City Of College Station
Real Property Conveyance Agreement
with
Brazos Valley Community Action Agency, Inc.

This Agreement is made and entered into on this the _____ day of _____, 2003, by and between the CITY OF COLLEGE STATION ("City" and/or "Grantor" hereinafter), a Home Rule Municipal Corporation incorporated under the laws of the State of Texas, and BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC. ("Agency" and/or "Grantee" hereinafter), a Texas non-profit corporation.

WHEREAS, the City has the objective of providing for the development of low-to-moderate-income housing for citizens of the City through its Community Development Office;

WHEREAS, the Agency, through its express purposes as set forth in its corporate bylaws, shares this common goal with the City as a Department of Housing and Urban Development ("HUD" hereinafter) approved Community Housing Development Organization;

WHEREAS, the City has previously acquired certain real property ("Land" hereinafter, further identified herein below) by means other than condemnation;

WHEREAS, the Agency has requested that the City convey said Land to the Agency to facilitate their mutual objective of providing for the development of adequate, decent, safe, and sanitary low-to-moderate-income housing for the City's citizens;

WHEREAS, the City has determined that transfer of the Land to the Agency will facilitate development of the Land into low-to-moderate-income housing and thereby serves a valid public purpose;

WHEREAS, the City has determined that the Agency is qualified to receive real property conveyance(s) pursuant to both Local Government Code §272.001(g) and applicable Department of Housing and Urban Development regulations; and

WHEREAS, the City has determined that it is appropriate to convey title of the Land to the Agency to facilitate the development of adequate, decent, safe, and sanitary low-to-moderate-income housing for the City's citizens;

NOW, THEREFORE, the City and the Agency for and in consideration of the covenants and promises as set forth herein, do agree as follows:

TERMS AND CONDITIONS:

Article I – Conveyance(s)

1. For the consideration of ten dollars ($10) per each listed property and the further covenants and promises contained herein, the City shall provide to the Agency a Special Warranty Deed in the form attached hereto as Exhibit "A" conveying the following real properties for the purposes described herein:

1.1. 1203 Arizona, College Station, Texas, being more particularly described by its legal description as follows:

Lot Fifteen (15), Block Two (2), MCCULLOCH'S SUBDIVISION, an addition to the City of College Station, Texas, according to plat recorded in Volume 122, Page 91, Deed Records of Brazos County, Texas.

Being the same property described in General Warranty Deed dated December 13, 2002, executed by Lorena M. Faine f/k/a Lorena M. Minnick to City of College Station, Texas, recorded in Volume 5007, Page 269, Official Records of Brazos County, Texas.

1.2. 1205 Arizona, College Station, Texas, being more particularly described by its legal description as follows:

Lot Sixteen (16), Block Two (2), MCCULLOCH'S SUBDIVISION, an addition to the City of College Station, Texas, according to plat recorded in Volume 122, Page 91, Deed Records of Brazos County, Texas.

Being the same property described in General Warranty Deed dated December 13, 2002, executed by Lorena M. Faine f/k/a Lorena M. Minnick to City of College Station, Texas, recorded in Volume 5007, Page 269, Official Records of Brazos County, Texas.

Said tract(s) collectively referred to as the "Land" hereinafter.

2. The Agency acknowledges and agrees that said Special Warranty Deed shall contain the following reservations and/or exceptions, among others as may be deemed appropriate in the sole discretion of the City, from and to conveyance and warranty of each particular tract as listed above:

2.1. For GRANTOR and GRANTOR's successors and assigns, in common with GRANTEE and GRANTEE's successors, a reservation of the free, uninterrupted, and perpetual use of an easement over the entire property for the purposes

expressly provided for in the Blanket Utility Easement which GRANTEE has conveyed to GRANTOR as part of this conveyance.

2.2. This conveyance is conditioned on the construction of a dwelling meeting HUD approved requirements on the property within eighteen (18) months from date of this deed. If GRANTEE does not complete construction of such dwelling in the time period allotted, GRANTOR shall have an automatic reversion of GRANTOR's interest.

3. The Agency agrees that any subsequent conveyance of the Land or any portion thereof by the Agency shall be by Special Warranty Deed.

