

## **CONSORTIUM AGREEMENT**

**By and among**

**The City of Newark, as Lead Applicant,**

**And**

**Each of the other Consortium members identified on the attached signature page(s)**

**For**

**Neighborhood Stabilization (NSP) Program 2 Funding Application**

**This Consortium Agreement** (this “Agreement”) is made on this 1st day of July, 2009 by and among **The City of Newark** (the “Lead Applicant”) and each of the other fourteen (14) Consortium members identified on the attached signature page(s), for the purpose of forming a combination of local governments and non-profit entities (collectively, the “Consortium”) working together toward implementing and achieving activities under the American Reinvestment and Recovery Act of 2009 (ARRA) (Public Law 111-005, Recovery Act), for the purpose of assisting in the redevelopment of vacant, abandoned and foreclosed homes under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading, within the County of Essex, New Jersey (the “Target Area”).

### **Purpose**

The purpose of this Agreement is to create an understanding by and among the members of the Consortium regarding the shared responsibilities in administering the Neighborhood Stabilization Program 2 (hereinafter referred to as the “NSP 2 Program”) pursuant to the Notice of Funding Availability released by the Department of Housing and Urban Development (“HUD”) on May 4, 2009 under Docket No. FR-5321-N-01 (the “NOFA”).

The Consortium members agree to work cooperatively in implementing program activities as will be described in the hereinafter-defined Application to be submitted by the Lead Applicant on behalf of all Consortium members in connection with the NOFA for the NSP 2 Program. Each member of the Consortium is only responsible to the other members of the Consortium in respect to the obligations that are set forth in the NOFA and this Agreement. Therefore, each member of the Consortium shall remain independent in its normal business operations and shall have no input or responsibility as to any another Consortium member's operations that are not related to the Consortium.

### **Background**

Congress appropriated an additional \$1.93 billion of NSP 2 Program funds as a component of the Community Development Block Grant ("CDBG") program (authorized under Public the Housing and Community Development Act of 1974, 42 U.S.C. 5301 et seq. (the "HCD Act"). NSP 2 Program funds will be awarded through competitions whose eligible applicants include states, units of general local government, nonprofits, and consortia of nonprofits, with for-profit entities as partners. The NOFA requires that any application made on behalf of a consortium include an executed copy of a consortium agreement covering the provisions required by the NOFA.

### **Application for Funding; Roles of Lead Applicant and Consortium Members**

Each member of the Consortium hereby authorizes the Lead Applicant to file an application on behalf of all members for funding under the NSP 2 Program within the Target Area (the "Application"). The Lead Applicant assumes the responsibility of acting in a representative capacity for all Consortium members as required by HUD in the NOFA for the NSP 2 Program. The Lead Applicant further assumes responsibility for ensuring that the Consortium's NSP 2 Program is carried out in compliance with all statutory and regulatory requirements applying to the use of NSP 2 Program funds and in substantial compliance with the Application. If the Application is selected for funding, the Lead Applicant will execute a funding agreement with HUD on behalf of the Consortium, whereupon the Lead Applicant will assume responsibility for the grant on behalf of the Consortium in compliance with all program requirements. Should HUD select the Application for funding, but fund at amounts less than the total amount requested in the Consortium's Application, each Consortium member shall be funded in a pro rata amount, based on the proportion of units identified in the Application, and the minimum number of units to be acquired, rehabilitated, demolished and/or redeveloped by each Consortium member shall be reduced proportionally.

If the Application is approved by HUD, each Consortium member agrees to cooperatively carry out the NSP 2 Program as detailed in such application. The Lead Applicant is hereby authorized to act in a representative capacity for all members of the Consortium and shall assume overall responsibility for ensuring that the Consortium's NSP 2 Program is carried out in accordance with all NSP 2 Program requirements.

If the Application is approved by HUD, each Consortium member agrees to enter into a separate consortium funding agreement no later than December 1, 2009, describing each member's specific activities under the NSP 2 Program, including timetables for completion and applicable requirements as set forth in the NOFA.

