



Department of City Development

City Plan Commission
Historic Preservation Commission
Neighborhood Improvement
Development Corporation
Redevelopment Authority

Rocky Marcoux
Commissioner

Martha L. Brown
Deputy Commissioner

July 14, 2009

Mr. Ronald D. Leonhardt
City Clerk
City Hall, Room 205
Milwaukee, WI 53202

Dear Mr. Leonhardt:

Enclosed is a copy of the fully executed duplicate original of Contract 09-029 (CM), between the City of Milwaukee, through the Department of City Development, and the Board of Trustees of Marquette University, on behalf of Marquette University. This pertains to implementation and management of the Foreclosure Mediation program as part of the Milwaukee Foreclosure Partnership Initiative activities.

Please insert this agreement into Common Council Resolution File No.081654, adopted April 14, 2009.

Sincerely,

Scott Stange
Compliance Officer

Enclosure

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF MILWAUKEE
AND
BOARD OF TRUSTEES OF MARQUETTE UNIVERSITY**

**DUPLICATE
ORIGINAL**

THIS AGREEMENT is entered into between the City of Milwaukee (CITY), through the Department of City Development (DCD), and Board of Trustees of MARQUETTE UNIVERSITY (the UNIVERSITY), on behalf of MARQUETTE UNIVERSITY.

GENERAL SERVICE DESCRIPTION - The UNIVERSITY shall provide services to the CITY for the purpose of implementing and managing a Foreclosure Mediation program as part of the Milwaukee Foreclosure Partnership Initiative activities, as described in Section III of this Agreement.

TIME OF PERFORMANCE - To commence as soon as practicable after June 1, 2009 for services rendered through May 31, 2012.

PAYMENT - The services shall be provided in accordance with the terms and conditions stated in Section IV of this Agreement, unless different terms and conditions are agreed upon by the parties in writing.

WHEREAS, the UNIVERSITY is desirous of providing the CITY with the services described in Section III of this Agreement, to be provided through the Marquette University Law School; and

WHEREAS, the Program Coordinator for Dispute Resolution will supervise the services under this Agreement for the UNIVERSITY and Maria Prioletta will supervise the services for the CITY. If the Program Coordinator for Dispute Resolution is unable to continue to supervise for the UNIVERSITY, a replacement will be appointed by the UNIVERSITY, with input from

the CITY. If a replacement is not available, the CITY and UNIVERSITY will work together to determine a mutually acceptable fulfillment for the supervisor; and

WHEREAS, the UNIVERSITY represents itself as being capable, experienced, and qualified to undertake and perform the services described under the terms and conditions of this Agreement, through the use of its Law School faculty, staff, and students, as an independent contractor of the CITY; and

WHEREAS, the UNIVERSITY intends to form an advisory group (the "MFMP Advisory Committee") consisting of volunteer lawyers and community representatives, to offer advice in the administration of the Project; and

WHEREAS, the Common Council has authorized the CITY to enter into this Agreement with the UNIVERSITY by adopting Resolution No. 081654 on April 14, 2009;

NOW, THEREFORE, the parties do mutually agree as follows:

I. RETENTION OF SERVICES. The CITY shall engage the UNIVERSITY and the UNIVERSITY shall perform, through the use of assigned Law School faculty and students, as an independent contractor and not as an employee of the CITY, the services hereinafter set forth, all in accordance with the terms and conditions of this Agreement.

II. REQUIREMENTS. The UNIVERSITY, through the Law School faculty, staff, and students is required to:

- A. do, perform, and carry out in a satisfactory, timely, and proper manner, the services delineated in this Agreement; and
- B. comply with requirements set forth herein with respect to billing, avoiding conflicts of interest, and other matters relating to the performance of the services.

III. SCOPE OF SERVICES.

The UNIVERSITY, shall provide services pursuant to "The Project," described in the Exhibit A attached hereto and referenced herein.

IV. SPECIFIC CONDITIONS OF PAYMENT. Payment will be made to UNIVERSITY according to the Itemized Budget for the Project, attached hereto and referenced herein as Exhibit B, following schedules upon satisfactory performance:

1. Payments shall be made in installments provided the UNIVERSITY shall submit monthly invoices requesting payment for these services. CITY shall pay each invoice upon review and approval by Maria Prioleta on the basis that the charges are reasonable and that the work was actually, necessarily, and properly performed.

