



MEMORANDUM

March 28, 2012

TO: City of Franklin Board of Mayor and Alderman

FROM: Eric S. Stuckey, City Administrator
Vernon Gerth, ACA-Community and Economic Development
Kathleen Sauseda, Interim Housing Development Coordinator

SUBJECT: 2011-12 Program Year Community Based Development Organization (CBDO) Contract Number 2012-0022 - Community Housing Partnership - \$38,218.

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider the 2011-12 CDBG Community Based Development Organization (CBDO) agreement with Community Housing Partnership in the amount of \$38,128 for the purpose of assisting in the construction or rehabilitation of single-family dwellings owned and occupied by lower income City of Franklin families.

Background

The City of Franklin has identified affordable housing development as an important issue in the community. As part of the City's Community Development Block Grant program, a portion of the annual entitlement is designated to helping a local Community Based Development Organization (CBDO) to construct or rehabilitate residential dwellings and make them available to lower-income families for purchase.

City staff solicited proposals from qualified non-profit certified CBDO's. The Affordable/Workforce Housing Advisory Committee evaluated the Community Housing Partnership proposal against federal statutory requirements for CBDO's and the City's Request for Proposal. The CBDO Task Force recommends awarding Community Housing Partnership the \$38,218 grant allocation.

Financial Impact

This contract will be fully funded through the Community Development Block Grant (CDBG) Program.

Recommendation

The CBDO Task Force, Affordable and Workforce Housing Advisory Committee, and staff recommend approval.

**CONTRACT FOR THE RECEIPT OF COMMUNITY BASED DEVELOPMENT
ORGANIZATION PROGRAM FUNDING, FISCAL YEAR 2011-12 FROM THE CITY
OF FRANKLIN
(Contract Number: 2012-0022)**

This Contract, made and entered into this ____ day of _____, 2012 is by and between the City of Franklin, (hereinafter "The City") and Community Housing Partnership hereinafter called "THE ORGANIZATION").

WITNESSETH:

WHEREAS, THE CITY has identified a need to conduct a Community Based Development Organization (CBDO) Program funding; and

WHEREAS, THE ORGANIZATION is experienced in developing Affordable Housing projects, as defined by the United States Department of Housing and Urban Development and has met the certification requirements of becoming a CBDO; and

WHEREAS, THE ORGANIZATION replied to a publicly advertised Request For Proposals and was selected to participate as a CBDO in the City's Community Development Block Grant Program;

NOW, THEREFORE, in consideration of the mutual promises as contained herein, the parties hereto have agreed and hereby enter into this Contract according to the provisions as set forth herein.

SECTION 1 - SCOPE OF SERVICES

THE ORGANIZATION will carry out activities necessary for acquisition, rehabilitation and resale, new construction, or conversion of a structure for low to moderate income owner occupants in the City of Franklin. Low to moderate income is defined as households with incomes equal to or less than 80% of median family income for the Metropolitan Statistical Area.

When applicable, the work will also include testing, remediating, and clearing structures for lead-based paint hazards. All structures constructed pre-1978 must be tested and cleared for lead-based paint hazards. In the presence of lead-based paint hazards, contractors/workers are required to be certified in and use safe-work practices. **A United States Department of Housing and Urban Development (HUD) Environmental Review Report will be required.**

Incorporated into this contract is Exhibit A, the proposal by THE ORGANIZATION, which is attached hereto and made a part hereof.

SECTION 2 - RESPONSIBILITIES OF PARTIES

- A. THE ORGANIZATION will perform the duties described above and in Exhibit A and take other actions necessary to accomplish the spirit of this agreement.
- B. THE ORGANIZATION will submit regular reports (not less often than quarterly) as directed by THE CITY detailing the progress of their project.
- C. At the request of THE CITY, THE ORGANIZATION will periodically send a representative to neighborhood or other public meetings to discuss and promote their project.
- D. THE CITY will provide funding for the program from the Community Development Block Grant program as set forth in Section 3 of this contract.

SECTION 3 – COMPENSATION

THE ORGANIZATION will receive up to Thirty-Two Thousand Two Hundred Eighteen and No/100 Dollars (\$38,218.00) for the services outlined above and contained in Exhibit A from the approved Community Development Block Grant program for eligible expenses.

SECTION 4 – TIME OF PERFORMANCE

Services shall start by May 1, 2012 and end on or before March 31, 2013.

