



Bill No. 4129
Ordinance No. _____

INTRODUCED BY
ALDERMEN UTT, FINLEY, STALLMANN, ROACH, FLEMING, LEAHY, SIEGEL, BULLINGTON

AN ORDINANCE AUTHORIZING THE MAYOR OF THE CITY OF BALLWIN, MISSOURI, TO EXECUTE THE MUNICIPAL HOUSING AND COMMUNITY DEVELOPMENT COOPERATION AGREEMENT FOR FISCAL YEARS 2021-2023; AND SUPPLEMENTAL AGREEMENTS THERETO WITH ST. LOUIS COUNTY WITH REGARD TO THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 AS AMENDED.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BALLWIN AS FOLLOWS:

Section 1. The Mayor of the City of Ballwin, Missouri, is hereby authorized to execute for and on behalf of the City of Ballwin, the Municipal Housing and Community Development Cooperation Agreement for Fiscal Years 2021-2023 (attached hereto as Exhibit A) and Supplemental Agreements thereto as may be required by law with regard to the Housing and Community Development Act of 1974 as amended.

Section 2. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED this _____ day of _____, 2022.

TIM POGUE, MAYOR

APPROVED this _____ day of _____, 2022.

TIM POGUE, MAYOR

ATTEST:

ERIC STERMAN, CITY ADMINISTRATOR

**MUNICIPAL HOUSING AND COMMUNITY DEVELOPMENT
COOPERATION AGREEMENT
FOR FISCAL YEARS 2021-2023**

***THIS MUNICIPAL HOUSING AND COMMUNITY DEVELOPMENT
COOPERATION AGREEMENT*** (hereinafter referred to as the “Agreement”), made
and entered into this ____ day of _____, _____, by and between **ST. LOUIS
COUNTY, MISSOURI**, (herein referred to as “County”), and the City of
Ballwin, Missouri, (herein referred to as “Municipality”).

WITNESSETH:

WHEREAS, the United States Congress enacted the Housing and Community
Development Act of 1974, as amended, (herein referred to as the “Act”) providing
federal funds to units of local government for the purposes of developing urban
communities and improving housing conditions and community services; and

WHEREAS, the Act recognizes that Municipality may enter into cooperation
agreements with County in order to undertake community development activities with
Municipality as authorized by Section 105 of the Act: and

WHEREAS, County and Municipality have enacted ordinances authorizing their
chief executive officer to execute the Agreement and Supplemental Cooperation
Agreements, and

WHEREAS, the provisions of Section 70.210 to Section 70.320 R.S.Mo.
inclusive empower municipalities or political subdivisions to contract with each other
for a common service and Section 2.180 of the 1979 County Charter provides that the

County Council may by ordinance authorize contracts between County and an incorporated area for a common service; and

WHEREAS, County and Municipality desire to undertake a cooperative community development program in accordance with the Act;

NOW, THEREFORE, County and Municipality mutually agree as follows:

1. County and Municipality hereby agree to cooperate to undertake, or assist in undertaking, community renewal, lower income housing assistance and emergency shelter activities, specifically urban renewal, publicly assisted housing and emergency shelters. Such activities are to be carried out by Municipality in accordance with County's Community Development Plan and Comprehensive Housing Affordability Strategy as submitted in County's Consolidated Plan provided to the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD"). Moreover, Municipality may undertake lower income housing activities authorized pursuant to the National Affordable Housing Act of 1990 (hereinafter referred to as "NAHA") and activities relating to emergency shelters in accordance with County's Consolidated Plan.

These community development, housing and emergency shelter activities will be carried out with funds received by County from annual Community Development Block Grants (hereinafter "CDBG") made pursuant to the Act, annual HOME allocations made pursuant to NAHA, from Emergency Solutions Grants Program funds, and from any program income generated from the expenditure of such funds.

