

CITY OF ANN ARBOR AND COUNTY OF WASHTENAW
OPERATIONAL AGREEMENT FOR
THE OFFICE OF COMMUNITY DEVELOPMENT

THIS AGREEMENT, is made and entered into this ____ day of _____ 2010, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 100 North Fifth Avenue, Ann Arbor, Michigan 48107, ("CITY"), and the County of Washtenaw, a Michigan municipal corporation, with principal address at 220 North Main Street, Ann Arbor, Michigan 48107, ("COUNTY"):

WHEREAS, In October 2004, the CITY and COUNTY created a joint Office of Community Development (OCD) to operate their respective Community Development departments;

WHEREAS, On July 5, 2006, the CITY and COUNTY entered into the Partnership Agreement for Community Development Office ("Partnership Agreement") for joint management of the OCD;

WHEREAS, The CITY has contracted with the COUNTY since October 2004 to provide the CITY with the services of an OCD Manager (now referred to as OCD Director) and has contracted with the COUNTY since June 2008 to provide the CITY with the services of various supporting positions for the OCD including those provided by a Housing Manager, Operations Manager, Fiscal Analyst, Intake Specialist, Human Services Analyst, Management Analyst, and Administrative Coordinator;

WHEREAS, On June 16, 2008, the CITY and COUNTY entered into the Cooperative Agreement - "Urban County" - Community Development Block Grant & Home Investment Partnership Programs Agreement ("Cooperative Agreement") covering the Community Development Block Grant Entitlement Program, HOME Investment Partnership Program, and Neighborhood Stabilization Program for the period of July 1, 2009 through June 30, 2012; and

WHEREAS, The CITY and COUNTY now desire to continue to operate a joint Office of Community Development and need to specify how the COUNTY will provide the CITY with certain services and how the CITY will provide the COUNTY with certain services given the Partnership Agreement and the Urban County Cooperative Agreement between the parties;

The CITY and COUNTY agree as follows:

I. Term

The term of this Agreement shall begin on July 1, 2010 and shall remain in effect until June 30, 2011, unless terminated by either party under this Agreement. This Agreement may be renewed for an additional one-year term by written notification of the City Administrator or designee to the County and written notification of the County Administrator or designee to the City sixty (60) days prior to expiration of the term, subject to the availability of funds by the City and the County.

II. Scope of Services

- A. The purpose of the combined Office of Community Development is to provide services to customers and stakeholders, such as coordination of staff leadership, administrative and financial functions; provision of one Rehabilitation Service Delivery system; coordination and oversight of the planning process for the affordable housing program; and coordination of CITY and COUNTY human services activities.
- B. The COUNTY shall provide the CITY with competent personnel to perform the following services in order to execute the functions of the OCD, including:
- Manage the CITY's Housing and Human Services programs, including the administration of CITY funds for these projects. Unless otherwise amended, the Housing and Human Services programs include: General Fund dollars allocated for Human Services (Fund 0010), the Ann Arbor Affordable Housing Trust Fund (Fund 0070), the Ann Arbor Assistance Fund (Fund 0038), Community Development Block Grant Fund (Fund 0078), HOME Fund (Fund 0090), MSHDA Neighborhood Stabilization Funds (Fund 0078), and Community Development Block Grant -- Recovery Funds (Fund 0078).
 - Supervise CITY employees assigned to perform work for the OCD within the rules set forth in City Human Resources Services policies or as provided in the applicable bargaining unit contracts.
 - Prepare and process Requests for Proposals, staff the Housing and Human Services Advisory Board, and make recommendations for funding to the CITY through the CITY Community Services Area Administrator.
 - Prepare and process contracts and purchase orders and process payments to recipients of CITY funds under the Housing and Human Services programs.
 - Provide oversight and technical assistance to recipients of CITY funds under the CITY Housing and Human Services programs to ensure compliance with program rules and CITY fiscal policies.
 - Report regularly to the CITY's Community Services Area Administrator on the financial status and progress of assigned projects, and provide any additional reports or data as requested by the Community Services Area.
 - Consult with the City Administrator, Community Services Area Administrator or other CITY officials as necessary.
- C. Personnel provided by the COUNTY to the CITY to provide the above-referenced services shall include an OCD Director (also referred to as "Director") who will supervise and manage the Office of Community Development and CITY employees staffing the Office of Community Development. The OCD Director's duties and responsibilities shall be consistent with the Washtenaw County job description entitled

Community Development Director (Job Code 3444, Attachment A). Duties in the job description performed for the COUNTY and County Commission shall be performed for the CITY and City Council under this Agreement as required.