SECTION 5 - PAYMENT TERMS AND CONDITIONS

- A. THE CITY shall reimburse THE ORGANIZATION for services rendered based on submittal of valid invoices for project costs with a description and documentation of work performed. The CITY has the option of inspecting the completed work prior to making any payments.
- B. The Schedule of Payments, if applicable, is attached as Exhibit B.
- C. Invoices shall be submitted monthly.
- D. Final payment will be subject to receipt of a final report that is satisfactory to THE CITY.

SECTION 6 - NOTICES

All notices under this Agreement shall be in writing and sent by certified mail to the address listed below for each party.

**Vernon J. Gerth
City of Franklin
City Hall
109 3rd Avenue South**

Franklin, TN 37064

SECTION 7 - PROGRAM PROCEEDS

THE ORGANIZATION is acting as a Community Based Development Organization (CBDO) and not as a subrecipient under the terms of this agreement. Revenues generated by activities undertaken by THE ORGANIZATION with funds provided through this agreement are not considered to be program income. The City of Franklin does require THE ORGANIZATION to use program proceeds to continue THE ORGANIZATION'S mission of providing affordable housing. Toward that end, the City of Franklin requires THE ORGANIZATION to submit a written statement within 30 days of receipt of any initial program proceeds outlining their intended future use.

SECTION 8 - REVERSION OF ASSETS.

Upon termination of this agreement, THE ORGANIZATION shall transfer to the City of Franklin any unused program funds on hand at the time of expiration and any accounts receivable attributable to the use of program funds. Any real property under THE ORGANIZATION control that was acquired or improved in whole or in part with program funds in excess of \$25,000 is either: (i) used to meet one of the national objectives in 24 CFR 570.208 until five years after expiration of the agreement; or(ii) not used in accordance with the above paragraph (i) of this section, in which event THE ORGANIZATION shall pay to the City of Franklin an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-program funds for the acquisition of, or improvement to, the property.

SECTION 9 - STANDARD TERMS AND CONDITIONS

A. COMPLIANCE WITH FEDERAL LAWS/REGULATIONS

THE ORGANIZATION shall comply with all applicable Federal and State laws and regulations in the performance of this Contract.

B. ANTIDISCRIMINATION/AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY

No person on the grounds of handicap, age, race, color, religion, sex, national origin, disability, or marital/familial status or any other classification protected by Federal and/or State of Tennessee constitutional and/or statutory law-shall be excluded from participation in, or be denied benefits or, or be otherwise subjected to discrimination in the performance of this Contract.

C. AUDIT REQUIREMENTS

- i. This Contract, as well as any sub-agreement made with other participating agencies, is subject to all of the administrative requirements in OMB Circulars A-110 and A-122.
- ii. THE CITY hereby notifies THE ORGANIZATION that a single audit is required for non-profit agencies receiving \$300,000 or more in federal funds in any single fiscal year. This requirement is in accordance with OMB Circulars A-110 and A-133. If required, a copy of the single audit report will be kept on file and made available to THE CITY staff during sub-recipient monitoring visits and appropriate officials as requested.

D. CONFLICT OF INTEREST

THE ORGANIZATION agrees to abide by the following requirements with respect to conflicts of interest, and covenants that it presently has no interest, direct or indirect, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. THE ORGANIZATION further covenants that in the performance of this Agreement no person having such an interest, direct or indirect, shall be employed or retained by THE ORGANIZATION hereunder. These conflict of interest provisions apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of THE ORGANIZATION or of any designated public agencies or sub-recipients that are receiving funds under this program.

E. PROCUREMENT STANDARDS AND METHODS

THE ORGANIZATION shall comply with THE CITY's current policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds herein.

THE ORGANIZATION shall procure all materials, property, or services in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards.

F. VENUE

In the event of a dispute or litigation arising out of said Contract, it is understood and agreed and that this Contract was executed and performed in Williamson County, Tennessee, and as such, it is agreed by both parties that venue of said litigation, including an action for Declaratory Judgment, will be in Williamson County, Tennessee.

G. ASSIGNMENT

Neither THE CITY nor THE ORGANIZATION may assign its rights or delegate its responsibilities under this contract.

H. ENTIRE CONTRACT AND MODIFICATION

The Contract between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Contract. The terms and conditions of this Contract may not be changed except by an amendment expressly referencing this Contract by section number and signed by an authorized representative of each party.

If seeking any addition or modification to the Contract, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Contract, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Contract or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Contract; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.

I. SEVERABILITY

If any provision of this Contract is held invalid, the remainder of the Contract shall not be affected thereby and all other parts of this Contract shall nevertheless be in full force and effect.

