




HISTORIC
FRANKLIN
TENNESSEE

ITEM #11
WRKS 03/13/2012

MEMORANDUM

TO: Board of Mayor and Alderman

FROM: Eric S. Stuckey, City Administrator 
Vernon J. Gerth, ACA-Community & Economic Development

DATE: February 28, 2012

SUBJECT: Review of existing Cooperation Agreement with Franklin Housing Authority and status of pending agreement for the Reddick Property Senior Housing Development.

Purpose

The purpose of discussion is to provide a brief overview of the existing Cooperation Agreement between the City of Franklin and Franklin Housing Authority (FHA) and, to provide a status report on the proposed Reddick Property Senior Housing Development Cooperation Agreement. .

Background

Under the State of Tennessee constitution and statutes, federally assisted affordable housing projects may be exempted from all real and personal property taxes and special assessments levied or imposed by any taxing body. In May of 1967, the City of Franklin and Franklin Housing Authority entered into a Cooperation Agreement for approximately 125 low-rent public housing units. Essentially, the Cooperation Agreement states the City agrees that it will not levy or impose any real or personal property taxes or special assessments upon the FHA owned and operated property and that the FHA shall make annual payments in lieu of taxes and special assessments (PILOT). The average annual PILOT the City of Franklin receives from the FHA is approximately \$35,000.

The formula for calculating the annual PILOT as stated in the Agreement shall be in an amount equal to either (i) ten percent (10%) of the Shelter Rent actually collected but in no event to exceed ten percent (10%) of the Shelter Rent charged by the FHA during the fiscal year or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is the lower.

FHA Executive Director Derwin Jackson has informed the City that the FHA has received Low Income Housing Tax Credits (LITHIC) to fund the proposed forty-nine (49) unit Reddick Property Senior Housing Development. The FHA intends to close on the development this March. Mr. Jackson indicates a new, Cooperation Agreement, is a requirement for closing on this phase of the larger, FHA redevelopment project. A new, but similar Cooperation Agreement is expected to be presented to BOMA during the next meeting scheduled for March 13.

As redevelopment activity on the multiple FHA priorities proceeds, new Cooperation Agreements will be drafted and presented to the BOMA on a property-by-property basis eventually replacing the 1967 dated agreement.



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Financial Impact

Since the existing Cooperation Agreement has been in place since 1967 and future agreements will be created and considered as FHA properties are redeveloped, there is not expected to be a measurable change to the PILOT the City receives overall.

Recommendation

As discussed earlier, a new Cooperation Agreement for the proposed Reddick Property Senior Housing Development is expected to be presented for consideration by the BOMA during the next meeting scheduled for March 13, 2012. Staff will recommend approval.

Franklin Housing Authority – Existing Cooperation Agreement

COOPERATION AGREEMENT

This Agreement entered into this 9th day of May, 1967 by and between Franklin Housing Authority (herein called the "Local Authority") and the Town of Franklin, Tennessee (herein called the "Municipality"), witnesseth:

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this Agreement:

(a) The term "Project" shall mean any low-rent housing hereafter developed as an entity by the Local Authority with financial assistance of the Department of Housing and Urban Development, Public Housing Administration (herein called the "PHA"); excluding, however, any low-rent housing project covered by any contract for loans and annual contributions entered into between the Local Authority and the PHA, or its predecessor agencies, prior to the date of this Agreement.

(b) The term "Taxing Body" shall mean the State or any political subdivision or taxing unit thereof in which a Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to a Project if it were not exempt from taxation.

(c) The term "Shelter Rent" shall mean the total of all charges to all tenants of a Project for dwelling rents and nondwelling rents (excluding all other income of such Project), less the cost to the Local Authority of all dwelling and nondwelling utilities.

(d) The term "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

2. The Local Authority shall endeavor (a) to secure a contract or contracts with the PHA for loans and annual contributions covering one or more Projects comprising approximately 125 units of low-rent housing and (b) to develop and administer such Project or Projects, each of which shall be located within the corporate limits of the Municipality. The obligations of the parties hereto shall apply to each such Project.

