

**RESOLUTION # 2011 – 206**

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE COUNTY OF MORRIS AND CERTAIN MUNICIPALITIES LOCATED THEREIN ESTABLISHING A COOPERATIVE MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT AND HOME ACTIVITIES FOR FEDERAL FISCAL YEARS 2012, 2013 and 2014**

**WHEREAS**, the Mayor and Borough Council of the Borough of Mount Arlington reviewed the proposed Agreement, entitled "Agreement between the County of Morris and certain municipalities located therein establishing a cooperative means of conducting certain community development and home activities", a copy of which is incorporated as if set forth at length herein by reference, and agree that this Agreement is in the best interest of the Borough; and

**WHEREAS**, the Mayor and Borough Council of the Borough of Mount Arlington hereby authorize the Mayor to execute the Agreement.

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF MOUNT ARLINGTON, THAT**, the Borough of Mount Arlington Mayor execute the Agreement, entitled "Agreement between the County of Morris and certain municipalities located therein establishing a cooperative means of conducting certain community development and home activities".

**BE IT FURTHER RESOLVED, THAT**, this Resolution shall take effect immediately.

I hereby certify this to be an accurate and true resolution as approved by the Mayor and Borough Council at a Meeting held on August 2, 2011.



Linda DeSantis, RMC  
Borough Clerk

**AGREEMENT BETWEEN THE COUNTY OF MORRIS AND CERTAIN  
MUNICIPALITIES LOCATED THEREIN ESTABLISHING A COOPERATIVE  
MEANS OF CONDUCTING CERTAIN COMMUNITY DEVELOPMENT AND  
HOME ACTIVITIES**

WHEREAS, Title I of the Housing and Community Development Act of 1974, as amended, and Title II of the Cranston-Gonzales National Affordable Housing Act of 1990 provides for substantial Federal funds being made available to certain urban counties for use therein; and

WHEREAS, these Acts established certain criteria which must be met in order for a county to be the recipient of said funding; and

WHEREAS, as required by Federal guidelines, the Morris County Counsel has determined the terms and provisions of this agreement are fully authorized by State and local law and that the agreement provides the County of Morris with full authority consistent with authority delegated by Federal law; and

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.) provides a mechanism through which counties and municipalities may enter into agreements for the provision of joint services; it is therefore agreed by the County of Morris and the Borough of Mount Arlington as follows:

**A. Planning Process**

1. Nature and Extent of Service

a. Purpose

The purpose of this agreement is to establish a legal mechanism through which the county government may apply for, receive and disburse Federal funds available to eligible urban counties under Title I of the Housing and Community Development Act of 1974, as amended, commonly known as Community Development Block Grant (CDBG) Entitlement Program; and, funds available under Title II of the Cranston-Gonzales National Affordable Housing Act of 1990, commonly known as the HOME Investment Partnership Program; and to take such actions in cooperation with the participating municipalities as may be necessary to participate in the benefits of these programs. Federal funds received by the County shall be for such functions as urban renewal, water and sewer facilities, neighborhood facilities, public facilities, open space, housing and such other purposes as are authorized by these Acts. Nothing contained in this agreement shall deprive any municipality or other unit of local government of any powers of zoning, development control, or other lawful authority which it presently possesses, nor shall any participant be deprived of any state or federal aid to which it might be entitled in its own right, except as herein provided.

b. Establishment of Committee

There is hereby established a cooperative Community Development Committee, consisting of two representatives from each participating municipality and two representatives of county government, each to be appointed for one-year periods

coinciding with the calendar year. The governing body and the Mayor of each participating agency shall make one appointment each.

#### Responsibilities of Committee

- (1) The committee may choose to elect a chairperson and shall take formal action only upon a two-thirds vote of the full membership thereof.
- (2) The Director of the Division of Community Development designated as the Administrative Liaison Officer, shall be accountable and subject to the supervision of the Director of Planning & Development. He or she shall, within the limits of resources available, provide technical and administrative support to the Committee.
- (3) The Committee shall meet promptly after its establishment and thereafter as often as required. It shall establish rules of procedures as may be required.
- (4) The Committee shall study and discuss the community development and housing needs of the county which affect the participating local governments and shall determine the most effective and acceptable utilization of CDBG and HOME funds available to the county government. It shall recommend to the Board of Chosen Freeholders applications for participation in Federal funding, and towards that end it shall, in the manner herein prescribed, be authorized to develop required plans and such documents and certifications of compliance as are required by the Federal Government for participation by the County in the programs. Funds applied for may be those available for urban counties for CDBG, and participating jurisdictions for the Home Program.
- (5) The Committee shall develop, in full consultation with the Division of Community Development and all affected agencies of the local governments involved, priorities for the actual utilization of such funds as are made available from the Federal Government under these Titles. The Committee shall recommend for each project or activity to be carried out with these funds a specific means of accomplishment. This may be for the County to carry out the project or function, for a municipality to receive the monies to carry it out, or for some other combination of local or State agencies. Such implementation mechanism shall be established either by means of a separate contract entered into between the County government and the municipality or municipalities in which the activities or functions are to take place, pursuant to the provisions of the Interlocal Services Act, or by inclusion of such information in Section C of this agreement, subject to the same approvals. The implementation mechanism shall be established before submission of the application to HUD, and any relevant documents become part of this agreement and should be submitted to HUD with it.
- (6) Every municipality participating in the Community Development Block Grant and HOME Programs may request participation in the expenditure of Federal funds, comment on the overall needs of the County which may be served through these funds, and otherwise take part in the proceedings of the Committee through its members of the Committee. No project shall be undertaken or services provided in any municipality without prior notification to the governing body of the municipality and the opportunity for comment by the same body.

