

TOWN OF WEST SENECA



SHEILA M. MEEGAN
TOWN SUPERVISOR

To: Fellow Town Board Members

From: Sheila M. Meegan, Town Supervisor

Date: February 19, 2014

Re: Amendment to HOME Cooperation Agreement

Kindly move to adopt the attached resolution authorizing the Supervisor to execute a First Amendatory Agreement to the February 12, 2003 Cooperation Agreement with Erie County as pertains to forming a Consortium for the HOME Investment Partnership Program and that said Agreement shall contain the automatic renewal provisions for successive three-year qualification periods as so required by HUD.

SUGGESTED TOWN OF WEST SENECA RESOLUTION

WHEREAS, the Town of West Seneca and County of Erie executed a Cooperation Agreement on February 12, 2003; and

WHEREAS, a key purpose of said Agreement was to formalize the inclusion of the Town of West Seneca Metropolitan City as so defined by Section 102(a)(6) of the Housing and Community Development Act of 1974, as amended, into the Erie County HOME Consortium; and

WHEREAS, said Consortium consists of those communities comprising the Erie County Urban County for purposes of the federal Community Development Block Grant Program and the Towns of West Seneca and Hamburg; and

WHEREAS, through its membership in the HOME Consortium the Town of West Seneca has participated in a variety of affordable housing programs ranging from Homebuyer Assistance to Housing Rehabilitation; and

WHEREAS, the February 12, 2003 HOME Cooperation Agreement includes certain automatic renewal provisions which occur following specific three-year cycles; and

WHEREAS, the federal Department of Housing and Urban Development (HUD) requires clarifications and adjustments to the existing automatic renewal provisions.

NOW THEREFORE BE IT

RESOLVED, that the Town Supervisor is hereby authorized to execute a First Amendatory Agreement to the February 12, 2003 Cooperation Agreement with Erie County as pertains to forming a Consortium for the HOME Investment Partnership Program; and be it further

RESOLVED, that said Agreement shall contain the automatic renewal provisions for successive three-year qualification periods as so required by HUD; and be it further

RESOLVED, that certified copies of this resolution shall be forwarded to Deputy Commissioner of the Erie County Department of Environment and Planning Tomas J. Dearing, 95 Franklin Street, Room 1062, Buffalo, New York 14202.



COUNTY OF ERIE

MARK C. POLONCARZ

COUNTY EXECUTIVE

February 14, 2014

Honorable Sheila M. Meegan
Supervisor, Town of West Seneca
1250 Union Road
West Seneca, NY 14224

RE: Amendment to HOME Cooperation Agreement

Dear Supervisor Meegan:

The purpose of this letter is to seek approval by the Town of West Seneca of a First Amendatory Agreement to the February 12, 2003 Cooperation Agreement between the Town and Erie County. This is included as Attachment A to this letter and pertains to the inclusion of the Town into the Erie County/Town of West Seneca/Town of Hamburg HOME Consortium. As you know this has allowed the Town to access federal HOME funds (approximately \$900,000 annually) for a variety of affordable housing programs ranging from homebuyer assistance to housing rehabilitation.

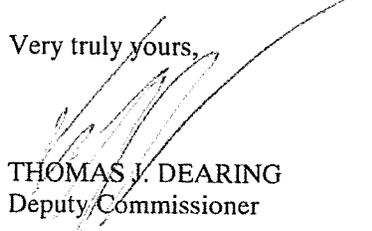
The original Agreement included an automatic renewal provision which occurred at the conclusion of each three-year cycle. It is this provision that the federal Department of Housing and Urban Development (HUD) has updated with certain clarifying language reflected in the amendment (see Attachment B).

In order to continue the Town's participation in the HOME Consortium beyond March 31, 2015, HUD is asking that the First Amendatory Agreement be executed by the Town and County. Attachment C is a suggested Town Board resolution authorizing the Supervisor to sign the agreement. It is important that the two resolve clauses remain intact as they reflect HUD required language.

Hopefully this is not too confusing. In order to meet our federal deadlines it would be appreciated if you could forward two original signed amendments to my attention by April 1, 2014.

Please do not hesitate to contact me at 858-8390 or Thomas.Dearing@erie.gov.

Very truly yours,


THOMAS J. DEARING
Deputy Commissioner

TJD/cw
Enclosures

Cc: Paul D'Orlando

ATTACHMENT A

February 12, 2003 Cooperation Agreement

**COOPERATION AGREEMENT
PURSUANT TO THE HOUSING AND COMMUNITY
DEVELOPMENT ACT OF 1974, AS AMENDED
AND THE 1990 NATIONAL AFFORDABLE HOUSING ACT**

THIS AGREEMENT made this *12th* day of *February*, 2002³, by and between the **COUNTY OF ERIE** (hereinafter referred to as the "County") and the **TOWN OF WEST SENECA** (hereinafter referred to as the "Municipality"), both being municipal corporations of the State of New York

WITNESSETH:

WHEREAS, the 93rd session of the Congress of the United States has passed, and the President of the United States has signed into law, the Housing and Community Development Act of 1974, as amended through the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101.235) and the 1990 National Affordable Housing Act; and

WHEREAS, the primary purpose of the Housing and Community Development Act of 1974, as amended, and the 1990 National Affordable Housing Act is to develop better communities in the United States; and

WHEREAS, Erie County desires to cooperate with the cities, towns, and villages of the County in applying for and utilizing a maximum share of any funds available under said Housing and Community Development Acts; and

WHEREAS, the Municipality desires to undertake essential community development and housing assistance activities, as defined in said Act; and

WHEREAS, Erie County has been designated as an "Urban County" by the United States Department of Housing and Urban Development (hereinafter referred to as "HUD") and is thereby eligible for a formula share of program funds, provided said County enters into cooperation agreements with included units of general local government having a combined population of 200,000 persons or more; and

WHEREAS, the Erie County Legislature, by Resolution No. Comm. 3E-34 dated February 7, 2002, has authorized the County Executive to enter into such Cooperation Agreements with municipalities agreeing to participate in the "Urban County" Consortium; and

WHEREAS, the Legislature of the Municipality has authorized its Supervisor to enter into a Cooperation Agreement with the County of Erie by Resolution No. _____ dated *Sept. 23 2002* so as to receive funds available by the application of the County of Erie under the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990.

NOW, THEREFORE, the County and the Municipality hereby agree as follows:

1. The terms of this Agreement shall cover the Community Development Block Grant Entitlement Program and the HOME Investment Partnership Program; and
2. The Municipality may not apply for grants from appropriations under the Small Cities or State CDBG Programs for fiscal years during the period in which it participates in the urban county's CDBG Program; and
3. The Municipality may receive a formula allocation under the HOME Program only through the urban county; and
4. The Municipality authorizes the County to act in a representative capacity for the Municipality for the purposes of administering the HOME Program and for ensuring that the Consortium's HOME Program is carried out in compliance with the requirements of the HOME Program, including requirements concerning a Consolidated Plan; and
5. The Program Year start date for the CDBG, HOME, and Emergency Shelter Grant Year Programs that are Consortium members shall be the first day of April; and
6. The County and the Municipality, shall cooperate in undertaking, or assisting in the undertaking, of community renewal and lower-income housing assistance activities, specifically urban renewal and publicly-assisted housing, as defined in the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990 and implementing regulations of said Act, each within the scope of its powers under New York State Law; and
7. The Municipality agrees to have its population counted so that the County may meet the population requirement of an "Urban County" applicant as provided for by the Housing and Community Development Act, as amended, for the County's Community Development Block Grant and HOME Investment Partnership applications for the Erie County qualification period which includes 2003, 2004, and the 2005 Program Years, and for future Urban County qualification periods which are defined as three-year periods of time; and
8. The County shall, in cooperation with the Municipality, develop a community development and housing assistance program for the County's Community Development Block Grant and HOME applications for each Urban County qualification period. The Municipality shall supply any available plans, surveys or data necessary to assist in the assessment of local community development and housing assistance needs and the setting of community development and

housing assistance goals. The Municipality and the County shall take such actions as are necessary to implement and accomplish said community development program and housing assistance goals, including but not limited to non-discrimination and affirmative action with regard to fair housing and employment and business opportunities for minorities and women, 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, the Americans with Disabilities Act of 1990 and other applicable laws; and

9. The County and Municipality shall not allocate Urban County funding for activities, in or in support of, any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with the County's fair housing certification; and
10. The Municipality shall submit to the County funding requests for specific community development and/or housing assistance activities consistent with housing and community development needs of the urban county considered as a whole as may be identified by the County and the Urban County Consortium during the term of this Agreement. Maximum feasible priority should be given to activities that benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight. The County shall apply to HUD for community development block grants and HOME to fund such activities and urban countywide activities (including the County's reasonable cost for administration of the Erie County "Urban County" community development program provided for herein) which are determined by the County to be consistent with the housing and community development needs of the Urban County. To the extent that the application submitted to HUD by the County is approved and as approved includes funds for the Municipality's community development and housing assistance activities, community development block grant and HOME funds will be made available to carry out the above said specific community development and/or housing assistance activities, provided however, that a different distribution shall be made after receipt of advice or a determination by HUD or other duly authorized body that a different distribution is necessary to comply with the requirements of the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990. However, the County will not fund activities in or in support of a Municipality that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certifications; and
11. The County and Municipality shall cooperate in the preparation of any forms and applications required by the United States Department of Housing and Urban Development for funding under the Housing and Community

Development Act, as amended, and the 1990 National Affordable Housing Act, and shall sign such forms and applications as may be required by HUD. The County shall annually file such final statements as may be required by HUD. Pursuant to 24CFR 570.501(b) of the HUD regulations, the Municipality is subject to the same requirements applicable to sub recipients, including the requirement of a written agreement with the County prior to the disbursement of CDBG funds to the Municipality as set forth in 24CFR 570.503 of the HUD regulations; and

12. The Municipality shall inform the County of any program income generated by the expenditure of CDBG funds by the Municipality and that such program income may be retained by the Municipality only for eligible activities in accordance with all CDBG requirements as may then apply and subject to all other requirements set forth in this Agreement. Since the County has the responsibility of monitoring and reporting to HUD on the use of any such program income, the Municipality agrees to maintain appropriate record keeping and reporting systems as may be needed for this purpose. The Municipality further agrees that in the event of the termination of the grant or the termination of the Municipality's participation with the County's CDBG Program, any program income that is on hand or received subsequent to such termination shall be repaid to the County; and
13. The Municipality agrees to timely notify the County of any subsequent sale, or transfer to a use which does not qualify under the CDBG regulations, or real property acquired or improved in whole or in part using CDBG funds. In the event of the disposition or transfer to a non-CDBG qualifying use of real property acquired or improved in whole or in part using CDBG funds, an amount equal to the current fair market value of such real property (less any portion thereof attributable to expenditures of non-CDBG funds) shall be considered program income. Provisions contained in Section 8. above shall govern the treatment of such program income; and
14. The Municipality has adopted and is enforcing the following policies:
 - a) 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
 - b) a policy of enforcing applicable state and local laws against barring physical entrance to or exit from a facility or location which is the subject of non-violent civil rights demonstrations within its jurisdiction; and
15. The terms of this Agreement will automatically be renewed for participation in successive three-year qualification periods unless the County or the Municipality provides written notice it elects not to participate in a new qualification period.

The County will provide written notification to the Municipality by the date specified in HUD's Urban County Qualification Notice for the next qualification period of its right not to participate. The Municipality shall provide a written notice of termination by the dates specified within the HUD Urban County Qualification Notice. Such written termination notice must be received by the non-terminating party at least ninety (90) days prior to the end of the current Urban County qualification period. If the Municipality fails to exercise the termination option at the end of the Urban County qualification period, the Municipality will not have the opportunity to exercise that option until the end of a subsequent Urban County qualification period; and

16. The County and the Municipality shall adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period, and to submit such amendment to HUD as provided in the Urban County Qualification Notice. Failure to comply will void the automatic renewal for such qualification period; and
17. The Municipality agrees to undertake the necessary actions, as determined by the County, to carry out a community development program and the approved Comprehensive Housing Affordability Strategy (CHAS) and/or meet other requirements of the Community Development Block Grant (CDBG) Program and other applicable laws; and
18. The Municipality agrees that by executing this Cooperation Agreement that it understands that it:
 - a) may not apply for grants under the Small Cities or State CDBG Programs from appropriations for fiscal years during the period in which it is participating in the Urban County's CDBG program; and
 - b) may not participate in a HOME consortium except through the Urban County, regardless of whether the Urban County receives a HOME formula allocation; and
19. This Agreement must remain in effect until the CDBG and HOME funds and program income received with respect to the three-year qualification period and any successive qualification periods are expended and the funded activities completed, and that the County and Municipality may not terminate or withdraw from the Agreement while the Agreement remains in effect; and
20. Pursuant to 24 CFR 570.501(b), the Municipality is subject to the same requirements applicable to sub recipients, including the requirement of a written agreement described in 24 CFR 570.503.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date and year first above written.

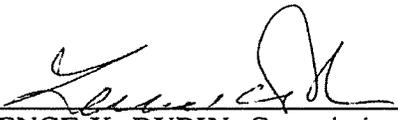
COUNTY OF ERIE

TOWN OF WEST SENECA

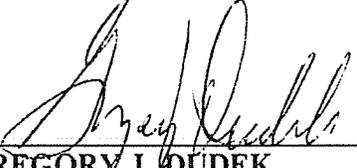
By: 
JOEL A. GIAMBRA
County Executive
Dated:
By Carl J. Calabrese
Deputy CE

By: 
PAUL T. CLARK
Supervisor
Dated: 9-23-02

APPROVED AS TO CONTENT


LAURENCE K. RUBIN, Commissioner
Department of Environment and Planning

APPROVED AS TO FORM


GREGORY J. DUDEK
Assistant County Attorney

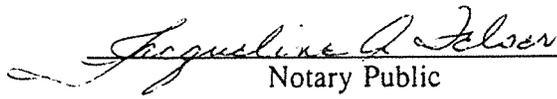
Dated: 12/5/02

Document No.: 02-1897-EP

ACKNOWLEDGEMENT

STATE OF NEW YORK)
TOWN OF WEST SENECA) SS:
COUNTY OF ERIE)

On this 23rd day of September, 2002, before me came PAUL T. CLARK, Supervisor of the Town of West Seneca, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his capacity for and on behalf of the Town of West Seneca.