3. (a) Under the constitution and statutes of the State of Tennessee, all Projects are exempt from all real and personal property taxes and special assessments levied or imposed by any Taxing Body. With respect to any Project, so long as either (i) such Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Local Authority and the PHA for loans or annual contributions, or both, in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the PHA in connection with such Project remain unpaid, whichever period is the longest, the Municipality agrees that it will not levy or impose any real or personal property taxes or special assessments upon such Project or upon the Local Authority with respect thereto. During such period, the Local Authority shall make annual payments (herein called "Payments in Lieu of Taxes") in lieu of such taxes and special assessments and in payment for the Public services and facilities furnished from time to time without other cost or charge for or with respect to such Project.

(b) Each such annual Payment in Lieu of Taxes shall be made after the end of the fiscal year established for such Project, and shall be in an amount equal to either (i) ten percent (10%) of the Shelter Rent actually collected but in no event to exceed ten per cent (10%) of the Shelter Rent charged by the Local Authority in respect to such Project during such fiscal year or (ii) the amount permitted to be paid by applicable state law in effect on the date such payment is made, whichever amount is the lower.

(c) The Municipality shall distribute the Payments in Lieu of Taxes among the Taxing Bodies in the proportion which the real property taxes which would have been paid to each Taxing Body for such year if the Project were not exempt from taxation bears to the total real property taxes which would have been paid to all of the Taxing Bodies for such year if the Project were not exempt from taxation; Provided, however, that no payment for any year shall be made to any Taxing Body in excess of the amount of the real property taxes which would have been paid to such Taxing Body for such year if the Project were not exempt from taxation.

(d) Upon failure of the Local Authority to make any Payment in Lieu of Taxes, no lien against any Project or assets of the Local Authority shall attach, nor shall any interest or penalties accrue or attach on account thereof.

4. The Municipality agrees that, subsequent to the date of initiation (as defined in the United States Housing Act of 1937, as amended) of each Project and within five years after the completion thereof, or such further period as may be approved by the HAA, and in addition to the number of unsafe or insanitary dwelling units which the Municipality is obligated to eliminate as a part of the low-rent housing project(s) heretofore undertaken by the Local Authority and identified as Project(s) No. (s) ~~Term 35-1, 2, 3, 4~~, there has been or will be elimination (as approved by the HAA) by demolition, condemnation, effective closing, or compulsory repair or improvement, of unsafe or insanitary dwelling units situated in the locality or metropolitan area in which such Project is located, substantially equal in number to the number of newly constructed dwelling units provided by such Project; Provided, that, where more than one family is living in an unsafe or insanitary dwelling unit, the elimination of such unit shall count as the elimination of units equal to the number of families accommodated therein; and Provided, further, that this paragraph 4 shall not apply in the case of (i) any Project developed on the site of a Slum cleared subsequent to July 15, 1949, and that the dwelling units eliminated by the clearance of the site of such Project shall not be counted as elimination or any other Project or any other low-rent housing project, or (ii) any Project Located in a rural nonfarm area.

5. During the period commencing with the date of the acquisition of any part of the site or sites of any Project and continuing so long as either (i) such Project is owned by a public body or governmental agency and is used for low-rent housing purposes, or (ii) any contract between the Local Authority and the HAA for loans or annual contributions, or both, in connection with such Project remains in force and effect, or (iii) any bonds issued in connection with such Project or any monies due to the HAA in connection with such Project remain unpaid, whichever period is the longest, the Municipality without cost or charge to the Local Authority or the tenants of such Project (other than the Payments in Lieu of Taxes) shall:

(a) Furnish or cause to be furnished to the Local Authority and the tenants of such Project public services and facilities of the same character and to the same extent as are furnished from time to time without cost or charge to other dwellings and inhabitants in the Municipality;