Article II – Construction of Dwelling Unit(s)

4. The Agency agrees to the following terms and conditions regarding construction of dwelling unit(s) on each tract of land described herein:

4.1. The Agency, having previously inspected the property to determine the feasibility of low-to-moderate-income dwelling development, will review the work write-up(s) and cost proposal(s) to be obtained by the Agency and use them as the technical specifications of the bid document(s). After bid advertisement(s) and acceptance of the bid proposal(s) by the Agency, where appropriate, a Construction Contract will be signed by the Agency with the selected contractor on a standard construction contract provided by City. The Construction Contract shall contain provisions essentially stating that construction of the dwelling unit(s) shall be completed ***not later than*** September 27, 2004 **Failure to complete construction by the stated date shall constitute grounds, pursuant to this Agreement, for the City to exercise its reversionary interests in the tract of land.**

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4.2. The Agency will select a contractor screened by the City and included on the City's list of approved bidders for City-assisted Residential Construction projects. The City will monitor progress, performance, and quality of work by the contractor through periodic on-site inspections until work is completed as specified in the Construction Contract documents and until the final inspection report is signed by the Agency.

4.3. The Agency shall aid in the development of the construction proposal and cost negotiations with the contractor, maintain the photographic work needed for the write-up and documentation, carry out on-site inspections to monitor contractor performance and quality assurance, and process approved change orders for performance of additional or modified work activities, as required by the construction.

4.4. The Agency agrees that it is the Agency's responsibility to see that the contractor completes the work specified and that the City has no responsibility for any faulty or incomplete work of the construction contractor. The Agency also agrees that hidden or latent conditions not covered by the original inspection or work write-up are not the fault of the City, nor is the City liable for such conditions.

4.5. In the event that the Agency wishes to terminate the Construction Contract with the contractor, the Agency must obtain concurrence of the City. The Agency understands and agrees that breach of the Construction Contract by either the Agency or contractor resulting in failure to meet the requirements set forth in Paragraph 2.2 of this Agreement shall constitute grounds, pursuant to this Agreement, for the City to exercise its reversionary interests in the Land.

4.6 At Closing, the Agency shall dedicate at no cost, a Blanket Utility Easement in the form attached hereto as Exhibit "B".

Article III – Property Maintenance

5. As part of the consideration for the conveyance(s) described above, the Agency agrees to comply with all of the following terms in reference to the Land and contemplated dwelling(s) (collectively, the Property) for so long as the Agency holds title to the Land:

5.1. The Property must be constructed and maintained to meet all applicable City code requirements;

5.2. All debris on the Property, both during and after construction, must be regularly collected in a neat and orderly manner and properly disposed;

5.3. All vegetation on the Property, including any lawn, turf, shrubs, bushes, and trees, must be maintained and trimmed on a regular basis;

5.4. The interior of the dwelling shall be kept in a clean and sanitary living condition;

Article IV – Records And Reports

6. The Agency shall maintain fiscal records and supporting documents in the form of receipts, canceled checks, payroll records, employee time sheets and other mutually agreed upon documentation to verify all expenditures of funds by the Agency on each contemplated construction project.

7. The Agency shall submit activity reports to the City on a bi-annual basis, and as may otherwise be required in writing by the City. The format of such reports shall, at a minimum, consist of a narrative summary of activities and an activity report that describes the client(s) served by the Agency through the Land conveyance(s) under this Agreement. This summary report will include information on the following: racial and ethnic identification; household income information as to whether low or moderate income (as stipulated by HUD regulations); head of household status; and city of residence status. The Agency will maintain supporting back-up documentation regarding all reports and make such available to the City upon request. The activity reports and reimbursement requests, including documentation, shall be submitted to the City within thirty (30) days following a reporting period.

8. The City shall conduct a monitoring review of the Agency's Program on a bi-annual basis or as otherwise deemed necessary by the City so as to evaluate the Agency's compliance with the provisions of this Agreement or any applicable regulation. A minimum of one on-site monitoring review will be conducted by the City during the term of this Agreement.

Article V – Administrative Requirements

9. The Agency further agrees to comply with all the terms and conditions contained in the City's Community Development Administrative Guidelines, as they may be amended, and the Deed(s) referenced in paragraph 1, *et seq.*, herein.

