

LEE COUNTY RESOLUTION NO. 22-08-12

A JOINT RESOLUTION OF THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS AND THE CITY OF SANIBEL PERTAINING TO THE MUNICIPALITY’S PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME INVESTMENT PARTNERSHIP (HOME), AND EMERGENCY SOLUTIONS GRANT (ESG) PROGRAMS, FEDERAL FISCAL YEARS 2023, 2024, and 2025; PROVIDING FOR CERTAIN COMMITMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing and Community Development Act of 1974, as amended, makes provisions whereby counties may enter into cooperation agreements with certain units of government to carry out activities which will be funded from annual CDBG entitlement grant; and

WHEREAS, the cooperation of the City of Sanibel and County is essential for the successful planning and implementation of the CDBG, HOME and ESG Programs under an “Urban County” designation by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, this Resolution covers the period necessary to carry out activities which will be funded from appropriations for the federal fiscal years 2023, 2024, and 2025 for which Lee County is to qualify and from any program income generated from the expenditure of such funds, including such additional time as may be required for the expenditure of any such funds granted to the City of Sanibel; and

WHEREAS, the City of Sanibel, Florida and the Lee County Board of County Commissioners agree to cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing; and

WHEREAS, the City of Sanibel agrees to use its powers in the carrying out of the essential activities in accordance with the Urban County’s Program; and

WHEREAS, the Lee County Board of County Commissioners and the City of Sanibel agree to take all necessary actions to comply with the 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, which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, and other applicable laws; and

WHEREAS, The City of Sanibel 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 nonviolent civil rights demonstrations; and (2) a policy enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction; and

WHEREAS, pursuant to 24 CFR 570.501(b), the City of Sanibel is subject to the same requirements applicable to subrecipients, including the requirement for a written agreement set forth in 24 CFR 570.503; and

WHEREAS, the City of Sanibel has opted to be included in the Urban County Program for three years and agrees to abide by the Urban County Cooperative Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of City of Sanibel Lee County, Florida and the Lee County Board of County Commissioners agree to participate in the CDBG, HOME and ESG Programs for Federal Fiscal Years 2023, 2024, and 2025.

- a.* The County agrees to allocate to the City of Sanibel the annual entitlement allocation for the City as determined by the Secretary of HUD for fiscal years 2023, 2024, and 2025.

- b.** The County shall authorize the City of Sanibel to use the aforementioned CDBG Funds to implement its CDBG program activities provided such activities are in accordance with the Lee County Consolidated Plan and HUD regulations. In conformance with the Lee County Consolidated Plan, the City of Sanibel will propose projects for inclusion in each year's Annual Plan which conform to 24 CFR 570 Subpart C and specifically, which conform to the following eligible activity types: Acquisition of Real Property (24 CFR 570.201(a)); Public Facilities and Improvements (24 CFR 570.201(c)); Clearance and Demolition (24 CFR 570.201(d)); Public Services (24 CFR 570.201(e) (The amount of CDBG funds used for Public Service activities cannot exceed 15% of the municipality's annual entitlement unless agreed to by the County)); Construction of Housing (under limited circumstances as defined in regulations) (24 CFR 570.201(m)); Direct Homeownership Assistance (24 CFR 570.201(n)); Rehabilitation - Single Unit Residential (24 CFR 570.202); Rehabilitation - Multi Unit Residential (24 CFR 570.202); Acquisition - for Rehabilitation (24 CFR 570.202); Rehabilitation Administration (24 CFR 570.202); and Code Enforcement (24 CFR 570.202(c). Projects identified for other eligible activity types must be agreed to by the County. Allocations of \$20,000 or less must be allocated entirely to one activity, unless agreed to by the County.
- c.** The County has final responsibility for selecting CDBG, HOME and ESG program activities and annually filing the Final Statements with HUD. The County agrees to provide staff and technical assistance to the City of Sanibel for reasonable activities in the planning, implementation, administration, and reporting of CDBG projects. The County will charge the municipality a general administrative operating fee, not to exceed 20% of the City's

total entitlement. The general administrative operating fee will be based on the actual program administration rate of the County's previous fiscal year.

- d.* The County will notify the City of Sanibel by January 1 of each year, the estimated amount of the City's allocation and the general administrative operating fee for the upcoming October 1 fiscal year.
- e.* By May 1 of each year, the City of Sanibel shall send a list of proposed activities to the County for an eligibility determination.
- f.* By August 1 of each year, the City of Sanibel will officially notify the County in writing of how the funds will be allocated, in accordance item *b*.
- g.* The City of Sanibel agrees to expend funds from the yearly entitlement allocation within 18 months of the first day of October of each entitlement program year. If the City fails to expend funds within the 18 month time frame, the County has the right to expend these funds in accordance with HUD timeliness guidelines.
- h.* CDBG funds will be utilized through one of the following mechanisms:
 - 1. A program or activity administered directly by the municipality.
 - 2. A program or activity administered by a not for profit organization with IRS 501(c)3 status. The municipality must enter into a formal written agreement with the sub recipient, which includes all regulatory requirements found in 24 CFR 570.
 - 3. A Memorandum of Understanding (MOU) to purchase services provided by Lee County such as housing rehabilitation. The municipality will enter into an MOU with the appropriate County department.

