



Date of Council Meeting: May 26, 2015

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Community Development Block Grant (CDBG) Cooperation Agreement with Loudoun County

Staff Contact: Betsy Fields, Research & Communications Manager

Council Action Requested: The Council needs to approve or deny an amendment to the CDBG Cooperation Agreement with Loudoun County.

Staff Recommendation: I recommend that Town Council approve an amendment to the CDBG Cooperation Agreement with Loudoun County.

Commission Recommendation: Not applicable.

Fiscal Impact: If the Council does not approve the amendment, the Town will no longer be able to apply for Community Development Block Grants through Loudoun County.

Executive Summary: In 2003, the Town executed a cooperation agreement with Loudoun County in order to participate in the U.S. Department of Housing and Urban Development's (HUD) CDBG program under the County's status as an entitlement community. This cooperation agreement must be amended to include language recently added as a requirement by HUD.

Background: Based on its population, Loudoun County is an entitlement community for the CDBG program. This means that Loudoun County receives funds directly from HUD which it then distributes within the County. The County must renew its status as an entitlement community every three years, and is in the process of doing so for Fiscal Years 2016-2018. All of the seven incorporated towns in the County participates in the CDBG program through Loudoun County, and have executed individual cooperation agreements with the County. Leesburg's agreement was approved in 2003. This agreement automatically renews for successive three-year qualification period unless the Town elects not to participate in the new qualification period.

Normally, no action would be required of the Town for the Fiscal 2016-2018 qualification period renewal. However, HUD has added new language requirements that have triggered necessary revisions in the Town/County cooperation agreement. The amendment language has already been approved by the Board of Supervisors at their meeting on May 20, 2015. If Leesburg wishes to continue this partnership, the Town will also need to approve these additions. The new language states that the Town will be a

participant in the Emergency Solutions Grant (ESG) program if Loudoun County receives funds. The new text also prohibits the Town from transferring any possible funding from CDBG, or other HUD programs such as the Home Investment Partnership (HOME) or Emergency Solutions Grants (ESG) to other localities. The final text addition states that the County/Town cooperation agreement covers the CDBG Entitlement program, and where applicable, the HOME and ESG programs.

Attachments:

- (1) Amendment to Cooperation Agreement
- (2) 2003 Cooperation Agreement

PRESENTED May 26, 2015

RESOLUTION NO. 2015-

ADOPTED _____

A RESOLUTION: APPROVING AN AMENDMENT TO THE COOPERATION AGREEMENT WITH THE COUNTY OF LOUDOUN IN ORDER TO REMAIN ELIGIBLE TO PARTICIPATE IN THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

WHEREAS, in 2003, the Town of Leesburg executed a cooperation agreement with the County of Loudoun in order to participate in the U.S. Department of Housing and Urban Development's Community Development Block Grant program; and

WHEREAS, this agreement must be formally amended to include new language recently added by the U.S. Department of Housing and Urban Development; and

WHEREAS, the new language in the Community Development Block Grant program pertains to new grant funding opportunities such as the Emergency Solutions Grant Program and the Home Investment Partnership Program;

WHEREAS, the County Board of Supervisors approved the amendments at their May 20, 2015 business meeting.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that the amendments to the Cooperation Agreement with the County of Loudoun is hereby approved in order for the Town of Leesburg to remain eligible to participate in the Community Development Block Grant Program.

PASSED this ___ day of May, 2015.

Kristen C. Umstatt, Mayor
Town of Leesburg

ATTEST:

Clerk of Council

AMENDMENT TO COOPERATION AGREEMENT BETWEEN THE COUNTY OF
LOUDOUN, VIRGINIA AND THE TOWN OF LEESBURG, VIRGINIA

This is an Amendment to the COOPERATION AGREEMENT originally executed in 2003 by THE BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA (hereinafter referred to as “the Board”) and the TOWN COUNCIL OF THE TOWN OF LEESBURG, VIRGINIA (hereinafter referred to as “the Council”) (collectively referred to as “the Parties”), and which has been renewed in successive three-year time periods since 2006.

In accordance with the guidance provided by the United States Department of Housing and Urban Development, Community Planning and Development Notice CPD-14-07, the language set forth below must be added to the existing COOPERATION AGREEMENT, and will become part of that AGREEMENT upon approval of the Board and the Council and subsequent execution of this Amendment by the Parties.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the Parties, they hereby agree to add the following language to the existing section “h” of the 2003 COOPERATION AGREEMENT and adds new section “m”:

h. By executing this agreement the Town understands that they:

- (iii) will be a participant in the Emergency Solutions Grant (ESG) program if Loudoun County receives ESG funding, and the Town may only receive a formula allocation under the ESG Program as a part of the urban county.
- (iv) may not sell, trade, or otherwise transfer all or any portion of CDBG (of if applicable HOME, or ESG) 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 1 of the ACT pursuant to the requirement contained in the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014, Pub.L. 113-76.

m. This agreement covers the CDBG Entitlement program and, where applicable, the HOME Investment Partnership (HOME) and Emergency Solutions Grants (ESG) Programs (i.e., if Loudoun County were to receive entitlement funding under the HOME and/or ESG Programs as an urban county or as a member of a HOME consortium).

THE BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRIGNIA

By: _____

Chairman

TOWN OF LEESBURG

By: _____

Mayor

COUNSEL STATEMENT

I, Leo P. Rogers, County Attorney for Loudoun County, Virginia, state that I have reviewed the foregoing AMENDMENT to the COOPERATION AGREEMENT, and its terms and provisions are fully authorized under State and local law. That law and the COOPERATION AGREEMENT provide full legal authority for Loudoun County to undertake or assist in undertaking essential community development and housing assistance activities.