- D. Additional personnel provided by the COUNTY to the CITY to provide the agreed-upon services shall include a Housing Manager with duties and responsibilities consistent with the Washtenaw County job description entitled Housing Manager (Job Code 3192, Attachment B); an Operations Manager with duties and responsibilities consistent with the Washtenaw County job description entitled Operations Manager (Job Code 3276, Attachment C); a Fiscal Analyst with duties and responsibilities consistent with the Washtenaw County job description entitled Fiscal Analyst (Job Code 2944, Attachment D); a Human Services Analyst with duties and responsibilities consistent with the Washtenaw County job description entitled Community Development Management Analyst (Job Code 2719, Attachment E); and an Intake Specialist with duties and responsibilities consistent with the Washtenaw County job description entitled Intake Specialist (Job Code 1644, Attachment F), and such additional personnel as is determined by the COUNTY to provide the services under this Agreement. Duties in the job description performed for the COUNTY and County Board of Commissioners in County Job Descriptions shall be performed for the CITY and City Council under this Agreement as required.
- E. The CITY shall provide the COUNTY with competent personnel to perform the following services in order to execute the functions of the OCD, including:
- General administrative support and coordination of OCD front office customer support.
 - Coordination and facilitation of the rehabilitation and inspection of homes and rental units occupied by lower income residents.
- F. CITY shall provide COUNTY with the services of an Administrative Assistant whose duties and responsibilities shall be consistent with the City of Ann Arbor Job Description entitled Administrative Assistant (Job Number 110014/24/34/44/54, Attachment G); a Housing Rehabilitation Specialist I whose duties and responsibilities will be consistent with the City of Ann Arbor Job Description entitled Housing Rehabilitation Specialist I (Job Number 114050, Attachment H); and a Housing Rehabilitation Specialist II whose duties and responsibilities will be consistent with the City of Ann Arbor Job Description entitled Housing Rehabilitation Specialist II (Job Number 114060, Attachment I). Duties in the job description performed for the CITY and City Council In City Job Descriptions shall be performed for the COUNTY and County Board of Commissioners under this Agreement as required.

III. Duties of the OCD Director

- A. The Director shall be responsible for the dally supervision of CITY employees working in the Office of Community Development.
- B. The Director shall perform all services under this Agreement in accordance with all applicable rules, policies, procedures, and collective bargaining agreements of the CITY.
- C. The Director shall make decisions regarding the management of CITY employees, or the administration of CITY business with the advice and consent of the Community Services Area Administrator, or other designee of the City Administrator.
- D. Director shall advise the Community Services Area Administrator, or the City Administrator's designee, of any media requests pertaining to CITY-related business activity, generally or by FOIA request, for interviews, statements or other documents so that the most appropriate CITY official may provide a response to the request.
- E. Director shall supervise, evaluate and discipline CITY employees in accordance with all rules, policies, procedures, and collective bargaining agreements of the CITY, in consultation with CITY Human Resources Services and the Community Services Area Administrator.

IV. Supervision of OCD Director

- A. The Director shall be supervised by the Community Services Area Administrator, or the City Administrator's designee, for the CITY, and by the County Administrator, or the County Administrator's designee, for the COUNTY.
- B. The Director shall report directly to the Community Services Area Administrator, or the City Administrator's designee, for CITY-related business activity and to the County Administrator, or the County Administrator's designee, for COUNTY-related business activity.
- C. The Director shall also report indirectly to City Council for all CITY-related business activity, and to the County Board of Commissioners for all COUNTY-related business activity.

- D. The supervisors of Director for the CITY and COUNTY shall jointly set work priorities for the Director.
- E. The Supervisors of Director for the CITY and COUNTY shall jointly write and administer performance reviews for Director.

