

City of Dunnellon
Agenda Summary Form

Meeting Date: August 22, 2022

1. Responsible Department: Finance
2. Presenter: Jan Smith
3. Recommended Action: Authorize Mayor to execute Agreement #AGR2022-25 Cooperation Agreement between the City and Marion County for Community Development Block Grant and Home Investment Partnerships Program and Emergency Solutions Grant Program

Subject: Cooperation Agreement #AGR2022-25 between the City and Marion County

Request for Approval Summary Explanation & Background:

The City entered into Agreement #AGR2020-14 with Marion County to participate in the CDBG grant program the county administers. The agreement expired and City Council approved the re-qualifying letter on June 13, 2022 to remain in the program. Marion County has provided a new agreement for the City to execute. HUD has changed compliance terms for program administration. Marion County's new agreement incorporates HUD's new compliance requirements.

Procurement Method: N/A

Fiscal Information: N/A

Attorney Review: Yes

**MARION COUNTY COOPERATION AGREEMENT
CONCERNING
COMMUNITY DEVELOPMENT BLOCK GRANT AND
HOME INVESTMENT PARTNERSHIPS PROGRAM AND
EMERGENCY SOLUTIONS GRANT PROGRAM**

THIS COOPERATION AGREEMENT (this "AGREEMENT"), entered into by and between the city of Dunnellon, Florida, a municipal corporation in the State of Florida (the "CITY") and Marion County, Florida, a political subdivision of the State of Florida (the "COUNTY").

WITNESSETH THAT:

WHEREAS, COUNTY undertakes all activities necessary to plan and carry out the Community Development Program for the benefit of residents of Marion County, Florida, including the residents of CITY, located within Marion County; and

WHEREAS, the Housing and Community Development Act of 1974, as amended (the "Act"), makes provisions whereby urban counties may enter into a Cooperation Agreement with certain units of local government to undertake or assist in undertaking essential activities pursuant to the Community Development Block Grant ("CDBG") program and has since expanded to permit such Cooperation Agreements for the HOME Investment Partnership Program and the Emergency Solutions Grant Program; and

WHEREAS, COUNTY qualifies as an "urban county" and CITY qualifies as a "unit of local government" as defined in the Act and are permitted to enter into said Cooperation Agreements; and

WHEREAS, CITY wishes to participate in COUNTY's Community Development Program, eliminating the need for CITY to pursue its own similar program while maintaining a voice in activities taking place in its geographic boundary;

WHEREAS, it is the desire of the parties that CITY and COUNTY enter into a Cooperation Agreement to facilitate COUNTY's Community Development Program for the benefit of all residents of Marion County, Florida, while giving voice to those of CITY;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **COOPERATIVE PURPOSE.**

CITY hereby joins COUNTY's Community Development Program. COUNTY and CITY do hereby agree to cooperate to undertake, or assisting in undertaking, community renewal and lower-income housing assistance activities, specifically urban renewal and publicly assisted housing.

2. **AUTHORITY GIVEN BY CITY TO COUNTY.**

In joining COUNTY's Community Development Program, CITY hereby authorizes COUNTY to apply for and receive CDBG, HOME, and ESG funds from the U.S. Department of Housing and Urban Development ("HUD"), and further shall authorize HUD to include CITY's population for the purposes of calculating and making CDBG, HOME, and ESG funds available directly to COUNTY. It is agreed by the parties that the resulting grant funding received by COUNTY will then, in part, be made available for projects within CITY geographical limits.

3. **PROGRAMS INCLUDED.**

COUNTY and CITY hereby agree that this AGREEMENT covers the CDBG Entitlement Program, the HOME Investment Partnership Program ("HOME"), and the Emergency Solutions Grant Program ("ESG").

