



City Council Staff Report

DATE: May 7, 2014

CONSENT CALENDAR

SUBJECT: APPROVE A RESOLUTION AUTHORIZING THE CITY OF PALM SPRINGS TO PARTICIPATE IN THE HOME CONSORTIUM WITH THE COUNTY OF RIVERSIDE AND AUTHORIZING EXECUTION OF A COOPERATION AGREEMENT FOR HOME CONSORTIUM

FROM: David H. Ready, City Manager

BY: Department of Community & Economic Development

SUMMARY

The County of Riverside through its Economic Development Agency (EDA) had contacted the City of Palm Springs regarding the formation a HOME Consortium. The county-wide HOME Investment Partnerships Program (HOME) would assist by increasing the supply of decent and affordable housing to low and very low-income households. Adopting the attached resolution is necessary for the City in joining the HOME Consortium as a participating unit of general government under County's program.

RECOMMENDATION:

1. Approve Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS AUTHORIZING TO PARTICIPATE IN THE HOME CONSORTIUM WITH THE COUNTY OF RIVERSIDE AND AUTHORIZING EXECUTION OF A COOPERATION AGREEMENT FOR HOME CONSORTIUM".
2. Authorize the City Manager to execute all necessary documents.

STAFF ANALYSIS:

In 1990, Congress enacted the Cranston-Gonzalez National Affordable Housing Act (Act) creating the HOME Investment Partnerships Program (HOME) that provides funds to states and local governments for acquisition, rehabilitation, and new construction of affordable housing and homeownership down payment assistance to low income households. HOME funds are a formula grant through the United States Department of Housing and Urban Development (HUD) that is allocated to jurisdictions that meet a minimum allocation threshold that varies depending on the Congressional appropriation for that year. If the United States Congress allocates more than \$1.5 billion in HOME funds then jurisdictions must meet a \$500,000 threshold. If the United States Congress allocates less than \$1.5 billion then jurisdictions must meet a \$335,000 threshold. The County of Riverside currently receives an allocation of HOME funds as an Urban County;

ITEM NO. 2K

which includes in the formula all unincorporated areas within Riverside County and all Community Development Block Grant (CDBG) participants under the County's CDBG program.

The County of Riverside also consists of cities that are eligible to receive CDBG funds directly from HUD and therefore do not participate in the County's CDBG program, but do not meet the minimum threshold to qualify for HOME funds which is the case for the City of Palm Springs. The funds that would have been allocated to those cities are allocated to the State of California and must be obtained on a competitive basis through the issuance of a Notice of Funding Availability (NOFA), which does not guarantee that these funds will be awarded to the applicant and remain within the County of Riverside.

Pursuant to the Act, HUD allows geographically contiguous units of general local government to form a Consortium to allow these funds to remain local. The units of local government that have expressed interest to join the Consortium are the Cities of Temecula, Lake Elsinore, Palm Desert, Palm Springs, Indio and Hemet. The Act requires that the Consortium designate a lead agency to carry out the administrative function of the HOME program. The County of Riverside as an already established HOME participating jurisdiction will act as the lead agency for the HOME Consortium. The Act requires that the lead agency and members of the Consortium enter into a three (3) year Cooperation Agreement for HOME Consortium and adopt a Resolution authorizing the Consortium as well as appointing a designee to enter into the Cooperation Agreement. The agreement designates the County as the lead agency to amend the agreement on behalf of the entire Consortium to add new members to the Consortium.

The formation will allow the HOME Consortium to capture a larger share of the federal HOME dollars and expand a county-wide service area, which guarantees that the Consortium cities can participate in the County's already established Homeownership Down Payment Assistance Program. The Act to form the Consortium requires that a minimum threshold of \$750,000 must be met. Based on HUD's calculated formula it is estimated that the County of Riverside will receive approximately an additional \$932,000 annually. Upon HUD's approval of the HOME Consortium funds will be allocated to the County of Riverside for federal fiscal year 2015.

