



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Grants Management Division

m e m o r a n d u m

TO: Mayor Diane Wolfe Marlin and City Council

FROM: Lorrie Pearson, AICP, Community Development Services Director
Sheila Dodd, Manager, Grants Management Division

DATE: November 21, 2019

SUBJECT: A RESOLUTION APPROVING A CERTAIN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF URBANA AND HOUSING AUTHORITY OF CHAMPAIGN COUNTY

Description

Included on the agenda of the November 25, 2019, regular meeting of the Urbana City Council Committee of the Whole meeting is a resolution authorizing the execution of an Intergovernmental Agreement with the Housing Authority of Champaign County for the provision of environmental review services. The agreement will allow City of Urbana Community Development staff to provide limited services to the Housing Authority of Champaign County in the area of environmental review that must be completed for certain land development activities of the Housing Authority pursuant to the National Environmental Policy Act (NEPA) of 1969.

Issue

The issue is whether the Urbana City Council will approve the Resolution.

Background

Pursuant to NEPA and specifically under the Code of Federal Regulations (24 CFR, Part 58), the Housing Authority is required to complete environmental reviews on its prospective property acquisitions. Also under this Code (24 CFR Part 58 Subpart A), the City of Urbana is deemed to be a responsible agency for the provision of such services on behalf of the Housing Authority. Community Development staff have been trained in the preparation of such environmental reviews by the US Department of Housing and Urban Development (HUD), including recent policy changes regarding the environmental review process, and have an established relationship with HUD and the environmental field staff. Under the terms of the attached Agreement, City of Urbana staff would perform the necessary reviews for the Housing Authority for reimbursement on a per case basis. Through these services, the City will assist the Housing Authority in providing affordable housing for residents throughout Champaign County, a goal of which is consistent with the City's Consolidated Plan and Comprehensive Plan.

This is the second agreement for these services with the first starting in 2015. Schedule A, which is attached to the Agreement contains calculated billing rates. The range of costs for each environmental review is estimated to be between \$3,500 and \$5,000.

Options

1. Approve the Resolution Authorizing the Execution of an Intergovernmental Agreement with the Housing Authority of Champaign County for the Provision of Environmental Review Services.
2. Approve the Resolution Authorizing the Execution of an Intergovernmental Agreement with the Housing Authority of Champaign County for the Provision of Environmental Review Services with changes. Please note that any changes must also be agreed to by the Housing Authority of Champaign County.
3. Do not approve the Resolution.

Fiscal Impacts

Approval of this Intergovernmental Agreement would result in a positive fiscal impact upon the City in that it will result in revenue for staff time spent in preparing the requested documents. Participating staff are part of the Community Development Grants Management Division, which relies upon a number of Federal and State grants as a revenue source. As the City's allocation of HUD funds have declined each year over the past several years, it is important for the division to diversify and expand its funding sources. The attached agreement will assist the division in this goal and will also help to uphold the City's obligation as a Participating Jurisdiction to provide such expertise for HUD-funded projects in the area.

Recommendation

Staff recommends approval of the Resolution as attached. The proposed agreement will allow the Housing Authority to move forward with the affordable housing sites in Champaign County and will allow Grants Management staff to provide a necessary service to the community.

Attachments:

1. A RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE HOUSING AUTHORITY OF CHAMPAIGN COUNTY FOR THE PROVISION OF ENVIRONMENTAL REVIEW SERVICES

RESOLUTION NO. 2019-11-052R

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN
INTERGOVERNMENTAL AGREEMENT WITH THE HOUSING AUTHORITY
OF CHAMPAIGN COUNTY FOR THE PROVISION OF
ENVIRONMENTAL REVIEW SERVICES**

WHEREAS, the City of Urbana, an Illinois municipal corporation (hereafter the “City”), is a home rule entity pursuant to Article 7, § 6 of the Constitution of the State of Illinois and 65 ILCS 5/1-1-10; and

WHEREAS, the Housing Authority of Champaign County has identified the need to continue to purchase environmental review services and finds it advantageous to procure the City of Urbana to perform said services; and

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois, 1970, provides authority for units of local governments to contract or otherwise associate among themselves to obtain and share services and to exercise, combine or transfer any power or function in any manner not prohibited by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5ILCS 220/1-220/9) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform provided that such contract shall be authorized by the governing body of each party to the contract.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That an Intergovernmental Agreement pertaining to the provision of environmental review services, between the City of Urbana and the Housing Authority of

Champaign County, in substantially the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Amendment as so authorized and approved for and on behalf of the City of Urbana, Illinois.