4. **TERM.**

The term of this AGREEMENT shall extend through a period of three (3) years for Fiscal Years 2023-2025, commencing on October 1, 2022, and ending on September 30, 2025. In addition, this AGREEMENT will automatically be renewed for participation in successive three-year qualification periods, unless COUNTY or CITY provides written notice that it elects not to participate in a new qualification period. Before the end of each three-year term, COUNTY, by the date specified in HUD's urban county qualification notice for the next qualification period, will notify CITY, in writing, of its right not to participate in the urban county for a successive three-year term with a copy of the notification sent to the HUD Jacksonville Field Office.

5. **NO TERMINATION OR WITHDRAWAL WHILE FUNDS NOT EXPENDED OR ACTIVITIES NOT COMPLETED.**

This AGREEMENT will remain in effect until the CDBG (and HOME and ESG where applicable) funds and program income received with respect to activities carried out during the current three-year qualification period, and any successive qualification periods, are expended and the funded activities completed. COUNTY or CITY may not terminate or withdraw from this AGREEMENT while this AGREEMENT remains in effect.

6. **COUNTY STAFF RESOURCES.**

COUNTY shall, at no cost to CITY, provide staff resources and other services necessary to planning and administering the CDBG, HOME, and ESG programs.

7. **RESTRICTIONS ON CITY.**

CITY hereby acknowledges that by signing this AGREEMENT, it becomes a participant in COUNTY's Community Development Program. As such:

- A. CITY may not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in COUNTY's CDBG Program; and
- B. CITY may receive a formula allocation under the HOME Program only through

COUNTY. Thus, even if COUNTY does not receive a HOME formula allocation, CITY cannot form a HOME consortium with other local governments; and

C. CITY may receive a formula allocation under the ESG Program only through COUNTY.

8. **SUBRECIPIENT REQUIREMENTS APPLY TO CITY.**

CITY hereby acknowledges that pursuant to 24 CFR §570.501(b), CITY is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement set forth in 24 CFR §570.503.

9. **TECHNICAL ADVISORY COMMITTEE.**

COUNTY will make every reasonable effort to ensure that CITY officials and the citizens of CITY have direct and frequent access to and influence on the process by which, decisions are made concerning COUNTY projects which either directly or indirectly affect CITY. A Technical Advisory Committee composed of the chief executive, or chief executive's designee, of both CITY and COUNTY, shall meet as required to assist and advise COUNTY staff in the overall development, coordination and administration of COUNTY's Community Development Program.

10. **CONSOLIDATED PLAN.**

COUNTY and CITY shall cooperate in the implementation of COUNTY's approved Consolidated Plan during the Term of this AGREEMENT so long as COUNTY continues to qualify as an "urban county" under the Act and for any additional time as may be required for the expenditure of funds granted to COUNTY during the Term.

11. **COUNTY RESPONSIBILITY AND DECISION MAKING.**

CITY does hereby recognize that COUNTY assumes full responsibility for all obligations under the provisions of the Act including the analysis of needs, the setting of objectives, the development of community development and housing assistance plans, the Community Development Program, the assurances of certifications required to be provided, and the annual filing of Final Statements with HUD. The parties acknowledge that in light of COUNTY bearing all such responsibility and obligation, COUNTY has final decision-making power to select, at its sole and reasonably implemented discretion, all CDBG, ESG, and HOME activities and projects.

12. **COUNTY MAY ELECT FOR CITY TO PERFORM.**

With reference to the use of the CDBG (and HOME and ESG where applicable) funds to be received by COUNTY in any fiscal year, and including any program income generated from the expenditure of CDBG (and HOME and ESG where applicable) funds, COUNTY may, at its sole and reasonably implemented discretion, carry out the Community Development Program on behalf of CITY or, in the event that parties determine that it is feasible for CITY to perform any services in connection with the Community Development Program, COUNTY may permit CITY, through a separate agreement, to carry out activities or projects in conformance with COUNTY'S Community Development

Program.