The Administration's Fiscal Year 2015 Budget proposes statutory changes that would establish a single qualification threshold of \$500,000 regardless of the Congressional appropriation amount when implemented will excluded the City's likelihood as a participating jurisdiction of federal annual formula grant assistance.

Irrespective of the funding levels, the formation of a HOME Consortium would be a positive force for affordable housing production. It will permit the City which otherwise is not assured of federal or California Department of Housing and Community Development (HCD) funding to plan and carry-out an affordable housing program with continuity.

To date the County of Riverside has assisted 572 homeowners with down payment assistance and constructed over 3,000 affordable housing units with the use of HOME funds since the beginning of the HOME program.

A recent project in Palm Springs that have received HOME funds through Riverside County was Vista Sunrise Apartments in the amount of \$1.5 million.

FISCAL IMPACT:

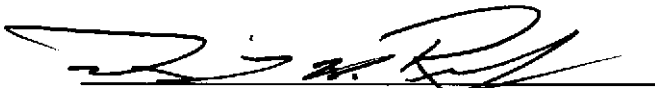
There is no direct fiscal impact to the General Fund. These dollars are the participating Cities allocated funds from the U.S. Department of Housing and Urban Development.



DALE E. COOK, JR.
Community Development Administrator



JOHN S. RAYMOND
Director of Community & Economic Development



DAVID H. READY, Esq., Ph. D.
City Manager

ATTACHMENT: Resolution

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PALM SPRINGS AUTHORIZING
PARTICIPATION IN THE HOME CONSORTIUM
WITH THE COUNTY OF RIVERSIDE AND
AUTHORIZING EXECUTION OF A COOPERATION
AGREEMENT FOR THE HOME CONSORTIUM.

WHEREAS, there has been enacted into law the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 *et seq.*) and Federal Regulations have been adopted pursuant thereto ("Act"); and

WHEREAS, Title II of the Act creates the HOME Investment Partnerships Program ("HOME"), the primary objective of which is to increase the supply of decent and affordable housing to low and very low-income households; and

WHEREAS, HOME allows for contiguous units of local government to form a consortium for the purpose of receiving and administering HOME funds, and carrying out purposes of the act; and

WHEREAS, the City Council desires the City of Palm Springs partner with the County of Riverside and other neighboring cities to form a consortium as described in the Cooperation Agreement for HOME Consortium attached hereto as Exhibit "A" and incorporated herein by this reference.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. That the City Council hereby finds and declares that the above recitals are true and correct;

SECTION 2. That the City Council authorizes the City of Palm Springs to participate in the HOME Consortium; and

SECTION 3. That the City Council approves the Cooperation Agreement for HOME Consortium attached hereto as Exhibit "A" and incorporated herein by this reference, and authorizes the City Manager, or designee, to execute said agreement and to take all necessary actions to implement said agreement

ADOPTED THIS ___ day of May, 2014.

David H. Ready, City Manager

ATTEST:

James Thompson, City Clerk

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

County of Riverside
Economic Development Agency
HOME Investment Partnership Program

Cooperation Agreement for HOME Consortium

This Cooperation Agreement for HOME Consortium ("Agreement") is made by and between the City of Lake Elsinore, City of Hemet, City of Indio, City of Temecula, City of Palm Springs and City of Palm Desert (individually referred to herein as a "CITY" and collectively referred to as the "CITIES"), and the County of Riverside, a political subdivision of the State of California ("COUNTY"), on _____, 2014. CITIES and COUNTY are individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, there has been enacted into law the Cranston-Gonzalez National Affordable Housing Act, as amended (42 U.S.C. 12701 *et seq.*) and Federal Regulations have been adopted pursuant thereto, (collectively the "ACT"); and,

WHEREAS, Title II of the ACT creates the HOME Investment Partnership Program ("HOME Program"), the primary objective of which is to increase the supply of decent and affordable housing to low-and very low-income households; and

WHEREAS, funds from Title II of the ACT are distributed to metropolitan cities, urban counties, states and consortia of local governments; and