2. Payments due the UNIVERSITY for work completed shall be made promptly pursuant to the CITY'S prompt-payment policy.

3. The CITY shall pay under this Agreement an aggregate amount not to exceed one hundred thousand dollars (\$100,000) for the entire term of this Agreement.

V. NOTICES. Any and all notices shall be in writing and deemed served upon actual delivery of same or two days following the deposit of the same with the United States Postal Services" addressed to the UNIVERSITY at:

Keith Osterhage, Director
Office of Research and Sponsored Programs - MARQUETTE UNIVERSITY
Holthusen Hall, 1324 W. Wisconsin Ave
Milwaukee, WI 53233

and to the CITY at:

Department of City Development
Attn: Rocky Marcoux, Commissioner
Neighborhood and Business Development
809 North Broadway, 2nd Floor
Milwaukee, WI 53202

All other correspondence shall be addressed as above, but may be sent "Regular Mail" and deemed delivered upon receipt by the addressee.

VI. DOCUMENTS

A. All reports and any derivatives thereof developed by the UNIVERSITY during the performance of this agreement shall be the property of the UNIVERSITY. All original data and data gathering materials shall remain the property of the UNIVERSITY. At the request of the CITY, copies of any reports will be provided to the CITY, except that the mediation files and any specific information regarding the parties involved in the mediation process shall remain confidential to the extent allowed by law.

B. Any and all information, plans, reports and conclusions derived or developed as a consequence or result of this Agreement during the time of performance may be utilized by the City in such manner and purpose as the CITY desires or determines without permission or approval of the UNIVERSITY or compensation to the UNIVERSITY therefore other than herein provided, with the exception of any such information, plans, reports or conclusions that are attorney work product or subject to confidentiality under the mediation process.

VII. CONDITIONS OF PERFORMANCE AND COMPENSATION.

A. Performance. The UNIVERSITY covenants and warrants that the performance of the work, services, and the results therefrom, pursuant to the terms, conditions and agreements of this Agreement, shall conform to such recognized high professional standards as are prevalent in this field of endeavor and like services.

B. Taxes, Social Security, and Government Reporting. Personal income tax withholdings, social security contributions, and all other governmental reporting and

contributions required as a consequence of the UNIVERSITY receiving payment under this Agreement shall be the sole responsibility of the UNIVERSITY.

C. The UNIVERSITY shall provide professional legal liability and general liability coverage to its employees and volunteers who will work on this Project. This coverage protects the UNIVERSITY, its officers and staff, from and against any and all claims, damages, liabilities, costs and expenses (including legal fees) arising out of any acts or omissions considered within the scope of its employment and operations. The UNIVERSITY and the CITY will notify each other promptly of any legal claim or action arising in connections with performance under this Agreement.

D. Subcontracting. The UNIVERSITY may subcontract for the performance of mediation services herein set forth without prior written approval obtained from the City, but the UNIVERSITY shall remain responsible for the performance of all project activities under the agreement, including the activities of any subcontractors or volunteers it employs.

E. Other Fees and Revenues. Fee income received or generated by the Project shall be utilized for the Project or for other activities which support the Project in consultation with the MFMP Advisory Committee and shall not be considered the property or income of the CITY.

VIII. TERMINATION OF CONTRACT. The CITY or the UNIVERSITY may terminate this Agreement at any time for any reason by giving thirty days (30) days' notice in writing to the other party.

If the Agreement is terminated as provided herein, the UNIVERSITY will be paid for services actually and satisfactorily performed.

IX. CHANGES. The CITY may from time to time request changes in the scope of services to be performed hereunder. Such changes, including any increase or decrease in the

amount of the UNIVERSITY'S compensation that are mutually agreed upon by and between the CITY and the UNIVERSITY, shall be incorporated in written amendments to the Agreement.

X. ASSIGNABILITY. The UNIVERSITY shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment, novation, or any other manner), without the prior written consent of the Commissioner of DCD; provided, however, that claims for money due or to become due the UNIVERSITY from the CITY under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notices of any such assignment or transfer shall be furnished promptly to the Commissioner of DCD.