This Resolution is hereby passed by the affirmative vote, the “ayes” and “nays” being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED by the City Council this _____ day of _____, _____.

AYES:

NAYS:

ABSTAINS:

Charles A. Smyth, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Diane Wolfe Marlin, Mayor

**INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF
ENVIRONMENTAL REVIEW SERVICES TO
THE HOUSING AUTHORITY OF CHAMPAIGN COUNTY**

This Intergovernmental Agreement, made and entered into this ___ day of November, 2019, by and between the City of Urbana, Illinois, a municipal corporation and the Housing Authority of Champaign County (collectively, the “Parties”).

WHEREAS, the City of Urbana (hereafter, the “City”) is a municipal corporation, a body politic, and a home rule unit of government pursuant to Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the Housing Authority of Champaign County (hereafter, the “Authority”) was created by the Illinois State Legislature in 1939 to provide housing for low income families; and

WHEREAS, the Authority is required to perform environmental reviews on its prospective property acquisitions per 24 CFR, Part 58; and

WHEREAS, the City is a Responsible Entity as defined by 24 CFR, Part 58 Subpart A and must assume the responsibilities for said environmental reviews; and

WHEREAS, the Authority will compensate the City for the performance of these environmental reviews; and

WHEREAS, Section 10 of Article VII of the Constitution of the State of Illinois, 1870, provides authority for local governments to contract or otherwise associate among themselves to obtain and share services and the exercise, combined or transfer any power or function in any manner not prohibited by law or ordinance; and

WHEREAS, the Intergovernmental Cooperation Act (5ILCS220/1-220/9) also provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform provided that such contract shall be authorized by the governing body of each party to the contract; and

WHEREAS, the Authority is, from time to time, in need of assistance in undertaking and performing environmental reviews of real estate owned, to be acquired, or to be sold by the Authority; and

WHEREAS, City staff has the ability, competency, knowledge, and experience to provide assistance to the Authority in connection with environmental reviews of real estate owned or to be acquired, or to be sold by the Authority.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the City and the Authority hereby agree as follows:

Section 1. Environmental Review Services. The City will provide environmental review services for the Authority pursuant to the terms and conditions as set forth herein.

Section 2. Scope, Billing and Payment. The Authority will identify for the City the sites that will require environmental reviews. Upon completion of the Environmental Review, the City will bill the Authority a flat rate as more specifically defined in Schedule A, which is attached hereto and incorporated by reference.

Section 3. Environmental Review Services Data. Upon request, the City will provide a detailed report of environmental review data to the Authority. The environmental review record should, at a minimum, contain documentation in compliance with the Flood Disaster Protection Act, Coastal Barriers Resources Act, and Airport Runway Clear Zones and Clear Zones Disclosures. The City will provide said report within seven (7) days of the Authority's written request. Said requests will be limited to one (1) per month.

Section 4. Contact Information. The primary contact for the City will be the Grants Management Division Manager, Sheila Dodd, or her successor. The primary contact for the Housing Authority will be John Daily, or his successor.

Section 5. Default and Cure: In the event that either Party believes that the other Party has defaulted on its obligations with any term, provision or covenant contained in this Agreement, the grieving Party shall give written notice to the other Party identifying the Section of the Agreement which it believes has been breached and specifying, in reasonable detail, the nature of the breach. The Party receiving the notice shall have fourteen (14) days in which to either cure the alleged breach or provide a written response which either states that a cure may not be completed within the aforesaid fourteen (14) day period and which states the date of commencement and anticipated completion of such cure or which states why the recipient of such notice believes it did not breach this Agreement. In the event that the Parties cannot resolve the dispute, either Party may terminate this Agreement by providing written notice to the other

party which advises that the Agreement shall be deemed terminated on the thirtieth (30th) day of the date of such notice of termination. Upon termination, neither party shall have any further obligation to the other. In the event of any breach, any amounts due and owing by the Authority to the City for environmental review services shall become immediately due and owing and such termination shall not constitute a waiver of the City's right to receive or collect those amounts.

Section 6. Term: This Agreement shall be effective as of the date of its execution by the last of the parties to approve it and shall remain, and continue in full force and effect for three (3) years. The Agreement will automatically renew on an annual basis, but may be terminated by either party upon written notice sixty (60) days prior to the Agreement's anniversary date.