V. General Operational Conditions

- A. CITY and COUNTY employees of the OCD shall perform their duties in accordance with the rules, policies, procedures and collective bargaining agreements of their respective employers, and in accordance with the adopted Partnership Agreement and Urban County Cooperative Agreement.
- B. CITY and COUNTY employees of the OCD shall comply with all applicable federal, state and local laws, rules and regulations governing programs administered by the OCD.
- C. The COUNTY shall maintain books, records and separate accounts for all funds administered by the COUNTY on behalf of the CITY.
- D. CITY and COUNTY employees in the OCD shall keep time records tracking time administering CITY funds and time administering COUNTY funds, as well as time, if any, working on joint CITY and COUNTY-funded projects, and time assisting CITY and COUNTY employees from other departments or service units. Time records must comply with timekeeping procedures of both the CITY and the COUNTY.
- E. COUNTY employees shall not disclose confidential information of the CITY to any other COUNTY employee or other person, and CITY employees shall not disclose confidential information of the COUNTY to any CITY employee or other person.
- F. On matters that could involve an actual or perceived conflict of interest between the CITY and COUNTY, employees in the OCD shall disclose all pertinent facts relating to the potential conflict to the OCD Director who will advise the Community Services Administrator or City Administrators designee, and the County Administrator or the County Administrator's designee, who will advise the Director regarding resolution of the conflict.
- G. The general hours of operation for CITY employees in the OCD shall be designated by the OCD Director, subject to the prior written permission of CITY Human Resources Services and in accordance with any collective bargaining requirements.

VI. Office Facilities

- A. COUNTY shall provide office space, business equipment and supplies for CITY employees of the OCD in COUNTY facilities at 110 North Fourth Avenue, Ann Arbor, Michigan, or other mutually agreeable location provided by the COUNTY.
- B. In order to carry out the functions of the OCD, all CITY employees shall have access to necessary equipment, systems and services provided through the COUNTY, and all COUNTY employees shall have access to necessary equipment, systems and services provided through the CITY.
- C. COUNTY policies applicable to CITY employees working in COUNTY facilities, including, but not limited to, Washtenaw County Internet & E-mail Policy and Washtenaw County Ergonomic Furniture Policy, are subject to review by the City Administrator and the City Attorney.

VII. Written Policies

CITY will provide COUNTY and Director with written copies of applicable policies and procedures regarding services under this Agreement, and any applicable collective bargaining agreements. COUNTY will provide CITY with written copies of applicable policies and procedure and any applicable collective bargaining agreements. Such policies will comply with all federal, state and local governmental laws and regulations, as well as applicable collective bargaining agreements.

VIII. Ownership of Documents and Publication

All documents related to CITY business developed as a result of this agreement are the property of the CITY and all documents related to COUNTY business developed as a result of this Agreement are the property of the COUNTY. Documents will be available to the public in conformance with the Michigan Freedom of Information Act. During the performance of the services under this Agreement, the COUNTY will be responsible for any loss or damage to the documents while they are in its possession or the possession of any COUNTY employee and must restore the loss or damage at its expense unless the loss or damage is caused by a CITY employee.

IX. Employee Compensation/Taxes/Reimbursement

- A. CITY employees will at all times remain exclusive employees of the CITY, and COUNTY employees will at all times remain exclusive employees of the COUNTY.
- B. The COUNTY accepts exclusive liability for compensation and benefits for services performed by COUNTY employees under this Agreement. COUNTY accepts exclusive liability for all applicable payroll taxes, including social security, federal, state and any CITY income tax withholding, federal and state unemployment taxes, and any penalties and interest on such payroll taxes resulting from

amounts paid to any persons employed by COUNTY in performing services under this Agreement. Such persons will in no event be the employees of the CITY. COUNTY agrees to indemnify CITY from any and all taxes under Section 4980B of the Internal Revenue Code and any penalties and interest thereon, resulting from failure of COUNTY to satisfy the continuation coverage requirements provided in Section 4980B of the Internal Revenue Code with respect to COUNTY's group health plans, if any, applicable to persons employed by COUNTY in performing services under this agreement. COUNTY must pay all income, single business, sales, use, property, and any other taxes, assessments and fees arising out of the COUNTY's performance of services under this Agreement, and must indemnify CITY for all such taxes, assessments and fees and any penalties and Interest on such taxes, assessments and fees levied against CITY or which CITY may be required to pay.