XI. RECORDS.

A. Establishment and Maintenance of Records. Records shall be maintained in accordance with requirements prescribed by the CITY with respect to all matters covered by this Agreement. Except as otherwise authorized, such records shall be maintained for a period of seven years after receipt of the final payment under this Agreement.

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of other accounting documents pertaining in whole or in part to this Agreement and shall be clearly identified and readily accessible.

XII. REPORTS AND INFORMATION. At such times and in such forms as the CITY may require, there shall be furnished to the CITY such statements, records, reports, data, and information as the CITY may request pertaining to matters covered by this Agreement, except that no confidential information regarding any party participating in mediations may be disclosed, nor shall the City be allowed to inspect the mediation files.

XIII. AUDITS AND INSPECTIONS. At any time during normal business hours and as often as the CITY, may deem necessary, there shall be made available to the CITY or such agency for examination all of the UNIVERSITY'S records with respect to all matters covered by this Agreement and the UNIVERSITY will permit the CITY or such agency and/or representatives of the CITY Comptroller to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions or employment and other data relating to all matters covered by this Agreement.

XIV. CONFLICT OF INTEREST.

A. Interest in Contract. No officer, employee, or agent of the CITY who exercises any functions or responsibilities in connection with the carrying out of any services or requirements to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

B. Interest of Other Local Public Officials. No member of the governing body of the locality and no other public official of such locality who exercises any functions or responsibilities in the review or approval of the carrying out of this Agreement shall have any personal interest, direct or indirect, in this Agreement.

C. Interest of UNIVERSITY and Employees. The UNIVERSITY covenants that no person who exercises any functions or responsibilities in connection with the Agreement has any personal financial interest, direct or indirect, in this Agreement. The UNIVERSITY further covenants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its services hereunder.

It is understood and agreed by the UNIVERSITY that neither the UNIVERSITY employees, nor the law students shall perform any services under this Agreement that may directly affect the interests of the UNIVERSITY without first making full disclosure to the Commissioner of DCD in writing, and obtaining the Commissioner's approval in writing. An interest in the past of the UNIVERSITY or its employees must be disclosed to the CITY; provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area.

XV. DISCRIMINATION PROHIBITED.

A. In all hiring or employment made possible by or resulting from this Agreement there (1) will not be any discrimination against any employee or applicant for employment because of race, color, sexual orientation, religion, sex or national origin; and (2) affirmative action will be taken to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sexual orientation, sex or national origin.

B. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices required or to be provided by federal or state agencies involved setting forth the provisions of the clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sexual orientation, sex or national origin.

C. No person in the United States shall, on the ground of race, color, sexual orientation, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement. The CITY and each employer will comply with all requirements imposed by or pursuant to the regulations of the appropriate federal agency effectuating Title VI of the Civil Rights Act of 1964.

D. The UNIVERSITY will cause the foregoing provisions to be inserted in all subcontracts, if any, for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

XVI. OTHER PROVISIONS. IN WITNESS WHEREOF, the UNIVERSITY and the CITY have caused this Agreement to be executed for and on their respective behalves as of the dates hereinafter set forth.

Dated and signed this 30 day of June, 2009.

MARQUETTE UNIVERSITY

BY: [Signature] 6/30/09
KEITH OSTERHAGE DATE
Executive Director, Office of Research and Sponsored Programs

Approved as to Form and Execution

[Signature]
Associate General Counsel

CITY OF MILWAUKEE, a municipal corporation

BY: [Signature] 7/5/09
Deputy COMMISSIONER OF THE DEPARTMENT DATE
OF CITY DEVELOPMENT

COUNTERSIGNED:

BY: Michael J. Dan
COMPTROLLER ~~DEPUTY~~

07/07/2009
DATE

Approved as to Form and Execution

[Signature]
Assistant City Attorney

Exhibit A

Memorandum of Understanding Between City of Milwaukee and Board of Trustees of Marquette University

Milwaukee Foreclosure Prevention Initiative
Foreclosure Mediation Program Description

Marquette University Law School [MULS] will initiate and manage a residential mortgage foreclosure mediation program to assist with the resolution of owner-occupied residential foreclosure cases filed in Milwaukee County Circuit Court. The Milwaukee Foreclosure Mediation Program [the Program] will provide mediation services upon request by lenders or homeowners in owner-occupied dwellings of no more than 4 units who are parties to a foreclosure action in Milwaukee Circuit Court.

