

**CONTRACT FOR THE COMMUNITY BASED DEVELOPMENT ORGANIZATION
PROGRAM FUNDING FOR THE CITY OF FRANKLIN
(Contract Number: 2011-0021)**

This Contract, made and entered into this 8 day of March 2011, by and between the City of Franklin, (hereinafter "The City") and Hard Bargain Mt. Hope Redevelopment, 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 City of Franklin 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 non-residentially used structures 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 Fifty-Five Thousand and No/100 Dollars (\$55,000.00) 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

- A. Services shall start by March 31, 2011 and end on or before the 30th day of June, 2012.
- B. This Contract 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 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 - 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

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 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 nor 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.

N. PROGRAM INCOME

The program income requirements of 24 CFR 570.504(c) apply to this Agreement. THE ORGANIZATION may retain any program income that THE ORGANIZATION generates for use on eligible housing related activities. Prior to the use of program income THE ORGANIZATION will submit a plan for written approval by the City of Franklin describing the eligible activities to be funded, a budget (including program delivery costs and/or development fees) and timeline for the expenditures, intended program beneficiaries, and any other items reasonably requested by the City of Franklin. In addition, THE ORGANIZATION agrees to use program income in accordance with the terms and conditions contained in this agreement. THE ORGANIZATION further agrees to provide quarterly reports on the use and status of program income retained by THE ORGANIZATION. Upon termination of this Agreement, THE ORGANIZATION agrees to transfer all program income received on a monthly basis to the City of Franklin.

O. 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'S 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 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

HARD BARGAIN MT. HOPE REDEVELOPMENT

Authorized Signature

Date: _____

Exhibit A

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

Hard Bargain Mt. Hope Redevelopment

Proposed Scope of Services

Funding from this award contract will be used to construct one single family home for a low to moderate income family at 709 Mt. Hope Street (originally proposed in previous application, still available). HBMHR has control of the subject property through a Notice of Intent by the seller (see attachment).

After approved design prior to commencement of construction as specified in City of Franklin Request for Proposals, then construction services will be performed by licensed, bonded, and insured State of Tennessee contractors performing construction services per a work write up specifying the necessary services and will be requested on a reimbursement basis according to a schedule contained in the executed written agreement as specified under the Requests for Proposals document. The contractor shall provide progress schedules to the City of Franklin and HBMHR on a monthly basis. All in paragraph 10.0 in the Request for Proposals by the City of Franklin shall be incorporated in any agreement by the contractor and the City of Franklin.

Timeline

| | |
|-----------------------|---------|
| CBDG Award | Day 1 |
| Building permit | Day 90 |
| Construction starts | Day 120 |
| Construction finished | Day 365 |

* Completion within one year required timeline

Sales Points

1. Existing approved family waiting for us to build their home.
2. House sales price of \$121,108. A 4.85% 30 year FHA mortgage will be used. The principal/interest payments and taxes/insurance will be affordable for a low income family in Franklin, TN.

Status and Evidence of Property Control

See attached Notice of Intent to Sell

Evidence of Appropriate Zoning

Property is zoned to R6 Residential District which is appropriate to the use as per the zoning map of Franklin, Tennessee Base Districts (July 1, 2008).

Sources and Uses Statement

Sources

House

| | |
|------------------|--|
| \$ 55,000 | CDBG funding |
| \$ 46,108 | Construction Line of Credit- BancorpSouth (attached) |
| <u>\$ 20,000</u> | Donation of funds to buy lot |
| \$121,108 | |

Uses

House

| | |
|-------------------|-------------------------------------|
| \$ 20,000 | Land Cost per house |
| <u>\$ 101,108</u> | Construction Cost per house |
| \$ 121,108 | (see attached Development Proforma) |

Development Team

Construction management will be conducted by Brant Bousquet, Executive Director of HBMHR, and David Crane President/Owner of Crane Builders, LLC, (licensed contractor, resume attached) who will be working in a volunteer capacity for HBMHR. Mr. Crane has over 20 years experience in the construction business with numerous awards for his work. Additionally John Murphy, a Hard Bargain resident and HBMHR board member, will serve as Site Supervisor, providing daily oversight of the construction. Mr. Murphy will be in constant communication with Mr. Bousquet and Mr. Crane throughout the construction process.

Town Planning & Urban Design Collaborative, LLC (TPUDC) has been selected to provide architectural as well as planning and urban design services, including creation of a conceptual master plan, site plan preparation, the municipal entitlements process, and implementation. TPUDC is a boutique new urbanist town planning and urban design firm specializing in the design and implementation of projects across the United States. Delta Associates, Inc. has been selected to provide surveying and engineering services. Delta Associates, Inc. is a respected firm that provides engineering, GIS and surveying services. Southern Land Company will donate their services and do the final grading of the lot.

Sales Team

The houses will be presold. HBMHR has an existing list of customers waiting for to purchase new homes once they are built. Brant Bousquet and Jack McCann, legal counsel for HBMHR, will act as the sales team.

Architectural Plans

See attached

HBMHR has all the internal systems available to begin this project within 90 days. There is a line of credit to assist with construction funding. HMBHR has house plans, customers, and a construction team and is ready to begin the project immediately.

Hard Bargain Mt. Hope Redevelopment

Costs

HBMHR has control of the subject property through a Notice of Intent by the seller (see attachment) for 709 Mt. Hope Street. Funding from this award contract will be used to construct one single family home for low to moderate income families on this property.

| | |
|-------------------------|-----------------|
| CDBG Funds for House | \$55,000 |
| Administration fee (8%) | <u>\$ 4,400</u> |
| Total for House | \$50,600 |

| | |
|------------------------------|-----------------|
| CDBG funding for House | \$50,600 |
| CDBG administrative fee (8%) | <u>\$ 4,400</u> |
| Total Request | \$ 55,000 |

HBMHR is requesting \$55,000 from the City of Franklin to build one single family home for a low to moderate income family in the Hard Bargain neighborhood within the required one year time frame. While funding is going into this house to be built, when it is sold, the same money will assist HBMHR to build additional single family homes for low to moderate income families in Hard Bargain.

MEMORANDUM

March 8, 2011

TO: City of Franklin Board of Mayor and Alderman

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

SUBJECT: 2010-11 Program Year Community Based Development Organization (CBDO) Contract Number 2011-0021- Hard Bargain/Mt. Hope Redevelopment - \$55,000.

Purpose

The purpose of the is item is to approve the 2010-11 CDBG Community Based Development Organization (CBDO) agreement with Hard Bargain/ Mt. Hope Redevelopment in the amount of \$55,000 for the purpose of assisting in the construction or rehabilitation of one single-family home to be owned and occupied by a lower income City of Franklin family.

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 and this year only one firm submitted a proposal, Hard Bargain/Mt. Hope Redevelopment.

The Affordable/Workforce Housing Advisory Committee evaluated Hard Bargain/Mt. Hope Redevelopment proposal against federal statutory requirements of CBDO's and the City's Request for Proposal. The CBDO Task Force recommends awarding Hard Bargain/Mt. Hope Redevelopment the total \$55,000 grant.

Financial Impact

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

Recommendation

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