

RESOLUTION NO. 9800

**A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF MESA, MARICOPA COUNTY, ARIZONA,  
APPROVING CRITERIA FOR THE TRANSFER OF  
FEDERALLY FUNDED CDBG PROPERTIES AND  
AUTHORIZING THE TRANSFER OF CITY  
PROPERTY, SUBJECT TO RESERVATION OF  
PUBLIC UTILITY EASEMENTS IN ACCORDANCE  
WITH THOSE CRITERIA**

WHEREAS, the City Council has determined that the transfer of federally funded CDBG properties to non-profit agencies providing community services within the City of Mesa is for the benefit of the community; and

WHEREAS, the transfer of federally funded CDBG properties to non-profit agencies, conditioned upon the transfer meeting the requirements of the transfer criteria set forth at Exhibit A hereto and conditioned further upon the reservation of public utility easements, is appropriate,

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: The Criteria for the Transfer of Federally Funded CDBG Properties, attached hereto as Exhibit A, is hereby approved.

Section 2: The City Manager or his designee is hereby authorized to execute documents to transfer federally funded CDBG properties, in which no City funds were invested to non-profit agencies providing community services within the City of Mesa, in accordance with and subject to the requirements set forth in the Criteria for the Transfer of Federally Funded CDBG Properties, attached hereto as Exhibit A.

Section 3: The transfer of any property authorized to be transferred pursuant to Section 2 of this Resolution is expressly conditioned on the reservation of any City public utility easements within the Property that the City Manager or his designee requires to be reserved and any other conditions that the City Manager determines to be appropriate to protect the City's interests.

Section 4: The City Manager or his designee is authorized to execute all documents necessary to advance the purposes of this resolution

PASSED AND ADOPTED by the City Council of the City of Mesa,  
Maricopa County, this 24<sup>th</sup> day of January, 2011.

APPROVED:

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



## Exhibit A

### **Criteria for the Transfer of Federally Funded CDBG Properties**

Properties acquired or constructed by the City of Mesa that were financed with federal Community Development Block Grant (CDBG) funds may have ownership transferred from the City to qualified nonprofit agencies subject to the following criteria:

#### **1. CDBG Qualifications**

- a) Properties that are owned by the City that have been leased to a nonprofit organization are eligible to be transferred.
- b) The nonprofit lessee must remain the same throughout the term of the lease. For purposes of this section, if a nonprofit agency has merged with or been acquired by another similar nonprofit agency during the term of the lease, those entities will be treated as the same agency.
- c) The property must have been maintained throughout the term of the lease in a decent, safe, and sanitary condition.
- d) In order to obtain title to the property, the agency to which the property is being transferred must agree to use the property for an eligible purpose as required under the CDBG program regulations (24 CFR, Part 570 as amended, Subpart C) for a minimum of five years after the transfer is completed.
- e) The City and agency shall enter such contractual agreements as deemed necessary to effectuate the transfer and ensure these conditions are satisfied.
- f) The nonprofit agency may not sublease the property to any entity without the express written approval of the City Manager, or designee, during the compliance period.
- g) The City at its sole discretion may deny the transfer upon any condition.

#### **2. Mixed Funding Resources**

Properties that were acquired or constructed with federal CDBG funds as well as other funding sources provided by the City of Mesa may be considered for transfer on a case-by-case basis. Other funding sources may include general revenue funds, bond funds, special revenue, or federal dollars from other sources.

### **3. Security Instruments**

The properties must be used for eligible purposes as required by federal CDBG regulations. In order to guarantee the use and to secure the property the following may be used:

- A contractual agreement between the City and agency
- Promissory note
- Deed of Trust
- Deed Restrictions
- Land Covenants
- Other mechanisms approved by HUD

### **4. Options**

The City of Mesa may use other options to further ensure that federally funded properties continue to be used for eligible purposes and to protect the interests of the City, including the following:

- Purchase options
- Rights of first refusal
- Other preemptive rights