Such funds shall be made available to Municipality for the purpose of undertaking community development activities, this AGREEMENT covering the

CDBG Entitlement Program, the HOME allocations made pursuant to NAHA, and the Emergency Solutions Grants program. Community development activities will be undertaken in accordance with the terms and conditions of the Agreement and Supplemental Cooperation Agreements. HOME funds will be made available through a public solicitation process to nonprofit and for profit development entities who desire to undertake activities as specified in the County's HOME Program Description. County has final responsibility for selecting eligible projects and filing annual Statements and Program Descriptions under the CDBG HOME, and Emergency Solutions Grants programs respectively.

2. Municipality, by the execution of the Agreement, agrees to have its demographic data as defined in Section 106 of the Act, included in the formula allocation of funds to the County. County agrees to include Municipality as a part of its Consolidated Plan to be submitted to HUD under the terms and conditions of the Act.

3. Funds allocated by HUD to County by reason of Municipality's execution of the Agreement shall be deposited with the County Treasurer in accordance with HUD Regulations and may be made available to Municipality for community development programs mutually agreed to by County and Municipality and covered by Supplemental Cooperation Agreements.

4. Municipality agrees to comply with any and all applicable provisions of the Act and any and all applicable regulations including Subpart K of 24 CFR 570 and guidelines pertaining heretofore or hereafter promulgated by HUD.

5. County and Municipality each agree to comply and act in conformance with, as well as, take all actions necessary to assure compliance with, County's

certification required by Section 104 (b) of Title I of the Act, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 109 of the Housing and Community Development Act of 1974, and other applicable laws and to affirmatively further fair housing.

By entering into this Agreement, Municipality affirms that it affirmatively furthers fair housing within its own jurisdiction, and further agrees that if Municipality impedes County's actions to comply with any fair housing certification the County may achieve, that County may cease funding for activities in or in support of Municipality under this Agreement. County shall not fund Municipality if Municipality does not affirmatively further fair housing.

6. Whenever Municipality uses CDBG funds in an amount of less than \$25,000 in whole or in part to acquire or improve real property, Municipality shall inform County in a timely manner of any modification or change in use of the real property from that planned at the time of acquisition or improvements by municipality, including property disposition. If Municipality sells or transfers such property, Municipality shall reimburse County in an amount equal to the current fair market value (less any portion thereof attributable to expenditures on non-CDBG funds).

Municipality agrees that any real property under Municipality's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 is either:

- (i) Used to meet one of the national objectives in 570.208 until five years after expiration of the agreement, or such longer period of time as determined appropriate by the County; or
- (ii) Is disposed of in a manner which results in the County being reimbursed in the amount of the current fair market value of the

property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such reimbursement is not required after the period of time specified in accordance with (i) above.

Any program income generated from the disposition or transfer of property prior to or subsequent to the close-out or change of status, or termination of this Agreement shall be treated according to the provisions for program income applicable to CDBG's set out in the Code of Federal Regulations and the Agreement.

7. County, HUD, Comptroller General of the United states, or any other state or federal agency or their authorized representative shall be allowed the right of access to and the right to examine all books, records, documents, and other supporting documents involving any and all transactions and matters related to this contract at all times during which the provisions of the Agreement and Supplemental Cooperation Agreements are in effect and for such period of time that Municipality is required to preserve such records and documents under the provisions of the Act and all regulations adopted pursuant thereto. County and Municipality shall provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.

8. Municipality understands and agrees that all of the said community development activities undertaken by Municipality shall only be funded by monies received by County pursuant to the formula allocation as set forth in Section 106 of the Act, or unless received by special grant as determined by County.

9. Municipality shall inform County of any and all income generated by the expenditure of CDBG funds received by Municipality, from any source whatsoever. Such program income shall be returned to County.

In addition to program income, upon the expiration of this AGREEMENT, MUNICIPALITY shall transfer to COUNTY any accounts receivable attributable to the use of CDBG funds.

County and Municipality agree that County has the responsibility for monitoring and reporting to HUD on the use of any such program income. Accordingly, Municipality shall comply with such record keeping and reporting directions as may be required of Municipality by County for the specific purpose of allowing County to monitor program income and report to HUD concerning use of program income. In the event of a closeout or change in status of Municipality, any program income not yet paid to County, or disbursed to Municipality and on hand or received by Municipality subsequent to the closeout or change in status shall be paid to County.

10. County agrees to assume responsibility for the preparation of the Consolidated Plan in order to secure funds under the Act, and the administration, monitoring, and evaluation of the community development activities stipulated in Supplemental Cooperation Agreements.

11. Municipality certifies that the Community Development Grant as implemented by the Supplemental Cooperation Agreements gives maximum feasible priority to activities which benefit low or moderate income families, aid in the prevention or elimination of slums or blight, or are an urgent community

development need, but that not less than seventy percent (70%) of funds received shall be used for activities that benefit low and moderate income persons.

12. County and Municipality agree to undertake, begin, and complete the community development activities specified in Supplemental Cooperation Agreements in accordance with the Act, the rules, regulations, including subpart K of 24 CFR 570 and guidelines promulgated by HUD both now and in the future and in accordance with the terms and conditions specified in the Agreement and all Supplemental Cooperation Agreements, thereto, to-wit:

- A. Municipality agrees to establish and maintain on a current basis an adequate accrual accounting system in accordance with generally accepted accounting principles and standards.
- B. Municipality agrees to maintain books, records, documents, and other evidence of accounting procedures and practices, records of property purchased, and personnel and financial records, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred or anticipated to be incurred during the performance of the Agreement and Supplemental Cooperation Agreements. In addition, Municipality agrees to prepare and maintain such documents and reports as may be required by County for the preparation of reports required by the Act and HUD. Municipality agrees to preserve and make available the records as follows:

- (1) All documents for any program activity for a three year period following the submission of the last expenditure report.

- (2) For such longer period of time, if any, as is required by applicable federal or state statute, by regulation promulgated by HUD, by other clauses of the Agreements and supplemental cooperation agreements, or by (a) or (b) below:
 - (a) Records which related to (i) appeals under the disputes clause of this Agreement, or (ii) litigation or the settlement of claims arising out of the performance of this Agreement, or (iii) unresolved audit findings shall be retained until such appeals, litigation, claims or audit proceedings have been concluded.
 - (b) If nonexpendable property has been acquired with the contract funds, the records pertaining to the acquisition of such property shall be retained for three years after its disposition or replacement or transfer. Electronic copies of original records may be kept in lieu of the original documents providing the administering agency has first authorized the substitution of the electronic copies in writing.

C. County will maintain books, records, documents, and other evidence of accounting procedures and practice sufficient to:

- (1) Reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of the Agreement and Supplemental Cooperation Agreements.

D. Municipality agrees to conform its record keeping done in conjunction with the activities covered by the Agreement with the requirements of the Single Audit Act of 1984 and OMB A-133.

13. Changes in specific community development activities as outlined in Supplemental Cooperation Agreements may be requested from time to time either County or Municipality and, if mutually agreed upon by and between Municipality and County, shall be incorporated in a written amendment to the Supplemental Cooperation Agreement. If such changes include the undertaking of a new activity, Municipality shall provide citizens with an opportunity to

comment on such changes, consider any comments and, if municipality deems appropriate, modify the changes.

14. Funding available through the Supplemental Cooperation Agreements may be combined with funding from other sources in order to carry out activities stipulated in the Supplemental Cooperation Agreements. An executed contract or equivalent proof of such funding must be provided to and approved by County before disbursements of funds is authorized.

15. Municipality shall not expend or commit to expend program funds in excess of those funds authorized by the Supplemental Cooperation Agreements.

16. None of the work or services covered by the Agreement and Supplemental Cooperation Agreements shall be subcontracted without the prior written approval of County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of the Agreement and Supplemental Cooperation Agreements.

In the case of any subcontract for work with a private contractor concurred in by County, Municipality shall record and retain for three years from the date of final payment records pursuant to the St. Louis County Community Development Procedures Manual.

County and Municipality agree that County has the right and responsibility and may resolve disputes between Municipality and any contractor which contracts with Municipality for work performed pursuant to this Agreement, when County believes it is in the best interest of the Community Development Block Grant Program. Municipality and any of its contractors will be so informed of the

COUNTY's belief in writing by the Program Director of County's Office of Community Development. All contracts between MUNICIPALITY and any contractor performing work pursuant to this AGREEMENT shall contain a provision in accord with this section, but the failure of any such contracts to include such provision shall not vitiate the right of COUNTY to enforce the provision referred to in this section.

17. Municipality shall not assign any interest in the Agreement or Supplemental Cooperation Agreements and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of County thereto: provided, however, that claims for money due or to become due the Municipality from County under the Agreement and Supplemental Cooperation Agreements may be assigned to a bank, trust company, or other financial institution with written approval of the County.

Furthermore, County and Municipality may not sell, trade, or otherwise transfer all or any portion of such funds to another such metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.

18. No member, officer, or employee of Municipality, or its designees or agents, and no other public official of the governing body of the locality in which the program is situated who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof,

for work to be performed in connection with the program assisted under the Agreement and Supplemental Cooperation Agreements. Municipality shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purposes of this section.

19. County and Municipality agree that the Agreement and all Supplemental Cooperation Agreements thereto shall remain in effect until CDBG funds and income received with respect to the three-year qualification period (and any successive qualification periods) are expended and the funded activities completed, and that COUNTY and MUNICIPALITY may not terminate or withdraw from this AGREEMENT while the AGREEMENT remains in effect.

20. Pursuant to 24 CFR 570.501(b), Municipality is subject to the same requirements applicable to subrecipients, including the requirement for a written agreement set forth in 24 CFR 570.503.

21. Municipality hereby agrees that in conducting the program funded under the Act, no part of the program will involve political activities, and Municipality further agrees that neither the program nor the funds provided under the Agreement and Supplemental Cooperation Agreements, nor the personnel employed in the administration of the program shall be in any way or to any extent engaged in the conduct of political activities in contravention of Title 5, Chapter 15 of the United States Code.

22. County and Municipality agree to comply with the provisions of the National Environmental Policy Act of 1969, Executive Order 11988 and 24 CFR Part 52 insofar as the provisions of such act apply to the activities listed in Supplemental Cooperation Agreements. County will assume responsibility for

preparing Environmental Assessments and Environmental Impact Statements as required.

23. Municipality agrees to comply with the relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations in 24 CFR 42 as they apply to the activities listed in Supplemental Cooperation Agreements.

24. Municipality agrees to comply with 24 CFR Section 570.603: Labor Standards applicable to construction work financed in whole or in part with Community Development Block Grants.

25. The Agreement and Supplemental Cooperation Agreements are entered into subject to compliance by Municipality and County with all provisions of the Constitution and laws of the United States and the State of Missouri and with the Charter and Ordinances of St. Louis County and Municipality as the same shall apply hereunder.

26. Municipality shall comply with all applicable provisions of the Act rules, regulations, including subpart K of 24 CFR 470 and guidelines promulgated by the Secretary of the Department of Housing and Urban Development, and all applicable requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with Office of Management and Budget Circulars OMB A-87 and OMB A-133 and "Uniform Administrative Requirements For Grants and Cooperation Agreements to State and Local Governments" as are set out at 24 CFR Part 85 as per 570.502(a).

27. Municipality agrees to defend, protect, indemnify, and hold harmless the County from all attorneys' fees, costs, expenses, and damages arising directly and exclusively out of any failure of Municipality to comply with all applicable federal and state laws and regulations enacted in the future as the same may apply to the subject matter of the Agreement and Supplemental Cooperation Agreements and all claims, suits, actions, costs, counsel fees, expenses, damages, judgments or decrees by reason of any injury to persons or property directly and exclusively caused by Municipality, its officers, agents, employees or independent contractors, in the performance of any of the community development activities authorized under the Act; provided, however, County shall notify Municipality in writing, and immediately upon receipt by County of any notice of claim asserted or to be asserted against County, arising out of any of the foregoing matters, and shall tender to Municipality the right to defend or control the defense of such claim, and shall fully cooperate with Municipality in attending hearings and trials, securing evidence, and obtaining the attendance of witnesses and in the conduct of any legal proceedings.

28. County and Municipality agree that should Municipality engage in any activity which leads to a finding by HUD that County make repayments of CDBG funds to HUD, the repayment will be made from the Municipality's allocation.

29. MUNICIPALITY agrees that it shall be the responsibility of MUNICIPALITY to ensure that all goods, services, and/or work procured and/or performed under this AGREEMENT shall conform to and be performed in compliance with the Americans With Disabilities Act of 1990. In any contract

between MUNICIPALITY and any firm, corporation, business or person providing services to MUNICIPALITY using funds emanating from this AGREEMENT or any supplemental agreement hereto, MUNICIPALITY agrees that such contracts shall obligate such firms, corporations, businesses or persons, in case of non-compliance, to replace the service and/or work performed in order to effect such compliance, or pay liquidated damages in the amount required to effect compliance.

30. MUNICIPALITY agrees that during the term of this AGREEMENT MUNICIPALITY shall not apply for grants under the Small Cities or State of Missouri CDBG Program.

MUNICIPALITY further agrees that it shall not participate in a HOME consortium except through COUNTY, regardless of whether COUNTY receives a HOME formula allocation.

MUNICIPALITY further agrees that it will only apply for, and that it will only receive its allocation of HOME Program funds and Emergency Solutions Grant funds, through COUNTY.

31. At the option of COUNTY, this AGREEMENT may be automatically renewed for participation in successive three-year qualification periods, unless MUNICIPALITY provides written notice that it elects not to participate in a new qualification period by the date specified in HUD's urban county qualification notice for the next qualification period, COUNTY shall notify MUNICIPALITY in writing of its right to make such election. Failure by either COUNTY or MUNICIPALITY to adopt such amendment to this AGREEMENT incorporating all changes necessary to meet the requirements for cooperation

agreements set forth in the Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period, and to submit such amendments to HUD as provided in the urban county qualification notice, will void the automatic renewal of such qualification period.

32. MUNICIPALITY hereby affirms that it has adopted and is enforcing:

- i. a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and,
- ii. 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 such jurisdictions.

IN WITNESS WHEREOF, the parties have signed this Agreement to be effective on the later of the dates below written.

The City of Ballwin

MUNICIPALITY

ST. LOUIS COUNTY, MISSOURI

by: _____

Title: _____

Chief Elected Official

Date: _____

Attest: _____

Municipal Clerk

Approved as to legal form:

Municipal Attorney

by: _____

County Executive

Date: _____

Attest: _____

Administrative Director

Approved:

Director Department of Human Services

Affix Municipal Seal Here

I hereby certify that balances sufficient to pay the contract sum remain in the appropriation accounts against which this obligation is to be charged, to the extent County continues to receive federal funds sufficient to pay contract sum, in accordance with Paragraph 20 of this Municipal Housing and Community Development Cooperation Agreement between Municipality and St. Louis County dated as referenced in Paragraph 5 of this Agreement.

Accounting Officer

It is my opinion that the terms of this COOPERATION AGREEMENT are fully authorized under State and local law and that St. Louis County possesses full legal authority to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing. This document is approved as to legal form.

County Counselor