## Standards of Performance

Every Shared Services Agreement established pursuant to the agreement shall contain standards of performance as required by the applicable federal regulations.

Performance reports shall be prepared for the Committee annually, and they shall be submitted to the Board of Chosen Freeholders as may be required for submission to the Federal Government.

### 2. Estimated Cost and Allocation Thereof

The amount of Federal funds involved shall be the amount applied for by the Board of Chosen Freeholders pursuant to the recommendation of the Committee, subject to any modifications made by HUD. Any Federal funds received by letter of credit or otherwise shall be placed in County Trust Funds established and maintained pursuant to regulations promulgated by the Director of the Division of Local Government Service in the New Jersey Department of Community Affairs. These funds shall be in separate bank accounts subject to the control of the County government, which shall be the designated recipient of the funds provided under the Federal Act. Upon authorization by the County and in compliance with State law and promulgated regulations, funds may be expended from the County Trust Funds by the County or by payment to a particular municipality pursuant to a specific contract. Neither the Committee, the County government, nor any participating local government may expend or commit funds except as may be authorized pursuant to this agreement and in full compliance with State and Federal laws and regulations. No participant under this contract may in a way be obligated to expend funds of its own except as may be mutually agreed in a lawful manner.

### 3. Duration of Contract

This contract will be effective, starting with the three Federal Fiscal Years 2012, 2013 and 2014 appropriations and will remain in effect until the CDBG (and HOME, where applicable) funds and program income received with respect to activities and all successive qualification periods under this agreement are expended and the funded activities completed.

This agreement will automatically be renewed for participation in successive three-year qualification periods. The County and the participating unit of local government may not terminate or withdraw from the agreement while the agreement remains in effect for each three year qualification period. The County or the municipality may elect not to participate in a new qualification period in three-year intervals, provided written notice is given. A copy of the notice must be sent to the HUD Field Office. By the date specified in HUD's urban county qualification notice for the next qualification period, the urban county will notify the participating unit of general local government in writing of its right not to participate. A copy of the county's notification to the jurisdiction must be sent to the HUD Field Office by the date specified in the urban county qualification notice.

Failure by either party to 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 the subsequent three-year urban county qualification period, and to submit such amendment to HUD as provided in the urban county qualification notice will void the automatic renewal of such qualification period.

By executing the CDBG cooperation agreement, the cooperating unit of general local government understands that it:

- (a) May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program; and
- (b) May receive a formula allocation under the HOME Program only through the urban 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. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for HOME funds, if the state allows. An existing renewable agreement need not be amended to add this Note. It is included here only for purposes of clarification.); and
- (c) May receive a formula allocation under the ESG Program only through the urban county. (Note: This does not preclude the urban county or a unit of government participating with the urban county from applying to the State for ESG funds, if the state allows. An existing renewable agreement need not be amended to add this Note. It is included here only for purposes of clarification.)

4. Designation of General Agent

The Administrative Liaison Officer, Director of Community Development, is hereby designated as the administrative agent of the Board of Chosen Freeholders for purposes of compliance with statutory and regulatory responsibilities.

**B. Qualifications as Urban County**

In addition to such assurances and agreements as may have been made by previously executed ordinances in order to meet the criteria for funding eligibility as an "urban county," the parties hereto agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities. This agreement shall be effective when a sufficient number of municipalities have signed the contract so that 200,000 population is represented and when all other Federal eligibility criteria for designation as an "urban county" under the Act have been satisfied. In the event that sufficient municipalities to meet these criteria should not sign this agreement within the time period set forth by the United States Department of Housing and Urban Development, the Freeholder Director shall so notify all signators, and the agreement shall thereupon be null and void.