13. **INCOME GENERATED-REPORTING.**

CITY does hereby agree to inform COUNTY, in writing, of any income generated by the expenditure of CDBG (and HOME and ESG where applicable) funds received by CITY and that such program income must be paid to COUNTY upon receipt or may be retained by CITY only if its use is defined in the separate agreement referenced in Paragraph "12" above. CITY agrees that any program income authorized to be retained under a separate agreement may only be used for eligible activities in accordance with all CDBG (and HOME and ESG where applicable) requirements as may then apply.

14. **INCOME GENERATED- RECORD KEEPING. PAYMENT.**

COUNTY and CITY agree that COUNTY has the responsibility for monitoring and reporting to HUD on the use of any such program income thereby requiring appropriate record keeping and reporting by CITY as required by 24 CFR § 570.501 and § 570.504. In the event CITY closes out an income generating project or becomes eligible to receive CDBG (and HOME and ESG where applicable) funds as an entitlement community, any program income on hand or received subsequent to the close out or change in status shall be paid to COUNTY within a reasonable time frame upon written request.

15. **CHANGE IN USE.**

CITY hereby agrees to notify COUNTY, in writing, of any modification or change in use of real property from that planned at the time of acquisition or improvement with CDBG (or HOME or ESG where applicable) funds including disposition. In the event property acquired or improved with CDBG (or HOME or ESG where applicable) funds is sold or transferred for a use which does not qualify under the CDBG regulations (or HOME or ESG regulations where applicable), COUNTY shall be reimbursed by CITY an amount of the fair market value equal to the portion which CDBG funds (or HOME or ESG funds where applicable) represented the initial purchase price and improvements. All program income received by COUNTY from the disposition or transfer, or received from income generating project shall be used for eligible activities within COUNTY's Urban County Program.

16. **COMPLIANCE WITH LAWS.**

- a. COUNTY and CITY do hereby mutually commit to take all actions necessary to assure:
- b. Compliance with the urban county's certification required under Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended;
- c. That the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR Part 1; the Fair Housing Act, and the implementing regulations at 24 CFR Part 100,
- d. That CITY and COUNTY will affirmatively further fair housing in accordance with 24 CFR § 5.151, § 5.152, and § 91.225(a).

COUNTY AND CITY shall comply with Section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR Part

6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR Part 8; Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR Part 35; the Age Discrimination Act of 1975, and the implementing regulations at 24 CFR part 146; and Section 3 of the Housing and Urban Development Act of 1968; and all other applicable laws.

The parties acknowledge that the COUNTY is prohibited from funding activities in or in support of any municipality that does not affirmatively further fair housing within its own jurisdiction or impedes the COUNTY'S actions to comply with its fair housing certification.

17. **ADDITIONAL PROVISIONS MAY BE IMPOSED.**

CITY acknowledges that COUNTY may impose upon CITY any additional provisions authorized by State and local laws that legally obligate CITY to undertake the necessary actions, as determined by COUNTY, to carry out the Community Development Program and COUNTY's approved Consolidated Plan, and /or to meet other requirements of the CDBG (and, where applicable, ESG and HOME) programs.

18. **CITY MAY NOT SELL, TRADE OR TRANSFER FUNDS.**

CITY 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, Indian tribe, or insular area that directly or indirectly receives CDBG, HOME, and/or ESG 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.

19. **AMENDMENT FOR COMPLIANCE.**

CITY and COUNTY shall adopt any amendment to the agreement incorporating changes necessary to meet the requirements for Cooperation Agreements set forth in the Urban County Qualification Notice applicable for each subsequent three-year urban county qualification period and submit such amendment to HUD as provided in the Urban County Qualification Notice. Failure by either COUNTY or CITY to adopt an amendment to this 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 as provided in the urban county qualification notice, will void the automatic renewal of such qualification period.