WHEREAS, the HOME Program allows contiguous units of local government to form a consortia for the purpose of receiving and administering HOME Program funds, and carrying out purposes of the ACT; and

WHEREAS, the ACT requires that a consortium shall have one member unit of general local government authorized to act as the lead agency in a representative capacity for all members for the purposes of the ACT and to assume overall responsibility for ensuring that the consortium's HOME Program is carried out in compliance with the ACT, including requirements concerning all housing components of the COUNTY'S Consolidated Plan; and

WHEREAS, the CITIES and the COUNTY desire to create a consortium, wherein the COUNTY shall serve as the lead agency and the CITIES shall serve as the consortium members along with the County, as more specifically set forth in the Agreement below.

NOW THEREFORE, the Parties mutually agree as follows:

1. The purpose of this Agreement is to form a HOME Program consortium (the "CONSORTIUM"), between the cities of Lake Elsinore, Hemet, Indio, Temecula, Palm Springs and Palm Desert and the County of Riverside. The Parties agree to cooperate to undertake or to assist in undertaking HOME Program-eligible housing activities pursuant to Title II of the ACT.
2. The COUNTY is hereby designated as the lead agency to administer and implement the HOME Program and is authorized to act in a representative capacity for all CITIES for the purposes of the HOME Program and to apply under the CONSORTIUM and receive federal funding under the HOME Program on behalf of the Consortium. The COUNTY will be the "Participating Jurisdiction" in the HOME Program and, as such, will be the sole point of contact with the U.S. Department of Housing and Urban Development ("HUD") on issues concerning the HOME Program. The COUNTY will be responsible for any reporting requirements relative to the HOME Program and will assume the overall responsibility to ensure that the CONSORTIUM'S HOME Program is carried out in compliance with all federal requirements of the HOME Program, including the requirements of 24 CFR parts 91 and 92, and the Consolidated Plan.
3. The CITIES hereby authorize the COUNTY to establish a local HOME Investment Trust Fund for receipt of HOME Program funds and repayments as required by 24 CFR Part 92.503.
4. CITIES agree that COUNTY is hereby delegated the authority to carry out activities which will be funded under annual HOME Program appropriations from Federal Fiscal Years 15, 16 and 17, and from any program income generated from the expenditure of such funds within their jurisdiction in accordance with HOME Program regulations.
5. COUNTY, as lead entity shall act in a representative capacity for all CITIES, and shall assume overall administrative responsibility for ensuring that the HOME Program is carried out in compliance with HOME Program regulations. COUNTY responsibilities shall include, but not be limited to:
 - a. Coordinate and submit to HUD the HOME Program application for all documents necessary to qualify as a Consortium and to receive HOME Program funding to carry out the purposes of this Agreement.
 - b. Coordinate and submit to HUD the housing component of the Consolidated Plan.
 - c. Compliance with all HOME Program regulations, including but not limited to, Community Housing and Development Organization (CHDO's) (as defined in the ACT) set aside, securing match and all monitoring requirements. Proposed CHDO's must be approved by the County.

