

AGREEMENT of COOPERATION for CDBG/HOME/ESG PROGRAMS

Recitals:

WHEREAS, the 93rd Session of Congress passed, and the President of the United States signed into law, the Housing and Community Development Act of 1974 (PL93-383) which created the Community Development Block Grant (CDBG) program; and

WHEREAS, Dallas County, Texas, is applying to the U.S. Department of Housing and Urban Development (HUD) for Urban County CDBG entitlement status; and

WHEREAS, in order to qualify for this status, Dallas County must enter into cooperation agreements with local governments and have the collective population of the County's unincorporated area and the participating local governments total at least 100,000 people; and

WHEREAS, Texas cities and counties are authorized under Chapter 373, Local Government Code, and Section 381.003, Local Government Code, to conduct essential housing and community development activities; and

WHEREAS, Texas cities and counties are authorized under Chapter 791, Government Code, to enter into cooperation agreements with one another to provide governmental functions and services.

NOW, THEREFORE, BE IT RESOLVED THAT:

The **City of FARMERS BRANCH** (hereafter, "City") supports the efforts of Dallas County, Texas to qualify as an Urban County for the CDBG program and asks that its population be included in such a program beginning for Federal Fiscal Years 2024, 2025, and 2026.

I. Term and Effective Programs

The term of this Cooperation Agreement shall be for Federal Fiscal Years 2024, 2025, and 2026. At the option of the county, this Cooperation Agreement may be automatically renewed for participation in successive three-year qualification periods, unless the county or the participating unit of general local government provides written notice it elects not to participate in a new qualification period. A copy of that notice must be sent to the HUD Field Office.

In the event of an auto renewal term, each party shall adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period and submit such amendment to HUD as provided in the urban county qualification notice (see Section IV., Documents to be Submitted to HUD, paragraph E.). Failure to comply will void the automatic renewal for such qualification period.

This Cooperation Agreement covers the CDBG Entitlement Program and, when applicable, the HOME Investment Partnership (HOME) and Emergency Solutions Grant (ESG) Programs.

This Agreement remains in effect until the CDBG (and where applicable, HOME and ESG) funds and program income received with respect to the three-year qualification period are expended and the funded activities completed, and that the County and City may not terminate or withdraw from the Agreement while the Agreement remains in effect.

II. Responsibility of the Parties

The City understands that by executing this CDBG Cooperation Agreement it:

1. May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the County's CDBG program; and
2. May receive a formula allocation under the HOME Program only through the County. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments; and
3. May receive a formula allocation under the ESG Program only through the County.

County and City agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

County and City shall take all actions necessary to ensure compliance with the Urban County certification by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, 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, and the Fair Housing Act, and the implementing regulations at 24 CFR part 100, and will affirmatively further fair housing. See 24 CFR § 91.225(a) and Affirmatively Furthering Fair Housing Definitions and Certifications (86 FR 30779, June 10, 2021), to be codified at 24 CFR 5.151 and 5.152,

County and City shall take all actions necessary to ensure compliance 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 regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968. County and City understand and agree that Urban County funding will not be provided for activities, within or in support of any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with County fair housing certifications.

City understands and agrees, that in accordance with 24 CFR 570.501(b) and 570.503 (which requires a written agreement), it shall be subject to the same requirements applicable to subrecipients.

City agrees to report to the County of any income generated by the expenditure of CDBG, HOME, and/or ESG funds received; and that any such program income must be paid to the County to be used for eligible activities in accordance with the original grant requirements.

County is responsible for monitoring and reporting to HUD on the use of any program income, and that in the event of close-out or change in status of the City, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to the County.

City agrees to notify the County of any modification or change in the use of the real property from that planned at the time of acquisition or improvement, including disposition, and further agrees to reimburse the County in an amount equal to the current fair market value (less any portion thereof attributable to expenditure of non-CDBG/HOME/ESG funds) for property acquired or improved with CDBG/HOME/ESG funds that is sold or transferred for a use which does not qualify under the CDBG/HOME/ESG regulations.

Any money generated from the disposition or transfer of property will be treated as program income and returned to the County prior to, or subsequent to, the close-out, change of status, or termination of this Agreement between the County and City.

City understands 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 Housing and Community Development Act of 1974.

County shall notify City in writing, by the date specified in the HUD urban qualification notice for the next qualification period, of its right not to participate.

City has adopted and is enforcing:

1. 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
2. A policy of enforcing applicable state and local laws against physical barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

City understands that the County will have final responsibility for administering the CDBG/HOME/ESG programs, selecting CDBG/HOME/ESG projects and activities, and making annual grant requests.

III. Miscellaneous

City's Mayor, or their legal designee, is authorized to sign any additional forms, on behalf of the City, that HUD may require.

Parties agree that this Agreement and any subsequent legal proceedings shall be governed by and construed according to the laws of the State of Texas. Venue for any action or claim arising out of the Agreement shall be Dallas County, Texas pursuant to Tex. Civ. Prac. & Rem. Code § 15.015.

To the extent, if any, that any provision in this Agreement is in conflict with Tex. Gov't. Code §552.001 et seq., as amended (the "Open Records Act"), the same shall be of no force and effect. Furthermore, it is expressly understood and agreed that Dallas County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Open Records Act to any software, or any part thereof, or other items or data/information furnished to Dallas County whether or not the same are available to the public. It is further understood that Dallas County, its officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that Dallas County, its officers and employees shall have no liability or obligations to City for the disclosure to the public, or to any person or persons, of any information, or a part thereof, or other items or data furnished to Dallas County by City in reliance on any advice, decision or opinion of the Attorney General of the State of Texas.

This Agreement is expressly made subject to Parties' Sovereign Immunity, Title 5, Texas Civil Practice and Remedies Code.

This Agreement is expressly subject to and contingent upon formal approval by the Dallas County Commissioners Court and City's City Council.

Neither party shall be deemed to have breached any provision of this contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond any party's control. The parties are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event.

The County Auditor, its assigns, or any other authorized County personnel shall have the unrestricted right to audit all data or documents related to this Cooperation Agreement. Such data shall be furnished in Dallas County at a mutually convenient time within a reasonable time. Should County determine it reasonably necessary, City shall make all of its records, books and documents reasonably related to this Cooperation Agreement available without delay to authorized County personnel to fulfill inspection or auditing deadlines and purposes or to substantiate certain provisions under this Cooperation Agreement.

[Signature page to follow]

APPROVED AND ACCEPTED THIS THE _____ day of _____, 2023.

City of _____, Texas

Dallas County, Texas

Mayor, or legal designee

Clay Lewis Jenkins, County Judge
Dallas County, Texas

Date

Date

Recommended by:

Luis Tamayo, Director
Planning & Development

Approved as to Form:*

John Creuzot
District Attorney

By: _____
Rebecca Lundberg
Assistant District Attorney

*By law, the Dallas County District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).