J. TIME OF THE ESSENCE

The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.

K. NO TAXES, NO INTEREST PAYMENTS

As a tax-exempt entity, THE CITY shall not be responsible for sales or use taxes incurred for products or services. THE CITY shall supply THE ORGANIZATION with its Sales and Use Tax Exemption Certificate upon THE ORGANIZATION's request. THE ORGANIZATION shall bear the burden of providing its suppliers with a copy of THE CITY's tax exemption certificate and shall assume all liability for such taxes, if any, that should be incurred. THE CITY does not agree to pay any interest for late payments, having agreed to pay in a timely manner.

L. WAIVER

Neither party's failure or delay to exercise any of its rights or powers under the Contract will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.

M. TERMINATION

This Agreement may be terminated upon thirty (30) days written notice by either party

Upon deliberate breach of the Agreement by either party, the non-breaching party shall be entitled to terminate the Agreement without notice, with all of the remedies it would have in the event of termination, and may also have such other remedies as it may be entitled to in law or in equity..

SECTION 10 – SIGNATURES

THE CITY OF FRANKLIN

By: _____
Dr. Ken Moore, Mayor

Date: _____

Attest:

Eric S. Stuckey, City Administrator

Date: _____

Approved as to Form:



Kristen Corn, Staff Attorney

Date: _____

COMMUNITY HOUSING PARTNERSHIP

By: _____
Its: _____

Date: _____

Exhibit A

The proposed Scope of Services and Costs are enclosed on the following pages and are incorporated by reference into the agreement.

**Community Housing Partnership of Williamson County (CHP)
Proposed Scope of Services (CBDO)**

CHP is proposing (if funded) with this CBDO program to buy, rehabilitate and sell (to low income homebuyers) one house within the city limits of Franklin. This program will perform two basic functions for the City of Franklin. First, it will enable the purchase of a house that will most likely be a deteriorated structure within the city, often times in codes violation or foreclosure and a problem for the City Staff. Second, it will enable a low income homebuyer to purchase an entirely rehabilitated house that would be next to impossible for them to accomplish without this program. This program will take a problem piece of property and make it a productive, tax producing property for the City of Franklin while providing a homeownership opportunity for a low income family.

CHP has an extensive history in programs similar to this. CHP has successfully administered the Neighborhood Stabilization Program for Tennessee Housing Development Agency over the past year. Within this program CHP has bought, rehabbed and sold five houses in the past year. CHP successfully administers the HUD HOME program and generates approximately 5 purchase, rehabs and sales per year using this program. Finally, CHP uses the Federal Home Loan Bank of Atlanta's Affordable Housing program to provide homeownership opportunities in the rural sections of Williamson County, successfully providing low income homebuyers in 45 instances over the past three years. CHP also administered for the city of Franklin a CBDO program in 2010/2011, successfully buying, rehabilitating and selling two homes to low income homebuyers. Truly, CHP has an extensive history of providing low income homeownership opportunities under programs exactly as described under this "Request for Proposals for Affordable Housing Development by Community Based Development Organizations" as issued by the City of Franklin.

Please note that information in the Cost section of this proposal is an integral part of CHP's Scope of Services. CHP proposes to follow the following format in this program:

Purchase:

CHP will purchase a house within 60 days of the opening of a funding line under this program. Purchase will come through research on various properties including HUD or other foreclosed properties where CHP may receive a discounted price. Additional input from United Community Resource Foundation, Inc. and hard Bargain Mount Hope Redevelopment, Inc. will be solicited to see if houses within their market areas are on the market and rehabilitation of such property would help in their activities. All environmental procedures will be conducted prior to any close on the property. Additionally, any lead based paint testing and planning will be conducted prior to the close. Finally, all work write ups, cost estimating and construction bidding will be conducted prior to the close on the property. Feasibility of the project within the guidelines of low income purchase will be maintained at all times. The marketing of the property to a low income homebuyer will start immediately upon the purchase contract by CHP to buy the property. If a customer is qualified, selected and mortgage approved then they will be able to strongly participate in the construction phase with all selections within CHP budgets.

Construction:

Construction services will be performed by licensed, bonded and insured State of Tennessee contractors and should start immediately upon the purchase (close) of the house by CHP after a bidding process is completed.

All work will be performed per a work write up specifying the necessary services and under a direct contract with the CHP. All construction activity shall require all necessary permits and insurance by the contractor. The contractor shall provide progress schedules to the on a monthly basis or on any draw request. All items listed in paragraphs 9.0,10.0 and 12.0 in the Request for Proposals by the City of Franklin shall be incorporated in any agreement by the contractor and the City of Franklin.