6. The CITIES shall cooperate in the County's implementation and monitoring of the HOME Program. The COUNTY shall assume the responsibility to monitor all HOME activities to assure compliance with all HOME Program requirements during both project implementation and any affordability period.
7. The County will assume the responsibility to ensure that all match requirements are met pursuant to CFR 92.218. Cities will not be obligated to provide any funds towards the matching requirements.
8. The County will assume full responsibility for the operation and management of all HOME funds.
9. To carry out activities under this Agreement, COUNTY shall allocate HOME Program funds received under the ACT to those HOME Program activities described in the Consolidated Plan. County will notify all CITIES in the preparation phase of the Consolidated Plan to allow CITIES to provide comments on the housing component of the Consolidated Plan. COUNTY shall fund HOME Program-eligible projects through an application process within CITIES boundaries on a first come first serve basis.
10. Subject to the administrative requirements of the HOME Program, the COUNTY may utilize some HOME Program funds for administrative costs to the extent allowable by HUD.
11. This Agreement will be signed in counterparts and shall go into effect immediately upon execution of all signatories to the Agreement. CITIES and COUNTY are required to participate in the Consortium for three (3) federal fiscal years 2015, 2016 and 2017. No Consortium member may withdraw from the Agreement in the middle of each three (3) year term.
12. With reference to any program income and repayment generated from HOME Program funds, federal regulations shall govern placement of program income generated from HOME Program funds and repayments into the local trust fund. HOME Program income and repayments on projects shall only be available for use on activities that are consistent with the Act, approved Consolidated Plan, and must be approved by the COUNTY.
13. The CITIES and COUNTY, as members of the CONSORTIUM, shall direct all activities with respect to the CONSORTIUM, to the alleviation of housing problems in Riverside County.
14. The CITIES agree to remain in the Consortium during the three federal fiscal years for which the Consortium qualifies to receive HOME Program funds, 2015, 2016 and 2017. Thereafter, each CITY shall continue to participate in the Consortium to the extent required by HUD regulations or other applicable laws or until all HOME Program allocations are expended. The obligations of each of the CITIES shall remain in effect until all HOME Program allocations received by the Consortium are expended or such longer period as may be agreed to by the parties.

15. This Agreement will be automatically renewed for participation in successive three-year qualification periods, unless one of the CITIES or COUNTY provides 90 days written notice, prior to March 1st to the other party that it elects not to participate in the next three-year HOME Program Consortium period. County shall provide to HUD notice of CITY's or COUNTY'S election not to participate in the Consortium no later than March 1st of the last year of the successive three-year period. CITIES shall adopt any amendment to this Agreement necessary to incorporate changes to meet HUD requirements for consortium agreements in subsequent three year qualification periods. County shall notify the City Manager of each CITY no later than September 1st prior to March 1st of the last year of each successive three year period of their right to terminate participation in the Consortium.
16. The COUNTY as the lead entity will notify HUD prior to March 1st of the last year of each successive three year period by submitting to the HUD Field Office a statement of whether or not any amendments have been made to the agreement, and, if the consortium's membership has changed and the state certification under 24 CFR 92.201(a)(2)(i). The automatic renewal provision will be void if the lead entity fails to submit a copy to HUD of any amendment to the agreement or fails to notify CITIES of their right not to participate for the next qualification period.
17. All Consortium members will operate on the same program year for CDBG, HOME, ESG and HOPWA, which shall be July 1 through June 30.
18. By executing this Agreement CITIES understand that it may not apply for HOME Program funds through the California Department of Housing and Community Development (HCD), for fiscal years during which it participates in the HOME Program Consortium.
19. This Agreement authorizes the COUNTY as the lead entity to amend the Agreement on behalf of the entire Consortium to add new members to the Consortium. Any other amendments to this Agreement will be made in writing and approved by all Parties.
20. COUNTY shall indemnify and hold harmless the other CITIES, and their respective directors, officers, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from (1) any liability whatsoever, based or asserted upon COUNTY's acts, errors, or omissions, and for any costs or expenses incurred by another CITY on account of any claim therefore, except where such indemnifications is prohibited by law, and (2) any acts of COUNTY its directors, officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of indemnifying COUNTY, its directors, officers, employees, subcontractors, agents or representatives. COUNTY shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such

alleged acts or omissions. Each Party shall promptly notify the other Party in writing of the occurrence of any such claims, actions, losses, damages and/or liability.

With respect to any action or claim subject to indemnification herein by the COUNTY, the COUNTY shall, at its sole cost, have the right to use counsel of their own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of such CITY or the other CITIES; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes the COUNTY's indemnification to the Indemnitees as set forth herein. The COUNTY's obligation hereunder shall be satisfied when the COUNTY has provided to such CITY the appropriate form of dismissal relieving such CITY from any liability for the action or claim involved.