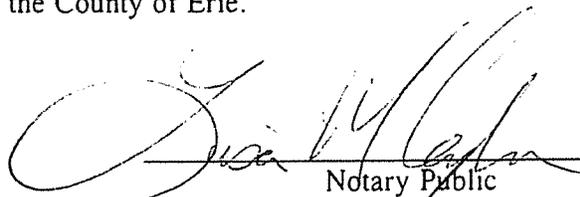


Notary Public

JACQUELINE A. FELSER
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires 8/21/05

STATE OF NEW YORK)
CITY OF BUFFALO) SS:
COUNTY OF ERIE)

On the 12th day of Feb, 2002, before me came JOEL A. GIAMBRA, Erie County Executive/CARL J. CALABRESE, Deputy County Executive, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his capacity for and on behalf of the County of Erie.



Notary Public

Lisa Marie Cegilia
Notary Public, State of New York
Qualified in Erie County
My Commission Expires 11/4/06

**FIRST AMENDATORY AGREEMENT
TO THE FEBRUARY 12, 2003 COOPERATION AGREEMENT
PURSUANT TO THE
HOUSING AND COMMUNITY DEVELOPMENT ACT AS AMENDED
AND THE 1990 NATIONAL AFFORDABLE HOUSING ACT**

This First Amendatory Agreement made and entered into this _____ day of _____, 2014 between the COUNTY OF ERIE, a municipal corporation of the State of New York, having its offices at 95 Franklin Street, Buffalo, New York 14202 (hereinafter referred to as the "County"), and the TOWN OF WEST SENECA, a municipal corporation of the State of New York, having its offices at 1250 Union Road, West Seneca, New York 14224 (hereinafter referred to as the "Town")

WITNESSETH

WHEREAS, the County and the Town have entered into a Cooperation Agreement for the purpose of forming a Consortium for the federal HOME Investment Partnership Program and the federal Community Development Block Grant Program, dated February 12, 2003; and

WHEREAS, it is necessary to clarify and better define the automatic renewal provisions within said Agreement as pertains to the HOME Investment Partnership Program.

NOW THEREFORE BE IT RESOLVED, in consideration of the above and of the terms and conditions herein, it is mutually agreed by the parties hereto as follows:

1. That the original Cooperation Agreement dated February 12, 2003 be and hereby is amended in the following manner:
 - a. Add Section 21 to read as follows:
 21. As pertains to the HOME Investment Partnership Program, this Agreement shall automatically be renewed for the HOME Consortium's participation in successive qualification periods of three federal fiscal years each. No later than the date specified by HUD's consortia designation notice or HOME Consortia web page, the County shall notify the Town in writing of its right to decide not to participate in the HOME Consortium for the next qualification period and the County shall send a copy of each notification to the HUD Field Office.

If the Town decides not to participate in the HOME Consortium for the next qualification period, the Town shall notify the County and the County shall notify the HUD Field Office, before the beginning of the new qualification period.

Before the beginning of each new qualification period, the County shall submit to the HUD Field Office a statement of whether or not any amendments have been made to this Agreement, a copy of each amendment to this Agreement, and, if the HOME Consortium's membership has changed, the state certification required under 24 C.F.R. §92.101(a)(2)(i). The HOME Consortium shall adopt any amendments to this Agreement that are necessary to meet HUD requirements for HOME Consortium Agreements in successive qualification periods.

The automatic renewal of the Agreement will be void if: the County fails to notify the Town or the HUD field office as required under this automatic renewal provision or the County fails to submit a copy of each amendment to this Agreement as required under this automatic renewal provision.

IN WITNESS WHEREOF, the parties have executed this First Amendatory Agreement on the day and year first above written.

COUNTY OF ERIE

TOWN OF WEST SENECA

Mark C. Poloncarz
County Executive

Sheila M. Meegan
Supervisor

Approved As To Content

Maria R. Whyte, Commissioner
Department of Environment and Planning

Approved As To Form

Kristen M. Walder
Assistant County Attorney
Date: _____
Doc. No.: _____