Each member of the Consortium hereby represents that, except for the Application, it has not and will not apply for any NSP 2 Program funding within the Target Area.

### **Responsibilities of the Consortium Members**

Each member of the Consortium hereby agrees that it will comply with all applicable provisions for NSP 2 Program Funding, including but not limited to those set forth in the NOFA. In particular, the members of the Consortium agree as follows:

## 1. RESPONSIBILITIES OF EACH LOCAL GOVERNMENT MEMBER:

Each local government member of the Consortium agrees that it:

- a. Shall be solely responsible for conducting its Environmental Reviews pursuant to the CDBG regulation contained in 24 CFR Part 58.
- b. Shall be responsible for ensuring that all of its citizens have equal access to information about the NSP 2 program.
- c. Shall submit the following certifications:
  1. That it will affirmatively further fair housing, in that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.
  2. That it has in effect and is following a residential anti-displacement and relocation assistance plan.
  3. That it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations within its jurisdiction, and a policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

## 2. RESPONSIBILITIES OF EACH NON-PROFIT ENTITY MEMBER:

Each non-profit entity member of the Consortium agrees that it:

- a. Shall submit to the Lead Applicant evidence of its nonprofit status, for inclusion in the Application package.
- b. Shall submit the following certifications:
  1. That it will affirmatively further fair housing, in that it will affirmatively market NSP 2 Program assisted units and carry out NSP 2 Program activities that further fair housing through innovative housing design or construction to increase access for persons with disabilities, language assistance services to persons with limited English proficiency (on the basis of national origin), or location of new or rehabilitated housing in a manner that provides greater housing choice or mobility for persons in classes protected by the Fair Housing Act, and maintain records reflecting the actions in this regard.

2. To the extent applicable, that it shall assist HUD to comply with 24 CFR part 50 and shall supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50, and otherwise comply with the related requirements as set forth in Appendix 4 to the NOFA.

### 3. RESPONSIBILITIES OF EACH FOR-PROFIT PARTNER MEMBER:

Each for-profit partner member of the Consortium agrees that it:

- a. Shall be responsible for ensuring that all citizens have equal access to information about the programs.
- b. Shall provide to the Lead Applicant, for inclusion in the Application package, a firm commitment binding such member to performance.
- c. Shall, if the Application is approved for funding, enter into a separate written agreement with the other Consortium members (if required in addition to the consortium funding agreement).
- d. Shall be subject to the requirement that, prior to requesting a payment for NSP 2 Program activities carried out by it, a cost or price analysis will be conducted as required under 24 CFR part 84 or 85, as applicable, demonstrating the necessary and reasonable costs for such payment.

### 4. RESPONSIBILITIES OF ALL CONSORTIUM MEMBERS:

Each member of the Consortium certifies to the following, pursuant to the NSP 2 Program NOFA released May 4, 2009:

1. That it must submit a certification with regard to compliance with restrictions on lobbying as required by 24 CFR part 87), together with disclosure forms, if required by that part.
2. That it possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable NSP 2 Program regulations and other program requirements.
3. That it will adhere to the acquisition and relocation act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP2 Program published by HUD.
4. That it will comply with Section 3 of the Housing and Urban Development Act of 1968

(12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

5. That it will carry out citizen participation in accordance with NSP 2 Program requirements.
6. That it will comply with Title III of Division B of HERA, as modified by the American Reinvestment and Recovery Act, by spending 50 percent of its grant funds within 2 years, and spending 100 percent within 3 years, of receipt of the grant.
7. That all of the NSP 2 Program funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income, and that it will not attempt to recover any capital costs by assessing any amount against properties owned and occupied by persons of low- and moderate-income, except as may otherwise be permitted under the NOFA.
8. That the NSP 2 Program grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601-3619), and implementing regulations.
9. That its activities concerning lead-based paint will comply with the requirements of 24 CFR part 35, subparts A, B, J, K and R.
10. That it assumes responsibility for maintaining such records as are required by HUD and as are necessary for the Lead Applicant to ensure compliance of the Consortium's NSP 2 Program with all applicable requirements and with the Consortium's Application. Each member of the Consortium agrees that any duly authorized representative of the Lead Applicant shall, until the expiration of five (5) years after the expiration of this Agreement, or such longer period as may be required due to an audit finding, upon reasonable notice, have access to and the right to examine any books, documents, papers and records of the Consortium members, involving transactions related to the Consortium's NSP 2 Program.
11. That it will comply with applicable laws.