Each CITY shall indemnify and hold harmless the other CITIES, the COUNTY and their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from (1) any liability whatsoever, based or asserted upon an indemnifying CITY's acts errors, or omissions, and for any costs or expenses incurred by another CITY and/or the COUNTY on account of any claim therefore, except where such indemnifications is prohibited by law, and (2) any acts of such indemnifying CITY, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature whatsoever arising from the performance of indemnifying CITY, its officers, employees, subcontractors, agents or representatives. Each indemnifying CITY shall defend, at its sole expense, all costs and fees including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions. Each Party shall promptly notify the other Party in writing of the occurrence of any such claims, actions, losses, damages and/or liability.

With respect to any action or claim subject to indemnification herein by the CITIES, the CITIES shall, at its sole cost, have the right to use counsel of its own choice and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of the COUNTY or other CITIES; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes such CITY's indemnification to the Indemnitees as set forth herein. A CITY's obligation hereunder shall be satisfied when such CITY has provided to the COUNTY and the other CITIES the appropriate form of dismissal relieving the COUNTY and the other CITIES from any liability for the action or claim involved.

21. By executing this Agreement, the Parties hereby certify that they will adhere to and comply with all federal, state and local laws, regulations and ordinances.
22. All members of the CONSORTIUM shall affirmatively further fair housing within their respective jurisdictions and any member of the CONSORTIUM that does not affirmatively further fair housing within its own jurisdiction shall be prohibited from receiving HOME Program funds.

23. Any waiver by the COUNTY of any breach of any one or more of the terms of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other term of this Agreement. Failure on the part of the COUNTY to require exact, full and complete compliance with any terms of this Agreement shall not be construed as in any manner changing the terms or preventing COUNTY from enforcement of the terms of this Agreement.
24. It is expressly agreed that this Agreement embodies the entire Agreement of the Parties in relation to the subject matter hereof, and that no other Agreement or understanding, verbal or otherwise, relative to this subject matter, exists between the Parties at the time of execution.
25. Each paragraph and provision of this Agreement is severable from each other provision, and if any provision or part thereof is declared invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.
26. The Parties will not make any sale, assignment, conveyance or lease of any trust or power or transfer in any other form with respect to this Agreement, without prior written approval of the other Party.
27. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California. Any legal action related to the performance or interpretation of this Agreement shall be filed only in the Superior Court of the State of California located in Riverside, California, and the Parties waive any provision of law providing for a change of venue to another location. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objective and purposes of the Parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting Party shall not be employed in interpreting this Agreement, all parties have been represented by Counsel in the negotiation and preparation hereof.
28. This Agreement is subject to HUD approval and the CONSORTIUM's receipt of HOME Program funds.

COUNTY COUNSEL STATEMENT:

The terms and provisions of this Agreement are fully authorized under state and local law. This Agreement provides full legal authority for the Consortium to undertake or assist in undertaking housing assistance activities for the HOME Program.

Pamela J. Walls
County Counsel

Date:

Jhaila Brown,
Deputy County Counsel

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[SIGNATURES ON FOLLOWING PAGE]

**County of Riverside
Economic Development Agency
HOME Investment Partnership Program**

Cooperation Agreement for HOME Consortium

SIGNATURE PAGE

This Agreement may be executed in any number of counterparts with the same effect as if all signatories had signed the same document. All counterparts must be construed together to constitute one (1) instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed below.

CITY OF _____

Date:

(Title, Name)

Attest:

Date:

(City Clerk, Name)

Approved as to Form:

Date:

(City Attorney, Name)

**County of Riverside
Economic Development Agency
HOME Investment Partnership Program**

Cooperation Agreement for HOME Consortium

SIGNATURE PAGE

This Agreement may be executed in any number of counterparts with the same effect as if all signatories had signed the same document. All counterparts must be construed together to constitute one (1) instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed below.

COUNTY OF RIVERSIDE

Date:

Jeff Stone, Chairman
Board of Supervisors

Attest:

Keisha Harper-Ihem,
Clerk of the Board

Approved as to Form:
Pamela J. Walls
County Counsel

Jhaila Brown,
Deputy County Counsel

Date:

Date: