



COMMUNITY DEVELOPMENT AGENCY
HOUSING AND FEDERAL GRANTS DIVISION

May 7, 2019

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SUBJECT: Voluntary Compliance Agreement with the U.S. Department of Housing and Urban Development

Dear Board Members,

RECOMMENDATIONS:

1. Review and approve the 2019 Voluntary Compliance Agreement between the U.S. Department of Housing and Urban Development and the County of Marin.
2. Authorize Board President to sign, in substantially the form attached, subject to County Counsel review, and submit to the U.S. Department of Housing and Urban Development.

SUMMARY:

The Community Development Agency (CDA) has been in negotiations with the U.S. Department of Housing and Urban Development (HUD) on entering into a new Voluntary Compliance Agreement (VCA) and is requesting your Board review and consider signing the Agreement. The specific provisions of the VCA reflect the County's commitment for ongoing compliance with federal Fair Housing laws and in particular, that the County's policies and programs affirmatively further fair housing in Marin. In general, the specific provisions outlined in the VCA are either consistent with CDA's current housing goals and work plan or will be funded through the County's existing grants from HUD through the Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME).

DISCUSSION:

As Marin's lead grant recipient for federal grants, including CDBG and HOME funds, the County is required to take meaningful actions through its policies and programs to combat discrimination, overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to opportunities for protected classes. Cities and towns that benefit from federal grants are expected to support these efforts when opportunities arise. These federal grants, which provide funding to support affordable housing programs and services for our most vulnerable residents, are administered by HUD and are allocated by the Board of Supervisors after considering recommendations from the Countywide Priority Setting Committee (the Committee is comprised of elected officials from all participating cities and towns as well as community representatives). Over the last five years, the County has received over \$7.5 million dollars in CDBG and HOME grants. Recent examples of funding recipients include:

- Habitat for Humanity's Mt. Burdell Place project - \$205,282 to acquire land for development and provide down payment assistance to 10 families purchasing newly built homes in Novato.

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- Homeward Bound of Marin’s King Street project - \$300,000 to support the conversion of a former convent into 11 units of affordable, supportive housing for low-income and formerly homeless seniors in Larkspur.
- EAH’s Walnut Place project - \$482,489 to support the rehabilitation of a 24 unit affordable, senior housing complex in Point Reyes.
- City of San Rafael’s Pickleweed Park project – currently under contract for \$200,000 to replace play structures and renovate the park serving the Canal neighborhood.
- Fair Housing Advocates of Northern California’s program – \$60,000 in 2018-19 to provide 10 fair housing programs contributing to serving over 400 low, very low, and extremely low-income individuals across Marin county.
- Childcare programs and services - \$82,460 in 2018-19 to provide childcare scholarships, therapeutic services, and transportation assistance to low-income families in Marin City, San Rafael, Fairfax, and Novato.

Background:

In 2009, HUD initiated a routine compliance review of the County’s CDBG and HOME programs for the Consolidated Planning cycle of 2005-2010. On September 18, 2009, HUD issued a letter stating the review disclosed that the County’s programs were generally in compliance with federal laws and regulations; however, HUD identified several program areas where improvement was necessary to ensure future compliance: (1) the County’s Analysis of Impediments to Fair Housing Choice (“AI”)¹ was outdated and substantially incomplete; (2) the County’s Citizen Participation Plan had not been successful in promoting meaningful public participation in CDBG and HOME-funded programs; and (3) the County had not consistently monitored sub-recipients to ensure accurate protected class data collection.

Subsequently, the County elected to voluntarily accept HUD’s invitation to enter negotiations to resolve all of the concerns by identifying program enhancements.

The Board of Supervisors entered into the original VCA with HUD on November 30, 2010. A copy is attached as Attachment B. In the 2010 VCA, the County committed to a robust public process to develop a new comprehensive AI. The resulting [Analysis of Impediments](#) was unanimously approved by the County’s Board of Supervisors at a public meeting held on October 11, 2011. Among the impediments to fair housing choice identified in the AI were: (1) the relative lack of affordable housing options outside of areas of minority concentration (i.e., Marin City, San Rafael Canal neighborhood, and southern Novato); (2) a disproportionate unmet need for affordable housing options by families with children and non-elderly people with disabilities, and need for accessible units. These findings are based in part on HUD’s conclusion that much of the affordable housing developed in Marin has been reserved for seniors. While a lack of diversity in housing types was identified, HUD did not find that federal grant funds had been allocated in a manner that perpetuated patterns of racial segregation in Marin. Rather, HUD pointed out the importance of creating greater opportunity and choice for low-income residents, and particularly families, to live outside racially concentrated communities.