- C. The CITY accepts exclusive liability for compensation and benefits for services performed by CITY employees under this Agreement. CITY accepts exclusive liability for all applicable payroll taxes, including social security, federal, state and CITY income tax withholding, federal and state unemployment taxes, and any penalties and interest on such payroll taxes resulting from amounts paid to any persons employed by CITY in performing services under this Agreement. Such persons will in no event be the employees of the COUNTY. CITY agrees to indemnify COUNTY from any and all taxes under Section 4980B of the Internal Revenue Code and any penalties and interest thereon, resulting from failure of CITY to satisfy the continuation coverage requirements provided in Section 4980B of the Internal Revenue Code with respect to CITY's group health plans, if any, applicable to persons employed by CITY in performing services under this agreement. CITY must pay all income, single business, sales, use, property, and any other taxes, assessments and fees arising out of the CITY's performance of services under this Agreement, and must indemnify COUNTY for all such taxes, assessments and fees and any penalties and interest on such taxes, assessments and fees levied against COUNTY or which COUNTY may be required to pay.
- D. The COUNTY will compensate COUNTY employees and the CITY will compensate CITY employees. Each party will, for their respective employees, maintain all required human resources and compensation records, compute employees' compensation and withhold and pay all required employment taxes, pay all required worker's compensation, unemployment compensation, overtime and fringe benefits required by law or pursuant to each parties' respective policy. Each party will also perform such other duties and obligations for their respective employee as required to comply with any and all applicable federal, state and local statutes, ordinances, rules and regulations, including without limitation the maintenance of appropriate worker's compensation insurance, compliance with

OHSA/MIOSHA requirements, and compliance with the Americans With Disabilities Act and the Michigan Persons with Disabilities Civil Rights Act.

X. Compensation for Services

- A. The CITY will reimburse the COUNTY up to \$232,422 for FY11 for all services provided to the CITY under this Agreement. The COUNTY shall be paid for actual staffing costs for services provided to the CITY, including the proportionate amount of salary and benefits for each COUNTY employee in the OCD, based on the percentage of time each employee spends providing services to the CITY, and the corresponding percentage of total overhead expenses for each employee.
- B. The COUNTY will reimburse the CITY up to \$309,430 for FY11 for all services provided to the COUNTY under this Agreement. The CITY shall be paid for actual staffing costs for services provided to the COUNTY, including the proportionate amount of salary and benefits for each CITY employee in the OCD and for financial services provided by an Administrative Assistant and a Financial Manager within Community Services Administration, based on the percentage of time each employee spends providing services to the CITY.
- C. Payments shall be made at least quarterly following receipt of an invoice submitted by the other party. Payment shall be made within 30 days of receipt of invoice.
- D. If circumstances arise where it is necessary for the OCD Manager to assign an employee of one party to work on an assignment for the other party, or where it is necessary for one party to provide unanticipated, extraordinary services for the other party, the party providing the services will be reimbursed by the party for whom the work was done. The party that has received assistance shall pay the billing party for such time within 30 days after receipt of invoice.

XI. Compliance With Laws and Regulations

The COUNTY agrees to comply at its own expense with all health, safety, and work laws, regulations, directives, and rules, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act. CITY and COUNTY employees will continue to follow their respective policies regarding the reporting of accidents and incidents involving employees.

XII. Equal Access

The CITY and COUNTY shall provide the services set forth in this Agreement without discrimination on the basis of race, color, religion, national origin, sex, sexual orientation, marital status, disability, or age, height, and weight.

XIII. Equal Employment Opportunity

In providing services under this Agreement the CITY and COUNTY will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, disability, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

The CITY and COUNTY acknowledge that both parties have adopted ordinances and/or policies to eliminate discrimination based on sex, race, sexual orientation, or a handicap in the hiring of applicant and the treatment of employees.

The COUNTY agrees to post notices containing their policy against discrimination in conspicuous places available to applicants for employment and employees. All solicitations or advertisements for CITY and COUNTY employees in the OCD, will state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, sexual orientation, national origin, disability, age, height, weight, marital status, veteran status, religion and political belief.

XIV. Indemnity

The CITY will protect, defend and indemnify the COUNTY, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the CITY's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of the COUNTY in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of CITY, any sub-contractor, or any employee, agent or representative of the CITY or any sub-contractor.

The COUNTY will protect, defend and indemnify the CITY, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the COUNTY's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of the CITY in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of COUNTY, any sub-contractor, or any employee, agent or representative of the COUNTY or any sub-contractor.