(b) Vacate such streets, roads, and alleys within the area of such Project as may be necessary in the development thereof, and convey without charge to the Local Authority such interest as the Municipality may have in such vacated areas; and, insofar as it is lawfully able to do so without cost or expense to the Local Authority or to the Municipality, cause to be removed from such vacated areas, insofar as it may be necessary, all public or private utility lines and equipment;

(c) Insofar as the Municipality may lawfully do so, (i) grant such deviations from the building code of the Municipality as are reasonable and necessary to promote economy and efficiency in the development and administration of such Project, and at the same time safeguard health and safety, and (ii) make such changes in any zoning of the site and surrounding territory of such Project as are reasonable and necessary for the development and protection of such Project and surrounding territory;

(d) Accept grants of easements necessary for the development of such Project; and

(e) Cooperate with the Local Authority by such other lawful action or ways as the Municipality and the Local Authority may find necessary in connection with the development and administration of such Project.

6. In respect to any Project the Municipality further agrees that within a reasonable time after receipt of a written request therefor from the Local Authority:

(a) It will accept the dedication of all interior streets, roads, alleys, and adjacent sidewalks within the area of such Project, together with all storm and sanitary sewer mains in such dedicated areas, after the Local Authority, at its own expense, has completed the grading, improvement, pavings, and installation thereof in accordance with specifications acceptable to the Municipality;

(b) It will accept necessary dedications of land for, and will grade, improve, pave, and provide sidewalks for, all streets bounding such Project or necessary to provide adequate access thereto (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned); and

(c) It will provide, or cause to be provided, water mains, and storm and sanitary sewer mains, leading to such Project and serving the bounding streets thereof (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned.)

7. If by reason of the Municipality's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or to cause to be furnished to the Local Authority or to the tenants of any Project, the Local Authority incurs any expense to obtain such services or facilities then the Local Authority may deduct the amount of such expense from any Payments in Lieu of Taxes or to become due to the Municipality in respect to any Project or any other low-rent housing projects owned or operated by the Local Authority.

8. No Cooperation Agreement heretofore entered into between the Municipality and the Local Authority shall be construed to apply to any Project covered by this Agreement.

9. So long as any contract between the Local Authority and the HAA for loans (including preliminary loans) or annual contributions, or both, in connection with any Project remains in force and effect, or so long as any bonds issued in connection with any Project or any monies due to the HAA in connection with any Project remain unpaid, this Agreement shall not be abrogated, changed, or modified without the consent of the HAA. The privileges and obligations of the Municipality hereunder shall remain in full force and effect with respect to each Project so long as the beneficial title to such Project is held by the Local Authority or by any other public body or governmental agency, including the HAA, authorized by law to engage in the development or administration of

low-rent housing projects. If at any time the beneficial title to, or possession of, any Project is held by such other public body or governmental agency, including the HAA, the provisions hereof shall inure to the benefit of and may be enforced by, such other public body or governmental agency, including the HAA.

IN WITNESS WHEREOF, the Municipality and the Local Authority have respectively signed this Agreement and caused their seals to be affixed and attested as of the day and year first above written.

THE TOWN OF FRANKLIN, TENNESSEE
(Corporate Name of Municipality)

By Asa H. Jewell
(Title) Mayor

(SEAL)

ATTEST:

[Signature]
(Title) Clerk

FRANKLIN HOUSING AUTHORITY
(Corporate Name of Local Authority)

By Wm R. Quinn
Chairman

(SEAL)

ATTEST:

[Signature]
Secretary

**COOPERATION AGREEMENT
FOR SENIOR RESIDENCE AT REDDICK STREET
Franklin Housing Authority
COF Contract 2012-0028**

THIS COOPERATION AGREEMENT (the “**Agreement**”) entered into as of this ___ day of _____, 2012, by and between the FRANKLIN HOUSING AUTHORITY (herein called the “**Local Authority**”) and the CITY OF FRANKLIN, TENNESSEE (herein called the “**Municipality**”) in connection with the Payment in Lieu of Taxes for the Project described below.