#### 5. TERMS OF MEMORANDUM OF UNDERSTANDING:

This Agreement shall remain in full force from the period of NSP 2 Program award notification through the close out of all projects under the Consortium.

#### 6. EARLY TERMINATION:

This Agreement is considered binding and shall be in effect for the duration, and completion of all eligible NSP 2 Program activities stipulated in the application submitted by the Lead Participant (on behalf of the Consortium) to the U.S. Department of Housing and Urban Development dated July 17th 2009.

## 7. SCOPE OF SERVICES:

NSP-Eligible Uses – Correlated Eligible Activities from the CDBG Entitlement Regulations and as stipulated in the NOFA:

- (A) Establish financing mechanisms for purchase and redevelopment of foreclosed homes and residential properties.
- (B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties 24 CFR 570.201(a) Acquisition (b) Disposition, (i) Relocation, and (n) Direct homeownership assistance.
- (C) Establish land banks for homes and residential properties that have been foreclosed upon 24 FR 570.201(a) Acquisition and (b) Disposition. (D) Demolish blighted structures pursuant to 24 CFR 570.201(d) Clearance for blighted structures only. (E) Redevelop demolished or vacant properties as housing 24 CFR 570.201(a) Acquisition, (b) Disposition, (c) Public facilities and improvements, (e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties, (i) Relocation, and (n) Direct homeownership assistance (as modified below).

### **Limitation of Liability**

It is mutually agreed by the Consortium and its members, directors, officers, agents, servants, employees, and attorneys shall not be liable for any action performed under this Agreement, and that the Consortium shall hold them harmless from any claim or suit of whatever nature.

### **Exercise of Rights**

A failure or a delay on the part of the Consortium in exercising any right, power or privilege under this Agreement shall not waive that right, power or privilege.

### **Amendments**

This Agreement may not be changed, modified or canceled orally.

### **Counterparts Allowed**

This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which taken together shall constitute one agreement.

**Entire Agreement**

This Agreement constitutes the entire agreement among the members of the Consortium, and there is no other agreement between the members of the Consortium relating in any manner to this Agreement. Each member of the Consortium hereby represents and warrants to each other member that the person executing this Agreement on behalf of such member has the power and authority to execute this Agreement on behalf of such member and to bind such member to the provisions hereof.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first set forth above.

**LEAD APPLICANT:**

**The City of Newark**

By:

Name: Cory A. Booker

Title: Mayor

**ADDITIONAL LOCAL GOVERNMENT MEMBERS:**

**The City of East Orange**

By:

Name:

Title: Mayor

**The Township of Irvington**

By:

Name:

Title: Mayor

**The Township of Montclair**

By:

Name:

Title: Mayor

**The City of Orange Township**

By:

Name:

Title: Mayor

**The County of Essex**

By:

Name:

Title: Executive Representative

**NON-PROFIT ENTITY MEMBERS:**

**HOME Corp, Inc**

By:

Name:

Title: Executive Director

**Brand New Day, Inc**

By:

Name:

Title: Executive Director

**Episcopal Community Development, Inc**

By:

Name:

Title: Executive Director

**Hands, Inc**

By:

Name:

Title: Executive Director

**Unified Vailsburg Services Organization, Inc**

By:

Name:

Title: Executive Director

**Make it Right, LLC**

By:

Name:

Title: Executive Director

**Ironbound Community Corporation**

By:

Name:

Title: Executive Director

**Community Loan Fund of NJ, Inc**

By:

Name:

Title: Executive Director

**Don Pedro Development Corporation**

By:

Name:

Title: Executive Director

July 1, 2009

Michael Meyer, Director  
City of Newark  
Division of Housing and Real Estate  
920 Broad St, RM 421  
Newark, NJ 07102

Dear Director:

**RPM Development Group** is happy to submit to you as described below, our commitment letter binding us to the Newark/Essex County NSPII Consortium and Partners Neighborhood Stabilization 2 Program. Thank you for allowing us the opportunity to collaborate with the City of Newark and its Consortium members for the purpose of applying to the U.S. Department of Housing and Urban Development for Neighborhood Stabilization 2 Program.

The purpose of this commitment is to create an understanding by and among **RPM Development Group** and the City of Newark, as Lead Applicant for the Consortium ( the "Lead Applicant"), regarding the responsibilities in administering the Neighborhood Stabilization Program 2 (hereinafter referred to as the "NSP 2 Program") pursuant to the Notice of Funding Availability released by the Department of Housing and Urban Development ("HUD") on May 4, 2009 under Docket No. FR-5321-N-01 (the "NOFA"). We understand that the Consortium is governed by Consortium Agreement dated July 1,2009 (the "Consortium Agreement ")as attached.

**RPM Development Group** agrees to work cooperatively in implementing program activities as will be described in the application to be submitted by the Lead Applicant on behalf of the Consortium and the for-profit partner in connection with the NOFA for the NSP 2 Program. The for-profit partner agrees to comply with the provisions of the Consortium Agreement set forth in Section 3 under the heading "Responsibilities of the Consortium Members" and is only responsible to the Newark/Essex County NSPII Consortium and Partners in respect to the obligations that are set forth in the NOFA. Therefore **RPM Development Group** shall remain independent in its normal business operations and shall have no input or responsibility as to any other for-profit partner's operations that are not related to the Newark/Essex County NSPII Consortium and Partners.

**RPM Development Group** hereby authorizes the Lead Applicant to file an application on its behalf for funding under the NSP 2 Program within the Target Area (the "Application"). The Lead Applicant assumes the responsibility of acting in a representative capacity for the for-profit partner as required by HUD in the NOFA for the NSP 2 Program. The Lead Applicant further assumes responsibility for ensuring that the Newark/Essex County NSPII Consortium and Partners' NSP 2 Program is carried out in compliance with all statutory and regulatory requirements applying to the use of NSP 2 Program funds and in substantial compliance with the Application. If the Application is selected for funding, the Lead Applicant will execute a funding agreement with HUD on behalf of the Newark/Essex County NSPII Consortium and Partners, whereupon the Lead Applicant will assume responsibility for the grant on behalf of the Newark/Essex County NSPII Consortium and Partners in compliance with all program requirements. Should HUD select the Application for funding, but fund at amounts less than the total amount requested in the Newark/Essex County NSPII Consortium and Partners Application, each Consortium member and For-profit partner shall be funded in a pro rata amount, based on the

proportion of units identified in the Application, and the minimum number of units to be acquired, rehabilitated, demolished and/or redeveloped by each Consortium member and For-profit partner shall be reduced proportionally.

If the Application is approved by HUD **RPM Development Group** agrees to enter into (1) a separate funding agreement no later than December 1, 2009, describing the for-profit partner's specific responsibilities for performance of activities and timetables for completion under the NSP 2 Program and (2) a cost or price analysis as required under 24 CFR part 84 or 85, as applicable, that demonstrates how the for profit partner determined necessary and reasonable costs for such payments and applicable requirements as set forth in the NOFA.

**RPM Development Group** hereby represents that, except for the Application, it has not and will not apply for any NSP 2 Program funding within the Target Area.

**RPM Development Group** hereby agrees that it will comply with all applicable provisions for NSP 2 Program Funding, including but not limited to those set forth in the NOFA.

