



## MEMORANDUM

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April 23, 2013

To: Board of Mayor and Alderman

From: Eric Stuckey, City Administrator  
Vernon Gerth, ACA-Community & Economic Development  
Chris Bridgewater, Director, Building & Neighborhood Services  
Kathleen Sauseda, Interim Housing Coordinator

Subject: Annual Housing Consultant Contract for 2013-14 CDBG Program Year  
The Housing Fund, Inc. – Contract Number 2013-0036

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**Purpose:**

Consideration of annual contract between the City of Franklin and The Housing Fund, Inc. for consultant services associated with developing and implementing affordable housing programs in conjunction with Franklin's Community Development Block Grant Program in the amount of \$20,000.

**Background:**

The Housing Fund, Inc. (THF) is a Nashville-based private, 501(c)(3) organization that offers affordable housing development consultant services and financing to nonprofit organizations, housing authorities, and community organizations for affordable housing and neighborhood revitalization projects. In 2007, the city utilized THF to assist in preparing and submitting Franklin's first Community Development Block Grant application and Consolidated Housing Plan. HUD requires CDBG entitlement communities to submit annual progress reports and updated applications to remain eligible for CDBG funding. The Housing Fund assists the City with updating our Consolidated Plan and submits our application for the current fiscal year. Additionally, THF prepares the Annual Action Plan for submission to HUD. Pending approval, the City will receive approximately \$200,000. As endorsed by The Housing Commission and specified in Franklin's Consolidated Plan next year's funds have been designated to support the Emergency Rehabilitation Home Repair Program, analyze impediments to Fair Housing, homebuyer education, and assist Community Based Development Organizations in their efforts to create affordable housing.

**Financial Impact:**

HUD regulations allow communities to utilize up to twenty percent of CDBG funding to cover program administration. \$20,000 has been designated for THF to assist with the administrative costs associated with updating of the Consolidated Plan, Action Plan, & CAPER (annual report) and to provide technical assistance in developing housing programs and resources. Mr. Paul Johnson represents THF and works closely with City staff and The Housing Commission in providing technical advice on potential programs and to insure compliance.

**Recommendation:**

A motion to approve is recommended.

**CONTRACT BETWEEN THE CITY OF FRANKLIN AND THE HOUSING FUND,  
INCORPORATED FOR  
ADMINISTRATION AND ASSISTANCE OF DEVELOPMENT OF THE CONSOLIDATED  
ACTION PLAN AND REPORT (CAPER) FOR COMMUNITY DEVELOPMENT BLOCK  
GRANT PROGRAM  
COF Contract #2013-0036**

This Contract, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the City of Franklin, (hereinafter "THE CITY") and The Housing Fund, Inc. (hereinafter "THE ORGANIZATION").

**WITNESSETH:**

**WHEREAS**, THE CITY and its Board of Mayor and Aldermen desire to increase the supply of and access to moderately priced housing for its citizens; and

**WHEREAS**, THE CITY continues to be eligible for entitlement funds through the federal Community Development Block Grant ("CDBG") program, which requires submission of an updated 5 Year Consolidated Plan for Housing and Community Development, with an annual report due by May 15 each year, to the U.S. Department of Housing and Urban Development; and

**WHEREAS**, THE CITY desires to again contract with The Housing Fund, as a housing related non-profit organization, to compile the Consolidated Plan, Annual Action Plan, Annual Report (CAPER) for the fiscal year beginning June 30, 2013 and to provide assistance in developing strategies to increase the supply of housing for eligible low and moderate income households within its jurisdiction; and

**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 above clauses are incorporated as if restated fully herein.

THE ORGANIZATION will work under the direction of the Assistant City Administrator for Community and Economic Development and the Housing Development Coordinator or their designee. THE ORGANIZATION will carry out activities necessary to guide the development of the 5 Year Consolidated Plan, Annual Action Plan, CAPER and associated public meetings and notices, and other actions as proposed in Exhibit A, which is referenced as if fully incorporated herein.

THE ORGANIZATION will provide technical assistance in achieving and maintaining program compliance, monitoring activities of contractors under the program, as well as, monitoring visits by federal and/or state officials.

**SECTION 2 - RESPONSIBILITIES OF PARTIES**

- A. THE ORGANIZATION will perform the duties described above and take any actions necessary to accomplish the spirit of this agreement.
- B. THE ORGANIZATION will submit regular reports (no less 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 its project.
- D. THE CITY will provide funding for the program from the CDBG program as set forth in Section 3 of this contract.