In consideration of the mutual covenants hereinafter set forth, the parties hereto do agree as follows:

1. Whenever used in this Agreement:
 - a. The term “**Project**” shall mean the Senior Residence at Reddick Street, a 49-unit multifamily building developed on property owned by the Local Authority bounded primarily by Strahl, Cartier and Granbury streets which will be rented to individuals with incomes of less than fifty percent (50%) of the area median income for Williamson County, Tennessee MSA (as published annually by the U.S. Department of Housing and Urban Development) (the 50% AMI threshold shall be referred to herein as the “**Income Requirement**”). The Project is restricted under government regulations pursuant to Section 42 of the Internal Revenue Code of 1986, as amended, which is located on real property leased from the Local Authority pursuant to a ground lease that complies with, among other things, the applicable Qualified Allocation Plan of the Tennessee Housing Development Agency (the “**THDA**”); such Project having been determined by the Local Authority to be in furtherance of its public purposes.
 - b. The term “**Taxing Body**” shall mean the State or any political subdivision or taxing unit thereof in which the Project is situated and which would have authority to assess or levy real or personal property taxes or to certify such taxes to a taxing body or public officer to be levied for its use and benefit with respect to the Project if it were not exempt from taxation.
 - c. The term “**Shelter Rent**” shall mean the total of all charges to all tenants of the Project for dwelling rents and non-dwelling rents (excluding all other income of the Project), less the cost to the Local Authority of all dwelling and non-dwelling utilities.

- d. The term “**Blighted Area**” shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

2. The Local Authority has secured funding from low income housing tax credits or equivalent governmental financing from the THDA covering a portion of the construction of the Project and (b) to develop or acquire and administer the Project. The obligations of the parties hereto shall apply to the Project.

- 3. a. Under the constitution and statutes of the State of Tennessee, the Project is exempt from all real and personal property taxes and special assessments levied or imposed by any Taxing Body. With respect to the Project, so long as either (i) the Project is leased or owned by the Local Authority, or (ii) any contract between the Local Authority and the United States Government or the State of Tennessee, or any agencies thereof (the “**Government**”) for loans or annual contributions, or both, in connection with the Project remains in force and effect, or (iii) any bonds issued in connection with the Project *or* any monies due to the Government in connection with the Project remain unpaid, whichever period is the longest, the Municipality agrees that it will not levy or impose any real or personal property taxes or special assessments upon the Project or upon the Local Authority with respect thereto. During such period, the Local Authority shall make annual payments (herein called Payments in Lieu of Taxes) in lieu of such taxes and special assessments and in payment for the public services and facilities furnished from time to time without other cost or charge for or with respect to the Project.
- b. Each such annual Payment in Lieu of Taxes (“**PILOT**”) shall be made following the end of the fiscal year established for the Project, and shall be in an amount equal to either (i) ten percent (10%) of the Shelter Rent actually collected but in no event to exceed ten percent (10%) of the Shelter Rent charged by the Local Authority in respect to the Project during such fiscal year or (ii) the amount permitted to be paid by applicable State law in effect on the date such payment is made, whichever amount is the lower. A copy of the certified audit shall accompany the PILOT submittal, which shall be submitted no later than sixty (60) days after HUD accepts the audit.
- c. No payment for any year shall be made to the Municipality in excess of the amount of the real property taxes which would have

been paid to the Municipality for such year if the Project were not exempt from taxation.