- 1) MULS will provide:
 - a. Trained qualified attorney mediators, including a Chief Mediator
 - b. Telephone number & web site
 - c. Administrative Coordination
 - d. Mediator Recruiting, Screening, Training, Supervision, and Support
 - e. Volunteer Law students & Faculty supervision
 - f. Necessary equipment & office supplies
- 2) MULS will hire, train, and manage all program staff, including an attorney-mediator and such other staff as are advisable, including a Mediation Coordinator, subject to the availability of funding.
- 3) Develop Program outcome measures in coordination with partnering agencies and the City of Milwaukee Department of City Development.
- 4) Coordinate Program including:
 - a. securing the time and place for mediations and assigning mediators;
 - b. providing homeowners a referral to a housing counseling agency;
 - c. confirming all details with the parties and the assigned mediator;
 - d. ensuring the mediation is conducted in accordance with accepted professional mediation standards of mediation; and
 - e. preparing a report for the court regarding the outcome of the mediation and facilitating communication with the court.
- 5) Recruit, train and maintain a network of trained attorney mediators for assignment to Program-referred cases; provide coordination with other partnering organizations to assist with the successful implementation and management of the Program; provide coordination, training, and support to law students involved in the Program.
- 6) MULS will provide oversight of the Program in conjunction with a community foreclosure task force advisory committee.
- 7) Administer all City of Milwaukee funding in a fiscally responsible manner and report on funding expenditures and program revenues.
- 8) Submit monthly reports to the City of Milwaukee Department of City Development that include information regarding:
 - a. Program Outcomes
 - b. Number of Homeowners Participating
 - c. Demographics of Participants
 - d. Lender Participation
- 9) Effectively represent the Program and manage media, public awareness, and Program outreach in cooperation with the City of Milwaukee Department of City Development.

Exhibit B - Itemized Budget

Memorandum of Understanding Between City of Milwaukee and Board of Trustees of Marquette University

Marquette Foreclosure Mediation Program

Revenue	Mediations/month	City of MKE		City MKE TOTAL
		YR1	YR2	
Mediation Fees		\$0		\$0
City of Milwaukee Appropriation		\$75,727	\$24,273	\$100,000
Wisconsin AG Settlement Funds				\$0
				\$0
TOTAL INCOME		\$75,727	\$24,273	\$100,000
				\$0
Expense				\$0
6000 Mediation Coordinator		\$36,250	\$9,630	\$45,880
6000 Chief Mediator		\$0		\$0
6000 Mediator		\$0		\$0
MULS Administration		\$0		\$0
Full-time Benefits, 28.5%		\$10,331	\$2,745	\$13,076
6200 Office Expenses		\$5,000	\$1,800	\$6,800
6246 Equipment < \$5000				\$0
6260 Computer Hardware		\$3,000		\$3,000
6300 Communications		\$0		\$0
6505 <i>Independent K mediators</i>		\$8,000	\$8,000	\$16,000
6900 Domestic Airfare				\$0
6905 Domestic Mileage		\$55		\$55
6910 Domestic Hotel				\$0
6915 Domestic Meals				\$0
6920 Domestic Conference Fees				\$0
License & Professional Development		\$1,000	\$300	\$1,300
7010 Publications				\$0
SubTotal		\$63,636	\$22,475	\$86,111
7520 Indirect Costs, 8%		\$5,091	\$1,798	\$6,889
SubTotal		\$68,727	\$24,273	\$93,000
6247 Equipment > \$5000		\$7,000		\$7,000
6520 <i>Consortium Subcontract</i>		\$0	\$0	\$0
TOTAL EXPENSE		\$75,727	\$24,273	\$100,000
NET INCOME		(\$0)	\$0	\$0
Carryover				\$0
TOTAL NET ASSETS		(\$0)		(\$0)