Contracts should take no more than 90 days to complete and will be signified as completed by a "Certificate of Occupancy" issued by the City of Franklin Codes Department.

Program implementation and supervision:

CHP proposes to serve as the program administrator for the program, providing the following services:

1. Marketing the program through outreach to the neighborhood associations, direct press releases and advertising through all local media outlets, direct outreach to all social service agencies who might have clients within these neighborhoods, direct contact with the residents of these neighborhoods through flyers or other means and direct contact with the two other not for profits operating in these neighborhoods (Hard Bargain Mount Hope Redevelopment Inc. and United Community Resource Foundation).
2. Performing Intake functions and record keeping of all homebuyer applicants for the funding. This includes the initial application documents certifying (but not limited to) income verification (insuring income compliance per the CDBG guidelines), home mortgage approval certification (insuring that the homebuyer has concluded homebuyers class and secured a reasonable mortgage), Deeds of Trust and Notes for the CDBG grant connected with the property(Insuring the proper compliance documents are prepared and properly registered).
3. Inspecting the property jointly with the homeowner and City of Franklin staff. Composing with the approved homeowner a comprehensive Work Write Up. This includes all necessary inspections and certifications including (but not limited to):
 - A. Lead Based Paint inspections by certified inspector
 - B. Flood Plain certification with appropriate map and panel
 - C. National Park Service Standards of Rehabilitation (Historic) submittals to the appropriate agent whether it be a State Historic Preservation Officer (SHPO) at the City of Franklin or directly to the Tennessee Historic Commission.
 - D. Thermal/ Explosive verifications with the Fire Marshall of the City of Franklin
4. Controlling the contract by bidding out the contract to the appropriate Contractors, conducting the public bid opening , consolidating the bids to present to CHP Board of Directors for final contract decisions. At the point of Notice to Proceed CHP will conduct the following:
 - A. Provide the homeowner the necessary guidance for participating in decision in the construction
 - B. Provide the contractor the necessary communications to begin the work
 - C. Do initial inspections that all permits have been obtained
 - D. Provide scheduled inspections to insure that the work is being conducted correctly and within time constraints
 - E. Provide inspections on draw requests to insure that the contractor is only drawing what they have in the job. Evaluate and authorize payments.

- F. Provide final inspections and certify completion of the project.
5. **Record keeping** will be maintained by CHP with a complete project book for each individual project and all records regarding the intake, facilitation, inspections, contracts and draw requests during construction and all mortgage related documents regarding the homebuyer and the close on said property. All record keeping will be maintained to insure that CDBG compliance is maintained by both CHP and the City of Franklin.
 6. **Complaints and Grievances** will be addressed by CHP with representation of the City of Franklin where applicable. CHP will maintain an individual file regarding any complaint and grievances by either the homeowner, contractor or interested party. CHP will act as the negotiator to address any issues arising and if CHP can resolve the problem we will do so. However if the problem cannot be resolved we would suggest that the City of Franklin have other resources, such as arbitration possibilities.

CHP has all the internal systems available to begin this program immediately as we will follow the successfully format from similar homeownership programs that we have successfully conducted. Inspection systems exist within programs to do all initial inspections and staff is available and certified in all compliance and inspection areas. Indeed this program is very similar to programs performed by CHP staff for HUD HOMES and Tennessee Housing Development Agencies Neighborhood Stabilization Program. Additionally, CHP has conducted the first four years of the CDBG programs for the City of Franklin showing our ability to successfully administer CDBG in a TIMELY method and a CBDO program for 2010/2011 that was done timely as well.

CHP will close out the project after final reporting and record keeping to the City of Franklin and will keep all records available for 10 years after the completion the project. Additionally, CHP will be available and help the City of Franklin on all compliance reporting regarding this CDBG program to the US Department of Housing Urban Development.

Notes:

1. The Cost section of this proposal is an integral part of the Scope of Services
2. Development and sale pro formas and sources and use statements are included with the Cost Section
3. A Property has not been optioned at this point however, properties are usually available. It would not be prudent for CHP to option any properties in conjunction with this application until funding is secured.
4. No property that is not zoned correctly for single family housing will be considered
5. The CHP staff will serve as the Development team to control cost and keep the house affordable
6. Architectural Plans and elevations will not be necessary as this is rehabilitation of an existing structure.