**RPM Development Group**

By:

Name:

Title: Executive Director

July 1, 2009

Michael Meyer, Director  
City of Newark  
Division of Housing and Real Estate  
920 Broad St, RM 421  
Newark, NJ 07102

Dear Director:

Fairmount Heights Development Company, LLC is happy to submit to you as described below, our commitment letter binding us to the Newark/Essex County NSPII Consortium and Partners Neighborhood Stabilization 2 Program. Thank you for allowing us the opportunity to collaborate with the City of Newark and its Consortium members for the purpose of applying to the U.S. Department of Housing and Urban Development for Neighborhood Stabilization 2 Program.

The purpose of this commitment is to create an understanding by and among Fairmount Heights Development Company, LLC and the City of Newark, as Lead Applicant for the Consortium ( the "Lead Applicant"), regarding the responsibilities in administering the Neighborhood Stabilization Program 2 (hereinafter referred to as the "NSP 2 Program") pursuant to the Notice of Funding Availability released by the Department of Housing and Urban Development ("HUD") on May 4, 2009 under Docket No. FR-5321-N-01 (the "NOFA"). We understand that the Consortium is governed by Consortium Agreement dated July 1, 2009 (the "Consortium Agreement") as attached.

Fairmount Heights Development Company, LLC agrees to work cooperatively in implementing program activities as will be described in the application to be submitted by the Lead Applicant on behalf of the Consortium and the for-profit partner in connection with the NOFA for the NSP 2 Program. The for-profit partner agrees to comply with the provisions of the Consortium Agreement set forth in Section 3 under the heading "Responsibilities of the Consortium Members" and is only responsible to the Newark/Essex County NSPII Consortium and Partners in respect to the obligations that are set forth in the NOFA. Therefore Fairmount Heights Development Company, LLC shall remain independent in its normal business operations and shall have no input or responsibility as to any other for-profit partner's operations that are not related to the Newark/Essex County NSPII Consortium and Partners.

Fairmount Heights Development Company, LLC hereby authorizes the Lead Applicant to file an application on its behalf for funding under the NSP 2 Program within the Target Area (the "Application"). The Lead Applicant assumes the responsibility of acting in a representative capacity for the for-profit partner as required by HUD in the NOFA for the NSP 2 Program. The Lead Applicant further assumes responsibility for ensuring that the Newark/Essex County NSPII Consortium and Partners' NSP 2 Program is carried out in compliance with all statutory and regulatory requirements applying to the use of NSP 2 Program funds and in substantial compliance with the Application. If the Application is selected for funding, the Lead Applicant will execute a funding agreement with HUD on behalf of the Newark/Essex County NSPII Consortium and Partners, whereupon the Lead Applicant will assume responsibility for the grant on behalf of the Newark/Essex County NSPII Consortium and Partners in compliance with all program requirements. Should HUD select the Application for funding, but fund at amounts less than the total amount requested in the Newark/Essex County

NSPII Consortium and Partners Application, each Consortium member and For-profit partner shall be funded in a pro rata amount, based on the proportion of units identified in the Application, and the minimum number of units to be acquired, rehabilitated, demolished and/or redeveloped by each Consortium member and For-profit partner shall be reduced proportionally.

If the Application is approved by HUD Fairmount Heights Development Company, LLC agrees to enter into (1) a separate funding agreement no later than December 1, 2009, describing the for-profit partner's specific responsibilities for performance of activities and timetables for completion under the NSP 2 Program and (2) a cost or price analysis as required under 24 CFR part 84 or 85, as applicable, that demonstrates how the for profit partner determined necessary and reasonable costs for such payments and applicable requirements as set forth in the NOFA.

Fairmount Heights Development Company, LLC hereby represents that, except for the Application, it has not and will not apply for any NSP 2 Program funding within the Target Area.

Fairmount Heights Development Company, LLC hereby agrees that it will comply with all applicable provisions for NSP 2 Program Funding, including but not limited to those set forth in the NOFA.