**SECTION 3 – COMPENSATION**

THE ORGANIZATION will receive up to Twenty Thousand and No/100 Dollars (\$20,000.00) for the services outlined above from the Community Development Block Grant program for eligible expenses.

**SECTION 4 - TIME OF PERFORMANCE, TERMINATION**

- A. Services shall be performed over a twelve (12) month period to commence July 1, 2013 and to end on June 30, 2014.
- B. The parties have the option to renew this contract under the same terms and conditions for an additional twelve (12) months based on the availability of CDBG funds for the Program Year which runs from July 1, 2014 through June 30, 2015. Both parties shall agree to this extension in writing.
- C. This Agreement may be terminated upon thirty (30) days written notice by either party.

**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 quarterly.
- D. Final payment will be subject to receipt of a final report that is satisfactory to THE CITY.

**SECTIONS 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, ACA  
Community and  
Economic Development  
City of Franklin City Hall  
109 3<sup>rd</sup> Avenue, S.  
Franklin, TN 37064**

**Paul Johnson  
The Housing Fund, Inc.  
305 11<sup>th</sup> Avenue, S.  
Nashville, TN 37203**

**SECTION 7 - STANDARD TERMS AND CONDITIONS**

**A. COMPLIANCE WITH FEDERAL LAWS/REGULATIONS**

THE ORGANIZATION shall comply with all applicable Federal, State and Local 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**

1. 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.
2. 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 Purchasing Policy and Procedures 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. APPLICABLE LAW/CHOICE OF FORUM AND VENUE**

This Agreement is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to that state's choice of law rules. The parties' choice of forum

and venue shall be exclusively in the courts of Williamson County, Tennessee. Any provision of this Agreement held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force.

**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. BREACH**

Upon deliberate breach of the Contract by either party, the non-breaching party shall be entitled to terminate the Contract 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 8 - SIGNATURES**

**THE CITY OF FRANKLIN**

By: \_\_\_\_\_  
**Dr. Ken Moore, Mayor**

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
**Eric S. Stuckey City Administrator**

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
**Kristen L. Corn, Staff Attorney**

**THE HOUSING FUND**

\_\_\_\_\_  
Authorized Signature

Date: \_\_\_\_\_

## Exhibit A

### Proposal for The City of Franklin From The Housing Fund

**Housing Fund, Inc (THF)** is a private, 501(c)(3) organization established to finance affordable housing and neighborhood revitalization projects throughout Middle Tennessee and Allen, Edmonson and Warren counties in Kentucky. Since its incorporation in 1996, THF has assisted over 2,300 first time homebuyers receive \$15.3 million in downpayment assistance loans, as well as providing more than \$43 million in financing to assist individuals and organizations purchase, rehabilitate, or construct homes for low and moderate income families.

THF is certified by the US Treasury Department as a Community Development Financial Institution (CDFI), and is supported by a variety of public and private resources including investments from financial institutions and corporations, grants from local, state and federal governments, foundations and United Way of Middle Tennessee.

The Housing Fund proposes to provide the following services to the City of Franklin:

- Preparation of the 5 Year Consolidated Plan for Housing and Community Development. The Consolidated Plan is a HUD requirement of Community Development Block Grant (CDBG) participating jurisdictions. The plan, which will be the City's second Consolidated Plan, consists of a housing market analysis, a strategic plan for the CDBG program, and an action plan that outlines the use of CDBG funds for Year 1;
- Preparation of the Consolidated Annual Performance and Evaluation Report (CAPER) for Year 2 of the first 3 Year Consolidated Plan. The CAPER is the reporting document submitted annually to HUD which presents achievements from the use of previous year CDBG funding.
- Conduct all public hearings required by HUD and a reasonable number of public meetings requested by the City for completion of the above two documents.
- Provide technical assistance in achieving and maintaining program compliance, including general policies and procedures for CDBG funded projects/programs.
- Provide technical assistance on the monitoring of CDBG subrecipients and on preparing for HUD monitoring of the CDBG program.

## **Exhibit B**

### **Schedule of Payments**

#### **1. Schedule of Payments**

THE ORGANIZATION shall submit invoices, including supporting documentation to The City of Franklin on a quarterly basis. With the first quarter beginning July 1, 2013 and ending September 30, 2014 the first quarterly invoice shall be submitted on or about October 1, 2013. Subsequent quarters shall be billed on or about January 1, 2014, April 1, 2014, and June 30, 2014.