10. The Agency further agrees to comply with all applicable local, State, and Federal laws, ordinances, and regulations, including but not limited to HUD requirements and the following:

10.1. For any property rehabilitated under this Agreement that lies within the 100 year flood plain, the Agency agrees to purchase Federal Flood Insurance as required under the Flood Disaster Protection Act of 1973, 42 U.S.C. 4001 et. Seq.

10.2. The Agency agrees to comply with the policies and procedures relating to removal and non-use of lead-based paints in accordance with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. §§ 4822, and the implementing regulations at 24 C.F.R. § 35.

10.3. The Agency agrees to comply with the provisions of 24 C.F.R. § 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement on ineligibility status.

Article VI – General Provisions

11. The City and the Agency attest that, to the best of their knowledge, no member of the City of College Station City Council and no other officer, employee or agent of the City, who exercises any function or responsibility in connection with the carrying out of this Agreement, has any personal interest, direct or indirect, in this Agreement.

12. The Agency covenants and agrees that, during the term of this Agreement, it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Agency will take affirmative action to ensure that applicants who are employed are treated, during employment, without regard to their race, color, religion, sex , national origin or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection. The Agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination requirement.

13. The Agency expressly agrees that, in all solicitations or advertisements for employees placed by or on behalf of Agency, there will be a statement that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or disability.

14. The Agency certifies that it will not limit services or give preference to any person assisted through this Agreement on the basis of religion and that it will provide no religious instruction or counseling, conduct no religious worship or services, and engage in no religious proselytizing in the provision of services or the use of facilities or furnishings assisted in any way under this Agreement.

15. The parties to this Agreement agree and understand that the Agency is an independent contractor and not an agent or representative of the City, that the obligation to compensate Agency's employees and personnel furnished or used by the Agency to provide the services specified herein shall be the sole responsibility of the Agency, and that said employees and personnel shall not be deemed employees of the City for any purpose.

16. No amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.

17. This Agreement has been made under and shall be governed by the laws of the State of Texas.

18. Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.

19. Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective organizations.

20. Failure of any party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in any way affect the validity of this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

21. The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.

22. This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.

23. It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

24. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

25. It is understood that this Agreement contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.

26. Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein. Each party has the right to change its business address by giving at least thirty (30) days advance

written notice of the change to the other party. Written notices shall be delivered as follows unless otherwise notified by either party:

Agency:

Attn: Betty J. Steelman
Brazos Valley Community Action Agency, Inc.
504 East 27th Street
Bryan, Texas 77803

City:

Attn: Randy Brumley, Administrator
Community Development Division
City of College Station
903 Texas Avenue
P.O. Box 9960
College Station, Texas 77842

27. Headings provided herein are for convenience only and in no manner limit or effect the provisions contained herein.

EXECUTED this _____ day of _____, 2003.

CITY OF COLLEGE STATION

By:_____
Thomas E. Brymer, City Manager

BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC.

By: Betty J. Steelman
Printed Name: Betty J. Steelman
Title: Lead Administrator

APPROVED:

Roxanne Nemcik
City Attorney Dated

_____
Charles Cryan, Director of Fiscal Services Dated

_____
Randy Brumley, Comm. Dev. Admin. Dated

Contract No.: _____
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03/12/2003

THE STATE OF TEXAS §
§ **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the _____ day of _____, 2003, by Thomas E. Brymer, as City Manager of the City of College Station, Texas, Texas Home Rule Municipality, on behalf of said municipality.

_____
Notary Public in and for the State of Texas

THE STATE OF TEXAS §
§ **ACKNOWLEDGMENT**
COUNTY OF BRAZOS §

This instrument was acknowledged before me on the 13 day of March, 2003, by Betty J. Steelman, as Lead Administrator of BRAZOS VALLEY COMMUNITY ACTION AGENCY, INC., a Texas non-profit organization, on behalf of said organization.

CYNTHIA O. SOLIS
Notary Public, State of Texas
My Comm. Expires 07/31/2005

Cynthia O. Solis
Notary Public in and for the State of Texas

Contract No.: _____
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