- d. Upon failure of the Local Authority to make any Payment in Lieu of Taxes, no lien against the Project or assets of the Local Authority shall attach, nor shall any interest or penalties accrue or attach on account thereof.
4. During the period commencing with the date of the acquisition of any part of the site or sites of the Project and continuing so long as either (i) the Project is leased or owned by a public body of a governmental agency and is used for low or moderate income housing purposes, or (ii) any contract between the Local-Authority and the Government for loans, or both, in connection with the Project remains in force and effect, or (iii) any bonds issued in connection with the Project or any monies due to the Government in connection with the Project remain unpaid, whichever period is the longest, the Municipality without cost or charge to the Local Authority or the tenants of the Project (other than the Payments in Lieu of Taxes) shall:
- a. Furnish or cause to be furnished to the Local Authority and the tenants of the Project public services and facilities of the same character and to the same extent as are furnished from time to time without cost or charge to other dwellings and inhabitants in the Municipality;
 - b. Vacate such streets, road, and alleys within the area of the Project as may be necessary in the development thereof, and convey without charge to the Local Authority such interest as the Municipality may have in such vacated area; and, in so far as it is lawfully able to do so without cost or expense to the Local Authority or to the Municipality, cause to be removed from such vacated areas, in so far as it may be necessary, all public or private utility lines and equipment;
 - c. Insofar as the Municipality may lawfully do so, (i) grant such deviations from the building code of the Municipality as are reasonable and necessary to promote economy and efficiency in the development and administration of the Project, and at the same time safeguard health and safety, and (ii) make such changes in any zoning of the site and surrounding territory of the Project as are reasonable and necessary for the development and protection of the Project and the surrounding territory;
 - d. Accept grants or easements necessary for the development of the Project; and,

- e. Cooperate with the Local Authority by such other lawful action or ways as the Municipality and the Local Authority may find necessary in connection with tile new development and administration of the Project.
5. In respect to the Project the Municipality further agrees that within a reasonable time after receipt of a written request therefore from the Local Authority:
- a. It will accept the dedication of all interior streets, roads, alleys, and adjacent sidewalks within the area of the Project, together with all storm and sanitary sewer mains in such dedicated areas, after the Local Authority, at its own expense, has completed the grading, improvement, paving, and installation thereof in accordance with specifications acceptable to the Municipality;
 - b. It will accept necessary dedications of land for, and will grade, improve, pave, and provide sidewalks for, all streets bounding the Project or as necessary to provide adequate access hereto (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned); and,
 - c. It will provide, or cause to be provided, water mains, and storm and sanitary sewer mains, leading to the Project and serving the bounding streets thereof (in consideration whereof the Local Authority shall pay to the Municipality such amount as would be assessed against the Project site for such work if such site were privately owned).
6. If by reason of the Municipality's failure or refusal to furnish or cause to be furnished any public services or facilities which it has agreed hereunder to furnish or to cause to be furnished to the Local Authority or to the tenants of the Project, the Local Authority incurs any expense to obtain , such services or facilities then the Local Authority may deduct the amount of such expense from any Payments in Lieu of Taxes due or to become due to the Municipality in respect to the Project or any other low-rent housing projects owned or operated by the Local Authority.
7. No Cooperation Agreement heretofore entered into between the Municipality and the Local Authority shall be construed to apply to the Project covered by this Agreement.

8. So long as any contract between the Local Authority and the Government for loans (including preliminary loans) or annual contributions, or both, in connection with the Project remains in force and effect, or so long as any bonds issued in connection with the Project or any monies due to the Government in connection with the Project remain unpaid, this Agreement shall not be abrogated, changed, or modified without the consent of the Government. The privileges and obligations of the Municipality hereunder shall remain in full force and effect with respect to the Project so long as the beneficial title to the Project is held by the Local Authority or by any other public body or governmental agency, including the Government, authorized by law to engage in the development or administration of low rent housing projects and the Income Requirement remains in effect. If at any time beneficial title to, or possession of, the Project is held by such other public body or governmental agency, including the Government, the provisions hereof shall inure to the benefit of and may be enforced by such other public body or governmental agency, including the Government.

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IN WITNESS WHEREOF the Municipality and the Local Authority have respectively signed this Agreement and caused their seals to be affixed and attested as of the day and year first above written,

CITY OF FRANKLIN, TENNESSEE

By: _____
Dr. Ken Moore, Mayor

Attest:

By: _____
Eric S. Stuckey, City Administrator

APPROVED AS TO LEGALITY OF
FORM AND COMPOSITION:

Kurtis L. Conn, Staff Attorney
Attorney for Municipality

FRANKLIN HOUSING AUTHORITY

By: _____
Chair

Attest:

Secretary