The original VCA was in effect for a 5-year period, expiring on December 22, 2015. However, prior to the expiration date, HUD requested the County update and renew

¹ The AI is a planning process for local governments to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

a VCA for three additional years. While acknowledging the County's success in addressing the areas of improvement set out in the expired VCA, as well as accomplishments in utilizing HUD funds, HUD emphasized continued concern with developing affordable housing outside of areas of minority concentration and concern that only a small percentage of the units approved or under construction were identified as affordable, permanent rental housing for families with children. Since that time, CDA staff has been working with HUD staff on the attached proposed VCA (Attachment A). Subsequent to expiration of the 2010-2015 VCA, progress has been made in creating at least 117 affordable housing units with the potential to accommodate families.

The Proposed New VCA:

This proposed VCA would supersede and replace the original VCA dated December 22, 2010 between HUD and the County of Marin. The new VCA incorporates many of the County's recent accomplishments and ongoing projects, and the County also affirms the following key commitments during the 3-year term of the proposed agreement:

- Encourage and facilitate the increase of at least 100 units of affordable housing available to families with children outside areas of racial or ethnic concentration (applies to acquisition and conversion as well as new construction within unincorporated county and cities and towns)².
- Allocate \$4.1 Million in general funds for affordable housing.
- Issue a Notice of Funding Availability (NOFA) for the construction or acquisition of affordable housing for families with children outside of areas of minority concentration.
- Enhance the multi-family housing inspection program.
- Consider Development Code amendments to expedite the permit process for affordable housing.
- Evaluate the potential for multi-family zoning outside areas of racial or ethnic concentration.
- Continuation of the Marin Community Foundation/County joint funding partnership for affordable housing.
- Continued funding for the Landlord Partnership Program.
- Provide funding to Fair Housing Advocates of Northern California for public outreach and education regarding tenant protection measures.
- Assist other Marin cities and towns to adopt tenant protections including Mandatory Mediation, Source of Income, and Just Cause for Eviction.
- Expand and enhance affirmative marketing and community engagement practices for both the County's Housing and Federal Grants Division and sub-recipients.

The VCA also acknowledges that nothing contained in this VCA shall be construed as admissions of liability or violations of the original 2010 VCA, nor does it create any rights for third parties to enforce its terms.

² The proposed VCA acknowledges that the County is unable to dictate the number, type, and location of all affordable housing proposals filed for processing during the term of the VCA. It also recognizes that approved housing units attributed to this provision of the VCA may not progress to the construction phase within the 3-year timeframe.

Outreach completed:

Staff has conducted outreach to inform our partner cities and towns and interested members of the public about the fair housing requirements and the contents of the proposed VCA, providing opportunities to comment and provide feedback.

- County Staff briefed the Countywide Priority Setting Committee (PSC), which is made up of a Board Member, City and Town Council members, and community members, at their hearing on September 21, 2017, April 5, 2018, April 4, 2019. These meetings were open to the public.
 - PSC meetings were noticed in the Marin Independent Journal, through community partners, and sent to 443 subscribers of the County's list serve.
- County Administrator briefed City managers at their March 2019 meeting.
- County Staff briefed the Marin Community Development Directors group at their April 2019 meeting.

Most of the commitments set out in the proposed VCA involve programs and budget decisions that have been and will be vetted in public hearings (for example, the availability of sites for affordable housing received a good deal of attention during the most recent Housing Element updates approved by all jurisdictions in the county).

FISCAL/STAFFING IMPACT:

No impact on the General Fund is anticipated.

REVIEWED BY:

- | | |
|----------------------------------------------------|-----------------------------------------|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

SIGNATURE:

Leelee Thomas
Planning Manager

Brian C. Crawford
Director

Attachments:

1. Attachment A: Draft Voluntary Compliance Agreement between HUD and the County of Marin, 2019
2. Attachment B: Original Voluntary Compliance Agreement between HUD and the County of Marin, 2010

The Board letter and all attachments are available online at:
www.marincounty.org/depts/cd/divisions/federal-grants