This section is not intended, and shall not be construed, to waive or limit any immunity defense which the respective governmental entity may have including, but not limited to, governmental immunity.

XV. Insurance

The parties acknowledge that each party is insured or self-insured. Each party agrees to maintain insurance or self-insurance reserves or excess insurance policies at its own expense during the term of this Agreement and any future partnership agreements into which the parties enter with one another, in the type and amounts below:

- A. Workers' Compensation Insurance with Michigan statutory limits and Employers liability Insurance with a minimum limit of \$100,000 each accident for any employee.
- B. Comprehensive/Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage. Each party shall name the other party as "additional insured" on the general liability policy with respect to the services provided under this Agreement.
- C. Automobile Liability Insurance covering all owned, hired and non-owned vehicles with Personal Protection Insurance and Property Protection Insurance to comply with the provisions of the Michigan No Fault Insurance Law, including residual liability insurance with a minimum combined single limit of \$1,000,000 each accident for bodily injury and property damage.

Insurance companies, named insureds and policy forms shall be subject to the approval of the CITY Attorney and County Administrator. Such approval shall not be unreasonably withheld. Insurance policies shall not contain endorsements or policy conditions which reduce coverage provided to either the CITY or the COUNTY. Each party shall be responsible to the other party for insurance companies insuring each party for all costs resulting from both financially unsound insurance companies selected by either party and their inadequate insurance coverage. Each party shall furnish the other party with a letter of self-insurance and/or satisfactory certificates of insurance or a certified copy of the policy, if requested by the City Attorney or County Administrator.

XVI. Termination

Either party may terminate this Agreement with or without cause by giving 90 days written notice to the other party of its intent to terminate. In the event of this Agreement's termination, any money owed by one party to the other prior to the date of termination pursuant to Article III must still be paid.

XVII. General Provisions

- A. This Agreement may not be altered or amended except by written agreement, signed by the City Administrator or designee and the County Administrator or designee. All amendments to this Agreement are subject to the approval of the City Administrator and the County Administrator.

- B. The provisions of this Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.
- C. This Agreement may be executed in several counterparts, each of which shall be deemed original. Such counterparts shall together constitute but one and the same Agreement.
- D. The headings of the paragraphs of this Agreement are inserted solely for the convenience of reference. They shall in no way define, limit, extend or aid in the construction of the scope, extent or intent of this Agreement.
- E. The recitals at the beginning of this Agreement are incorporated into the Agreement by reference.
- F. In the event that any provision contained in this Agreement is held unenforceable by a court of competent jurisdiction, the remaining provisions shall continue. In the event that a portion of any provision is held unenforceable, the remaining portion of such provision shall nevertheless be carried into effect.
- G. The Agreement shall be construed in accordance with the laws of the State of Michigan. The parties agree that Washtenaw County, Michigan is the proper forum for any litigation arising out of this agreement.
- H. The failure of a party to enforce at any time the provisions of this Agreement shall not be construed as a waiver of any provision or of the right of such party thereafter to enforce each and every provision of this Agreement.
- I. Neither party shall transfer or assign the Agreement without the written consent of the other party.
- J. Any notice, request, demand, or other communication required or permitted thereunder shall be deemed properly given when received. All notices and submissions required under this agreement shall be by personal delivery, overnight delivery service, or by first-class mail, postage prepaid, to the address set forth above or such other address or method of delivery as either party may designate by prior written notice to the other.
- K. This Agreement represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral, except for the Partnership Agreement and Cooperative Agreement between the parties.

**WASHTENAW COUNTY,
A Michigan Constitutional Corporation**

Attested to:

By: _____
Lawrence Kestenbaum (Date)
County Clerk/Register

By: _____
Verna J. McDaniel (Date)
County Administrator

Approved as to Form:

By: _____
Curtis N. Hedger (Date)
Office of Corporation Counsel

**CITY OF ANN ARBOR,
A Michigan Municipal Corporation**

By: _____
John Hieftje (Date)
Mayor

By: _____
Jacqueline Beaudry (Date)
City Clerk

Approved as to Substance

By: _____
Roger W. Fraser (Date)
City Administrator
Administrator

By: _____
Sumedh Bahl, (Date)
Community Services

Approved as to Form:

By: _____
Stephen K. Postema (Date)
City Attorney