In order to comply with Federal requirements, the County government, through its Board of Chosen Freeholders, shall be the applicant for Community Development and HOME funds and shall take responsibility as applicant and shall have the final responsibility for selecting projects and submitting annual Action Plans. The County shall also have the authority to carry out activities which may be funded starting with Fiscal 2000, 2001 and 2002 appropriations, and for renewal periods thereafter, and from any other program income generated from the expenditure of such funds.

### **C. Agreement as to Specific Activities (Interlocal Service Agreement)**

#### **1. Activities**

The municipality hereby agrees to cooperate with the County of Morris in conducting those activities included on Attachment A. Specific projects are set forth in the applications submitted to HUD. The municipality also agrees to the use by the County of certain of the funds to be applied for county planning and administrative costs as also indicated on the accompanying lists.

#### **2. Identification of Participants**

##### **a. County**

The municipality agrees that the County, as the applicant, takes full responsibility and assumes all obligations of an applicant under the Housing and Community Development Act of 1974, as amended, and the Cranston-Gonzalez National Affordable Housing Act. This responsibility will also extend to parts of the planning and management process, including the analysis of needs, the setting of objectives, the development of the Consolidated Plan and Annual Action Plans, and all assurances of certifications of compliance with Federal and State requirements necessary under Federal and State laws. The responsibility of the County shall apply to all Community Development and HOME projects whether or not the County or locality carries out directly an activity or activities included in the application.

##### **b. Municipality**

As appropriate, certain activities are to be undertaken by the participating municipalities, specifically to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities. A separate grant agreement between the County and municipality must be executed for these projects. The Mayor of each municipality is responsible for the implementation of these projects. The municipality further agrees to cooperate with the County in complying with the requirements of the Housing and Community Development Act of 1974, as amended, and the Cranston-Gonzalez National Affordable Housing Act of 1990. 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 as set forth in 24 CFR 570.503.

3. Costs

a. Costs of Activities

The cost of Community Development and HOME activities shall be set forth in the applications submitted to HUD. In addition, the municipality may apply for additional funds from other sources and/or appropriate municipal funds, as it deems necessary to successfully carry out the projects.

b. Payment

Payments for the conduct of activities to be carried out by individual municipalities will be made to the municipality on the basis of vouchers signed by the approving authority of the municipality. Such payments will be made to the municipality upon submission by the municipality of appropriate County vouchers and supporting documentation and authorization by the County.

c. Program Income

The municipality must inform the County of any income generated by the expenditure of Community Development Block Grant and HOME funds received. Program income must be paid to the County unless it is agreed in writing that the municipality may retain the income. All program income must be used for eligible activities in accordance with all CDBG requirements as applicable. The County has the responsibility for monitoring and reporting to HUD on the use of any program income received thereby requiring appropriate record keeping and reporting by the municipality as may be needed for this purpose. Any program income on hand or received subsequent to project close-out or change in status of the municipality shall be paid to the County.

4. General Standards of Performance

Activities to be carried out under this agreement shall be performed in accordance with Federal, State and local laws and regulations. In carrying out the activities, the County will be responsible for contact with other local, State and Federal agencies to prevent duplication of effort and to foster coordination of related activities.

Activities to be carried out by individual municipalities shall be based on detailed work proposals and budget outlines submitted to the County for review. The County Administrative Liaison Officer and other County staff members as may be necessary shall examine the project data submitted to the County and shall grant approval prior to the commencement of any work involved.

The parties hereto agree to take any and all actions pursuant to proper legal means in order to carry out the specific project, the Community Development Program, the HOME Program, the approved Consolidation Plan and to meet all other requirements of the CDBG and HOME Programs and other applicable laws.

5. Standards Applicable to Real Property Acquired or Improved With CDBG Funds

The following standards apply to real property acquired or improved in whole or in part using CDBG funds that is within the control of the municipality:

- a. The municipality must notify the County of any modification or change in the use of real property from that planned at the time of acquisition or improvement, including disposition;
- b. The municipality shall reimburse the County an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under CDBG regulations; and
- c. Program income generated from disposition or transfer of property prior to or subsequent to close-out or a change in status or termination of the Cooperation Agreement between the County and municipality must be paid to the County unless otherwise agreed pursuant to Paragraph C.3.c. herein.

6. Time Period

Work on the activities to be carried out directly by municipalities shall commence only upon notification by the County that the funds have been released by HUD. In accordance with HUD regulations, activities included in the annual applications shall be completed or underway in accordance with the respective grant agreement for the project.