**Fairmount Heights Development Company, LLC**

By:

Name:

Title: Executive Director

July 1, 2009

Michael Meyer, Director  
City of Newark  
Division of Housing and Real Estate  
920 Broad St, RM 421  
Newark, NJ 07102

Dear Director:

**Michaels Development Group** is happy to submit to you as described below, our commitment letter binding us to the Newark/Essex County NSPII Consortium and Partners Neighborhood Stabilization 2 Program. Thank you for allowing us the opportunity to collaborate with the City of Newark and its Consortium members for the purpose of applying to the U.S. Department of Housing and Urban Development for Neighborhood Stabilization 2 Program.

The purpose of this commitment is to create an understanding by and among **Michaels Development Group** and the City of Newark, as Lead Applicant for the Consortium ( the "Lead Applicant"), regarding the responsibilities in administering the Neighborhood Stabilization Program 2 (hereinafter referred to as the "NSP 2 Program") pursuant to the Notice of Funding Availability released by the Department of Housing and Urban Development ("HUD") on May 4, 2009 under Docket No. FR-5321-N-01 (the "NOFA"). We understand that the Consortium is governed by Consortium Agreement dated July 1, 2009 (the "Consortium Agreement ")as attached.

**Michaels Development Group** agrees to work cooperatively in implementing program activities as will be described in the application to be submitted by the Lead Applicant on behalf of the Consortium and the for-profit partner in connection with the NOFA for the NSP 2 Program. The for-profit partner agrees to comply with the provisions of the Consortium Agreement set forth in Section 3 under the heading "Responsibilities of the Consortium Members" and is only responsible to the Newark/Essex County NSPII Consortium and Partners in respect to the obligations that are set forth in the NOFA. Therefore **Michaels Development Group** shall remain independent in its normal business operations and shall have no input or responsibility as to any other for-profit partner's operations that are not related to the Newark/Essex County NSPII Consortium and Partners.

**Michaels Development Group** hereby authorizes the Lead Applicant to file an application on its behalf for funding under the NSP 2 Program within the Target Area (the "Application"). The Lead Applicant assumes the responsibility of acting in a representative capacity for the for-profit partner as required by HUD in the NOFA for the NSP 2 Program. The Lead Applicant further assumes responsibility for ensuring that the Newark/Essex County NSPII Consortium and Partners' NSP 2 Program is carried out in compliance with all statutory and regulatory requirements applying to the use of NSP 2 Program funds and in substantial compliance with the Application. If the Application is selected for funding, the Lead Applicant will execute a funding agreement with HUD on behalf of the Newark/Essex County NSPII Consortium and Partners, whereupon the Lead Applicant will assume responsibility for the grant on behalf of the Newark/Essex County NSPII Consortium and Partners in compliance with all program requirements. Should HUD select the Application for funding, but fund at amounts less than the total amount requested in the Newark/Essex County NSPII Consortium and Partners Application, each Consortium member and For-profit partner shall be funded in a pro rata amount, based on the

proportion of units identified in the Application, and the minimum number of units to be acquired, rehabilitated, demolished and/or redeveloped by each Consortium member and For-profit partner shall be reduced proportionally.

If the Application is approved by HUD **Michaels Development Group** agrees to enter into (1) a separate funding agreement no later than December 1, 2009, describing the for-profit partner's specific responsibilities for performance of activities and timetables for completion under the NSP 2 Program and (2) a cost or price analysis as required under 24 CFR part 84 or 85, as applicable, that demonstrates how the for profit partner determined necessary and reasonable costs for such payments and applicable requirements as set forth in the NOFA.

**Michaels Development Group** hereby represents that, except for the Application, it has not and will not apply for any NSP 2 Program funding within the Target Area.

**Michaels Development Group** hereby agrees that it will comply with all applicable provisions for NSP 2 Program Funding, including but not limited to those set forth in the NOFA.

### **Michaels Development Group**

By:

Name:

Title: Executive Director