The County will enter into a contract with the City of Sanibel for programs or activities directly administered by the municipality or provided by a subrecipient. The municipality

and all subrecipients are subject to all CDBG regulatory and programmatic requirements. The City of Sanibel will provide all County and HUD-required documentation and designate a staff person responsible for meeting all HUD reporting and performance requirements.

- i.* The City of Sanibel is responsible to meet all required timeframes as identified by the County in order for the County to report to HUD as required. Failure to provide required reporting documents to meet all required timeframes as designated by the County may result in the County assessing a fine. The County will be responsible for the overall administration including, but not limited to the HUD Consolidated Plan, performance reports, and management of the CDBG program in accordance with the applicable HUD regulations. Any disputes between the City of Sanibel and County regarding any other issues not required to meet the conformance of the HUD program may be resolved by the Board of County Commissioners and the Council of the City of Sanibel. In the event that the dispute cannot be resolved between the Board of County Commissioners and the Council of the City of Sanibel, Chapter 164, Florida Statutes regarding dispute resolution shall be applicable.
- j.* The City of Sanibel agrees to abide by all HUD regulations in regard to real property acquired or improved in whole or in part using the CDBG funds and to notify the County in writing prior to disposition of or transfer of real property. Any program income generated from the disposition or transfer of property shall be paid to the County.
- k.* The City of Sanibel will hold the County harmless for any expenditures that are made by the City of Sanibel or any subrecipient agency. The City of Sanibel will reimburse the County for any HUD entitlement funds that are expended by the City of Sanibel or any subrecipient

agency that do not conform to HUD or County guidelines along with any fines, penalties, or legal costs incurred as a result of such action. As required by Consolidated and Further Continuing Appropriations Act, 2016, Public Law 114-113, the City of Sanibel may not sell, trade or otherwise transfer all or any portion of funds to another 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, credit or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

Section 2. The Mayor and /or Chairman is hereby authorized to sign this Joint Resolution and the City Clerk to attest to same.

Section 3. Effective Date. This Resolution shall take effect immediately upon adoption.

IN WITNESS WHEREOF, the County and the City have executed this agreement as of the date first written above.

City of Sanibel

BY: [Signature]
Signature of Authorized Officer

Holly D. Smith
Printed Name

Mayor
Title

6/28/22
Date

ATTEST: CITY CLERK, FLORIDA
BY: [Signature]
Title
6/28/22
Date



APPROVED AS TO FORM

BY: [Signature]
John D. Agnew, City Attorney

John Agnew
Printed Name

City Attorney
Title

6/23/22
Date

COUNTY: | LEE COUNTY

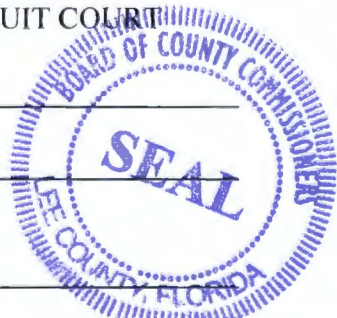
BY: [Signature]
Signature of Authorized Officer

Commissioner Cecil L Pendergrass, Chairman
Lee County Board of County Commissioners
District 2
Printed Name

Cecil Pendergrass
Title - Board of County Commissioners

8-3-22
Date

ATTEST: CLERK OF CIRCUIT COURT
BY: [Signature]
Title
08/03/2022
Date



APPROVED AS TO FORM FOR THE RELIANCE OF LEE COUNTY ONLY:

BY: [Signature]
County Attorney's Office

Andrea R. Fraser
Printed Name

Deputy County Attorney
Title

8-2-2022
Date



Board of County Commissioners

Kevin Ruane
District One

Cecil L Pendergrass
District Two

Ray Sandelli
District Three

Brian Hamman
District Four

Mike Greenwell
District Five

Roger Desjarlais
County Manager

Richard Wm. Wesch
County Attorney

Donna Marie Collins
County Hearing
Examiner

August 30, 2022

Dana Souza, City Manager
City of Sanibel
800 Dunlop Rd.
Sanibel, FL 33957

Re: Executed Resolution

Mr. Souza,

Enclosed is the executed Joint Resolution between Lee County Board of County Commissioners and The City of Sanibel for the Urban County Agreements for Fiscal Years 2023, 2024 and 2025. Please keep these for your records.

Should you have any questions, do not hesitate to contact Clare Molloy at CMolloy@leegov.com or 239-533-7905.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger Mercado".

Roger Mercado, Director
Lee County Human and Veteran Services

cc: Jeannie Sutton, Deputy Director, Human and Veteran Services
Rae Isley, Fiscal Manager, Human and Veteran Services