7. Availability of Records for Audit

Required records of progress of activities carried out by the County and by individual municipalities will be maintained according to the enabling federal legislation and accompanying regulations, the New Jersey Division of Local Finance and other applicable requirements. All records shall be kept in a manner prescribed by these regulations and shall be available for audit by the proper authorities. Records of activities carried out by the County shall be maintained by the Administrative Liaison Officer of the County, and records of activities carried out by individual municipalities shall be maintained by the municipal clerk of the municipality carrying out the activity. CDBG and HOME funds received by the municipality shall be audited as part of the municipality's annual audit in accordance with standards applicable to the Single Audit Act.

**D. Signators**

This contract shall be executed in similarly worded counterparts each of which shall be signed by the Freeholder Director and the Mayor of an individual municipality. Each such signator agency agrees to cooperate with all other signators and be bound as if all had signed the same agreement.

**E. Modifications**

1. Modification of Activity

Should it become necessary to modify or amend the activity of a specific project within the specified costs, or in the event that a modification is requested by a municipality participating in or carrying out an activity, the County, in compliance with the by-laws of the Community Development Committee, may make modifications to a project with the approval of HUD and the concurrence of the



municipality or municipalities involved. In the case of alteration of a regional or countywide project, approval of all municipalities in the region or County may be required. Such local approval may take the form of a letter from the chief officer or a resolution of the governing body.

**2. Limitation of Modification**

Modification of an activity shall not include deletion of a project, substitution of one project for another, or change of the location of a project unless such changes are required by HUD, Federal regulation or State law. Any such modification and/or amendment to the Application for Federal Assistance shall require approval per the by-laws of the Community Development Committee, by the governing body of the municipality, and by resolution of the Board of Chosen Freeholders when required by HUD regulation.

**F. Severability**

In the event that any portion of this agreement shall be made inoperative by reason of judicial or administrative ruling, the remainder shall continue in effect.

**G. Certification**

The parties hereto certify that they shall, and they so agree, to take all required actions necessary to assure compliance with the urban county's certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including 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 other applicable laws.

The parties hereto agree that funding hereunder is prohibited for activities in 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 its fair housing certification.

The parties hereto agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities.

The parties have adopted and are enforcing:

1. A policy of prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations; and
2. 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 the jurisdiction.

**H. Supersession**

This agreement shall supplement any previous agreements on this subject and shall replace and supersede any previously agreed upon provisions only to the extent of conflict of purpose.

IN WITNESS WHEREOF, the parties have hereunto, pursuant to authorization from properly adopted resolution, executed this agreement on this \_\_\_ day of \_\_\_\_\_, 2011.


ATTEST


COUNTY OF MORRIS

\_\_\_\_\_  
Diane M. Ketchum, Clerk

\_\_\_\_\_  
William J. Chegwiddden Director  
Board of Chosen Freeholders

ATTEST

  
\_\_\_\_\_  
Linda DeSantis, RMC  
Municipal Clerk

  
\_\_\_\_\_  
Arthur R. Ondish  
Mayor

## **ATTACHMENT A**

### **ELIGIBLE COMMUNITY DEVELOPMENT BLOCK GRANT ACTIVITIES**

- Property acquisition and disposition
- Construction, reconstruction, rehabilitation or installation of publicly owned facilities and improvements including: senior centers, parks, centers for the handicapped, neighborhood facilities, fire protection facilities, parking facilities, street improvements, water & sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, flood and drainage facilities, solid waste disposal facilities, others
- Clearance activities
- Public services
- Completion of Urban Renewal projects
- Relocation
- Removal of architectural barriers
- Construction, reconstruction, rehabilitation or installation, or acquisition of privately-owned utilities
- Rehabilitation of public residential structures, public housing, modernization, and rehabilitation of private properties
- Acquisition for the purpose of rehabilitation
- Rehabilitation financing
- Planning and urban design activities
- Code enforcement
- Historic preservation
- Economic Development activities
- Activities by private non-profit entities, local development, corporations, or small business investment companies, neighborhood-based non-profit organizations

## **ATTACHMENT A**

### **ELIGIBLE HOME INVESTMENT PARTNERSHIP (HOME) ACTIVITIES**

#### **PER TITLE II OF THE NATIONAL AFFORDABLE HOUSING ACT**

HOME funds may be used to provide incentives to develop and support affordable rental housing and home ownership through:

- Acquisition of improved or unimproved property, including standard housing units
- New construction
- Reconstruction on existing foundation
- Moderate rehabilitation less than \$25,000 per unit
- Substantial rehabilitation more than \$25,000 per unit
- Site improvements for housing development
- Conversion from non-residential to residential use
- Demolition when associated with construction
- Tenant Based Rental Assistance
- Soft costs in relation to above activities
- First-Time Homebuyers Assistance
- Administrative activities