined under the Acts.
17. The Municipality agrees to undertake certain actions as determined by the County to carry out a community development program and the approved Consolidated Plan and/or to meet other requirements of the CDBG, HOME and ESG Programs and other applicable laws. These actions include but are not limited to:

Completion of a performance report on an annual and five-year basis in a format and by such deadlines as determined by the County to be used in the HUD required CAPER.
18. The Municipality agrees it shall cooperate with the County in all efforts hereunder and that it shall assist in doing any and all things required and appropriate to comply with the provisions of any grant agreement received by the County pursuant to the Acts and regulations in carrying out CDBG, HOME and ESG programs and the approved Consolidated Plan, as well as other applicable State

and local laws. Furthermore, the Municipality agrees to be named as the beneficiary of the deed of trust for all multi-family rental HOME funded activities within its jurisdiction.

19. The undersigned Municipality hereby authorizes Maricopa County to act on its behalf and to modify and amend this Cooperation Agreement in any way required in order to comply with federal statute or regulation.
20. Immigration law and regulations certifications – The President's Executive Order 13465 of June 6, 2008 and Arizona Revised Statutes (A.R.S.) Section 41-4401, requires all government entities to ensure that each government entity, contractor and subcontractor it conducts business with complies with federal immigration laws and regulations that relate to their employees and A.R.S. Section 23-214, Subsection A. All governmental entities, vendors, contractors and subcontractors **MUST** certify use of the **E-Verify System** established by the Department of Homeland Security.
21. The undersigned Municipality understands that:
 - a. If any provision or portion of a provision of this Agreement is determined to be invalid or unenforceable, it shall be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.
 - b. Except where Federal statutes apply, this Agreement is governed by and construed in accordance with the laws of the State of Arizona.
 - c. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and all prior agreements, representations, statements and undertakings are hereby expressly cancelled.
22. The Municipality agrees that it may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

IN WITNESS WHEREOF, the parties have caused the Cooperation Agreement to be executed this 23 day of August, 2017.

TOWN OF FOUNTAIN HILLS

MARICOPA COUNTY

By: [Signature]
Town Manager

BY: [Signature]
Chairman, Board of Supervisors

ATTEST:

ATTEST:

By: [Signature]
Clerk of the Municipality

BY: [Signature]
Clerk of the Board

8/17/17
Date

AUG 23 2017
Date

The terms and provisions of this Agreement are fully authorized under State and local law and provide the County with the authority to undertake and assist in undertaking essential community development and housing assistance activities.

APPROVED AS TO FORM:

APPROVED AS TO FORM:

BY: [Signature]
Attorney for Municipality

BY: [Signature]
Deputy County Attorney

8.10.17
Date

8/23/17
Date