Leo P. Rogers
County Attorney

COOPERATION AGREEMENT

THIS COOPERATION AGREEMENT is entered into this 2nd day of September, 2003 by and between THE BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA (County) and THE TOWN COUNCIL OF THE TOWN OF Leesburg, VIRGINIA (Town) pursuant to Notice CPD-03-04 issued April 23, 2003 by the United States Department of Housing and Urban Development.

WHEREAS, the County has been determined by the United States Department of Housing and Urban Development (HUD) to possess the essential powers necessary to qualify as a Community Development Block Grant (CDBG) Entitlement Urban County under the provisions of Title I of the United States Housing and Community Development Act of 1974 (ACT); and

WHEREAS, such powers authorize the County to undertake community development and housing assistance activities in incorporated and unincorporated areas within the County provided that fully executed cooperation agreements have been submitted to HUD; and

WHEREAS, the ACT provides for units of local government such as the Town, not otherwise eligible for entitlement funds thereunder, to enter into cooperation agreements with urban counties to undertake essential community development and housing assistance activities in the Town, mutually agreed to by the County and the Town and thereby become considered a part of the urban county; and

WHEREAS, the Town does not qualify for entitlement funds under the provisions of the ACT; and

WHEREAS, the County has applied for or intends to apply for entitlement funds under the ACT; and

WHEREAS, the County is preparing a Consolidated Plan for submission and approval by HUD; and

WHEREAS, Section 15.2-956 of the Code of Virginia, 1950, as amended, authorizes the County and Town to participate in programs under the ACT, including the CDBG program; and

WHEREAS, Section 15.2-1300 of the Code of Virginia, 1950, as amended, authorizes the County and Town to enter into this Cooperation Agreement to jointly exercise their authority to participate in the CDBG program under the ACT.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth the parties agree that:

- a. The population, as defined by the ACT, of the Town shall be included with the population of the County for the purpose of applying for entitlement funds under the ACT.
- b. This agreement shall be in effect from the 2nd day of September, 2003 until the end of that period necessary to carry out activities that will be funded from annual Community Development Block Grant (CDBG) appropriations for the Federal fiscal years for which the County is to qualify and from any program income generated from the expenditure of any such funds.
- c. The County and the Town, hereby agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing.
- d. The Town shall work with the County to establish administrative procedures and program design. The County shall have final responsibility for selecting activities and annually filing the required Final Statement with HUD. The County will select only those projects within the Town which are first recommended by the Town Council.
- e. Parties to this agreement shall take all actions necessary to assure compliance with the County's certification required by Section 104(b) of the ACT, including conformance with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, and all other applicable Federal and State laws. No funding shall be provided under this agreement for activities in or in support of any party to this agreement that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certification.
- f. Each party to this agreement has adopted and is enforcing:
 - (i) a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil-rights demonstrations; and
 - (ii) a policy enforcing applicable State and local laws against physically barring entrance or exit from a facility or location which is the subject of such non-violent civil-rights demonstration within each respective jurisdiction.
- g. Pursuant to 24 C.F.R. 570.501(b), each party to this agreement is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement set forth in 24 C.F.R. 570.503.

- h. By executing this agreement the Town understands that they:**
- (i) may not apply for grants under the Small Cities or State non-entitlement CDBG programs from appropriations for fiscal years during the period of participation in the urban county CDBG program; and**
 - (ii) may not participate in a HOME consortium except through the urban county, regardless of whether the urban county receives a HOME formula allocation.**
- i. The Town shall undertake all necessary actions to assist the County to carry out a community development program and the approved Consolidated Plan, and shall meet all other requirements of the CDBG program and other applicable laws.**
- j. This agreement is in effect for the three Federal fiscal years (FFY 2004-2006) for which the County is to qualify to receive CDBG entitlement funding. This agreement will automatically be renewed for participation in successive three-year qualification periods, unless the County or the Town provide written notice that they elect not to participate in a new qualification period. The County will notify the Town in writing of their right to make such election by the date specified in HUD's Urban County Qualification Notice prior to the next qualification period.**

Failure by either party to adopt an amendment to the agreement incorporating all changes necessary to meet the requirements for the cooperation agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification, and to submit the amendment to HUD as provided in the urban county qualification will void the automatic renewal of such qualification period.

The method for disposing of any property acquired pursuant to individual projects funded pursuant to this agreement, and held at the time of termination of this agreement, shall be as established for the individual projects funded under this agreement

- k. This agreement will remain in effect until the CDBG funds and income received with respect to the three-year qualification period (and any successive qualification period under the agreement that provide for automatic renewals) are expended and the funded activities completed, and the County and the Town may not terminate or withdraw from the agreement while the agreement remains in effect.**

1. This agreement shall be authorized, by evidence of the signatures of the Chairman of the Board of Supervisors of Loudoun County and the Mayor of the Town of Leesburg.

THE BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRGINIA

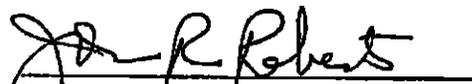
By: 
Chairman

TOWN OF Leesburg

By: 
Mayor

COUNSEL STATEMENT

I, John R. Roberts, County Attorney for Loudoun County, Virginia, state that I have reviewed the foregoing COOPERATION AGREEMENT and its terms and provisions are fully authorized under State and local law. That law and the COOPERATION AGREEMENT provide full legal authority for Loudoun County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing.


John R. Roberts
County Attorney