Section 7. Miscellaneous:

Indemnity: Each Party agrees to indemnify, defend and hold harmless the other Party and its officers, agents, and employees from and for any and all losses, costs, expenses, demands, claims, causes, causes of action, judgments, and liabilities sustained and/or alleged to have been sustained in connection with, as a result of, and/or arising out of the intentional, willful, wanton, or gross negligence or negligent act or omission of the other Party in connection with the performance or undertaking of any obligation provided for in this Agreement. This indemnity, duty to defend and hold harmless covenant shall not be deemed, construed or interpreted as requiring a Party to indemnify, defend or hold harmless a Party for that Party's own intentional, willful, wanton, gross negligent, or negligent act or omission. This covenant shall survive and remain in full force and effect following the expiration and/or termination of this Agreement.

A. Notices: Any and all notices required to be given by this Agreement shall be given in the following means and any such notice shall be deemed effective as hereinafter provided:

- i. If by First Class U.S. Postal Service: Any and all notices sent by U.S. Postal Service shall be sent via First Class mail, registered or certified mail with return receipt requested. If any notice is placed in a properly addressed and stamped envelope, such notice shall be deemed effective five (5) business days after the date of placement with the U.S. Postal Service.

- ii. If by facsimile transmission: Any and all notices sent by facsimile transmission shall be deemed effective the day after the date of transmission but only if the sending fax machine provides a written acknowledgement that the transmission was properly sent to the recipient Party's facsimile telephone number and received by the recipient Party's fax machine. If any one of the immediate afore-stated conditions is not met, the notice shall be deemed ineffective.
- iii. If sent by overnight courier service: Any and all notices sent by overnight courier service shall be deemed effective the date after delivery of such notice but only if the said courier service provides or otherwise makes available a tracking of the delivery of such notice which tracking shall include the date and time when such delivery to the recipient Party was made.
- iv. If by personal service: Any and all notices which are personally served on the recipient party shall be deemed effective the day after delivery is made but only if the person delivering any such notice executes an affidavit which states the date when such personal delivery was made.

B. Record Keeping: The Parties agree to keep and maintain any and all records and documents created in connection with the creation of the environmental review. Such records shall be kept and maintained in accordance with the State Records Act (5 ILCS 160/1 *et seq.*).

C. Severability: If any term or other provision of this Agreement is declared by a court or administrative agency of competent jurisdiction to be invalid, illegal or incapable of being enforced, all other conditions and provision of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of these transactions contemplated hereby is not affected in any manner materially adverse to either party. Notwithstanding the immediate foregoing, if in any such proceeding one Party's performance under this Agreement is declared to be unenforceable by the other Party, then this Agreement shall be deemed to

automatically terminate with such termination date to be effective on the date when such declaration, finding, order, or decree is entered.

- D. Entirety of Agreement: This Agreement constitutes the entire agreement between the parties; it supersedes any prior agreement or understanding between them, oral or written, with respect to the matters addressed herein, all of which are hereby canceled. However, nothing herein shall be deemed to supersede or render null, void or unenforceable any agreement which the City and/or the Authority has or may have entered into regarding Environmental Review Services or any portion thereof.
- E. Amendment or Modification: This Agreement may not be amended or modified except by an instrument in writing signed by both Parties.
- F. Waiver: Any waiver or release by one Party of the other Party in connection with that Party's performance of any term, condition or covenant contained in this Agreement shall be deemed effective only if such waiver is contained in a writing signed by the Party granting such waiver. Any waiver, other than as provided in the immediate aforesaid sentence, shall not be deemed, construed, or interpreted as a waiver or release of any other term, condition or covenant contained in this Agreement.
- G. Execution in Counterparts: This Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.
- H. Government Law and Jurisdiction: The laws of the State of Illinois shall apply to any construction, interpretation, enforcement, or action for breach of this Agreement. In the event that any action is filed which seeks to interpret, enforce or declare breach of this Agreement, any such action shall be filed and maintained in the Sixth Judicial Circuit of the Circuit Court, Champaign County, Illinois.

I. Representations and Warranties of Authority to Execute: The Parties represent and warrant that the person executing this Agreement on the respective Party's behalf is duly authorized to do so.

IN WITNESS WHEREOF, the City of Urbana and the Housing Authority of Champaign County have caused this Agreements to be executed and delivered as of the date first set forth above and in the cover page hereof.

For the City of Urbana:

For the Housing Authority of Champaign
County:

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

Schedule A
Payment Rate

Rates for Environmental Review Services*

Complete Environmental Review	\$3,500 plus publication costs
Review of Third Party Environmental Review	\$1,500 plus publication costs

Rates may be adjusted by up to 5% on annual basis starting July 1st.

Typical individual environmental reviews performed under this agreement are estimated to cost between approximately \$3,500 and \$5,000 to complete, including legal notice costs.

Environmental Impact Statements would be more costly and will be estimated separately for review and approval by the Agency prior to preparation.