20. **MUTUAL INDEMNIFICATION.**

Notwithstanding anything to the contrary in this AGREEMENT, each party agrees to indemnify, defend and hold harmless the other, its officers, board members, agents, representatives and employees from and against any and all fines, suits, claims, demands, penalties, liabilities, costs or expenses, losses, settlements, judgments and awards and action of whatever kind or nature arising out of this AGREEMENT including attorney's fees and costs (and costs and fees on appeal), and damages (including, but not limited to , actual and consequential damages) arising from

any negligent, willful or wrongful misconduct, knowing misrepresentation or breach of this AGREEMENT by such party, its officers, board members, agents , representatives or employees. This paragraph shall not be construed in any way to alter either party's waiver of sovereign immunity or the limits established in Section 768.28, Florida Statutes.

21. SOVEREIGN IMMUNITY.

Nothing in this AGREEMENT shall be deemed to waive the sovereign immunity protections provided both parties pursuant to Florida law. Either party's obligation to indemnify the other is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes, as it may be amended from time to time.

22. PUBLIC RECORDS CONTACTS

IF CITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S CUSTODIAN OF PUBLIC RECORDS AT:

**Public Relations
601 SE 25th Ave.
Ocala, FL 34471
Phone: 352-438-2300
Fax: 352-438-2309
Email: PublicRelations@MarionFL.org**

IF COUNTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO COUNTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT CITY'S CUSTODIAN OF PUBLIC RECORDS AT:

**City Clerk 20750 River Drive
Dunnellon, FL 34431
Phone: 352-465-8500
Fax: 352-465-8505
Email: modom@dunnellon.org**

23. CITY VERIFICATION OF POLICIES.

By signing this AGREEMENT, CITY, as the cooperating unit of general local government, hereby verifies that it has adopted and is enforcing the following policies:

- a. 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
- 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 nonviolent civil rights demonstration with jurisdictions.

24. **LEGAL OPINION REQUIRED.**

As required by law, this AGREEMENT, contains a legal opinion by COUNTY's counsel that the terms and provisions of this AGREEMENT are fully authorized under State and local law and that this AGREEMENT provides full legal authority for COUNTY to execute this AGREEMENT. Additionally, as required by law, this AGREEMENT contains a legal opinion by CITY's counsel that the terms and provisions of this AGREEMENT are fully authorized under State and local law.

25. **AUTHORITY TO SIGN.**

The governing body of COUNTY and the governing body of CITY have authorized the chief executive officer of COUNTY and CITY respectively to execute this AGREEMENT.

26. **APPLICABLE LAW/JURISDICTION NENUE.**

This AGREEMENT is being delivered and performed in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. The venue for any legal proceeding arising out of this AGREEMENT, including any dispute resolution and/or arbitration, shall be Marion County, Florida.

27. **WAIVER.**

No waiver or any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual right by custom, estoppel, or otherwise.

28. **SEVERABILITY.**

If Any provision of this AGREEMENT shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this AGREEMENT is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

29. **ENTIRE AGREEMENT.**

This Agreement contains the entire agreement between the parties related to the matters specified herein, and supersedes any prior oral or written statements or agreements between the Parties related to such matters.

IN WITNESS WHEREOF, CITY and COUNTY have entered into this COOPERATION AGREEMENT on the date of the last signature below.

ATTEST:

MARION COUNTY, a political subdivision of the State of Florida

GREGORY C. HARRELL
CLERK OF COURT

BY: _____
CARL ZALAK, III
CHAIRMAN

DATE: _____

DATE: _____

BCC APPROVED:
ACCEPTANCE DATE: _____

ATTEST:

CITY OF DUNNELLON, a municipal corporation in the State of Florida

_____, CITY CLERK

_____, MAYOR

DATE: _____

DATE: _____

LEGAL OPINION

COUNTY

Counsel for COUNTY does hereby state that the terms and provisions of this AGREEMENT are fully authorized under State and local law and that this AGREEMENT provides full legal authority for COUNTY to undertake or assist in undertaking essential community renewal and lower-income housing assistance activities; specifically, urban renewal and publicly assisted housing.

Matthew Minter, County Attorney

CITY

Counsel for CITY does hereby state that the terms and provisions of this AGREEMENT are fully authorized under State and local law.

City Attorney