



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Grants Management Division*

### **m e m o r a n d u m**

**TO:** Bruce K. Walden, Chief Administrative Officer

**FROM:** Elizabeth H. Tyler, AICP, City Planner/Director

**DATE:** September 17, 2003

**SUBJECT:** **AN ORDINANCE APPROVING A CERTAIN URBANA HOME CONSORTIUM RECIPIENT AGREEMENT WITH UNITED CITIZENS AND NEIGHBORS WITH UNITED CITIZENS AND NEIGHBORS**  
(Acquisition, Rehabilitation and Resale of a Single-Family Residence)

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### **Description**

Included in this packet is a copy of the authorizing Ordinance and Agreement for a project to be undertaken by United Citizens and Neighbors using HOME monies during the fiscal year beginning July 1, 2003 and ending June 30, 2004. Staff requests the Urbana City Council approve the Ordinance authorizing this HOME Agreement.

### **Issues**

The Urbana City Council is requested to review and approve the Ordinance authorizing the URBANA HOME CONSORTIUM HOMEBUYER DEVELOPER AGREEMENT (United Citizens and Neighbors FY 2003-2004)

### **Background**

On May 2, 2003, the Urbana City Council passed Resolution No. 2003-04-006 approving the City of Urbana and Urbana HOME Consortium Annual Action Plan FY 2003-2004. This AAP was submitted to HUD on May 15, 2003 for approval. The approving resolution defined the actions necessary (as listed above) for the implementation of the HOME Program.

Environmental reviews for the above activities have been completed, a Finding of No Significant Impact on the Environment has been published, and a Request for Release of Funds was submitted to HUD on July 17, 2003. HUD provided Authority to Use Grant Funds August 1, 2003.

Staff met with Nancy Greenwalt and Jerry Mooreland, of United Citizens and Neighbors on August 6, 2003. At this meeting, UCAN indicated that they would need an additional \$2,000 to cover utility costs. The UCAN representatives also indicated that they would need some assurance that the City of Urbana would cover any losses that UCAN might incur as a result of

selling the rehabilitated house for an amount less their initial purchase price of the house, plus carrying costs.

At the time the Annual Action Plan was being finalized, UCAN indicated to the Urbana City Council that they would be able to implement an acquisition, rehabilitation, resale project, with the budget included in the Annual Action Plan and reflected in this HOME Agreement.

In order to accommodate UCAN's requests for additional funding the Annual Action Plan would have to be amended.

At the August 26, 2003 regular meeting of the Community Development Commission, staff submitted that if the project is thoughtfully pursued, UCAN should be able to retire a loan for a house, plus a few months of carrying costs. The house should sell for considerably more than UCAN initial purchase price, since the project will include \$24,500 in rehabilitation activities.

CDC members and staff indicated that the HOME funded projects have an inherent risk associated with them and the non-profit organizations need to identify how they will address risk management concerns. The CDC also noted that UCAN should consider that historically the Grants Management Division staff and the City of Urbana have been helpful in addressing "unforeseen" events and have been able to provide assistance to remedy such events.

After completing discussion on the agenda item, the Community Development Commission agreed to recommend that the Urbana City Council approve the HOME Agreement.

## **Options**

The Urbana City Council can pursue the following options:

1. Approve the Ordinance that authorizes the HOME Agreement as it is currently drafted.
2. Approve the Ordinance that authorizes the HOME Agreement with amendments to the Agreement and/or the Ordinance.
3. Do not approve Ordinance that authorizes the HOME Agreement.

## **Fiscal Impacts**

The City's major investments in the HOME Program for FY2003-2004 are identified in the Annual Action Plan.

Failure to forward agreements to City Council within a reasonable period of time can delay projects and impact the timely expenditure of HOME funds.

## **Recommendations**

Staff recommends that Urbana City Council approve the Ordinance that authorize the HOME Grant Agreements

**Memorandum Prepared By:**

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Bob Grewe, AICP  
Manager, Grants Management Division

Attachments:

Ordinance Approving the URBANA HOME CONSORTIUM HOMEBUYER  
DEVELOPMENT AGREEMENT (United Citizens and Neighbors FY 2003-2004)

ORDINANCE NO. 2003-09-102

**AN ORDINANCE APPROVING A CERTAIN URBANA HOME CONSORTIUM RECIPIENT AGREEMENT WITH UNITED CITIZENS AND NEIGHBORS WITH UNITED CITIZENS AND NEIGHBORS**

(Acquisition, Rehabilitation and Resale of a Single-Family Residence)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That an Agreement providing \$28,000 in HOME funds, for rehabilitation and homebuyer assistance expenses related to the implementation of a HOME funded homebuyer development project, between the City of Urbana and United Citizens and Neighbors, in the form of the copy of said Agreement attached hereto and hereby incorporated by reference, be and the same is hereby authorized and approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

AYES:

NAYS:

ABSTAINS:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Tod Satterthwaite, Mayor

**URBANA HOME CONSORTIUM  
HOMEBUYER DEVELOPER  
AGREEMENT**  
(United Citizens and Neighbors FY 2003-2004)

This Homebuyer Housing Agreement, hereafter referred to as "Agreement", is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between the City of Urbana (hereinafter the "CITY") and United Citizens and Neighbors, hereafter the "PROJECT DEVELOPER".

WITNESSETH

WHEREAS, the Congress of the United States has enacted the Cranston- Gonzales National Affordable Housing Act of 1990 which created the HOME Investment Partnerships Program (hereinafter the "HOME Program") to provide funds to state and local government for affordable housing assistance that is most appropriate for local needs; and

WHEREAS, the City of Champaign, the City of Urbana, and Champaign County have been jointly designated as a Participating Jurisdiction by HUD for purposes of receiving HOME funds in the name of Urbana HOME Investment Partnerships Consortium (hereinafter "CONSORTIUM") under provisions of Title II of Cranston-Gonzales National Affordable Housing Act of 1990 as amended (42 U.S.C. 12701, et seq.) (hereinafter the "National Affordable Housing Act"); and

WHEREAS, PROJECT DEVELOPER desires to serve as a developer of an affordable homebuyer housing program within the communities of the City of Urbana;

WHEREAS, the CITY, as the administrator of a HOME Program, has authority of the under the provisions of the HOME Investment Partnerships Program (the "HOME Program") to subsidize the rehabilitation and resale of homebuyer properties; and

WHEREAS, the PROJECT DEVELOPER has submitted an application to the CITY for assistance to develop a property located within the United Citizens and Neighbors Service Area

WHEREAS, the CITY has reviewed said application, and has conducted an evaluation of said Project Application and after a specific project location has been identified, further analysis will be conducted, including a comprehensive, on-site assessment of existing code violations which will need to be corrected and other work that will need to be completed as part of said Project, an assessment of the PROJECT DEVELOPER's ability to provide any required matching funds for said Project, and an estimated total cost of said Project; and

WHEREAS, the CITY has determined that the Project is eligible for funding under the HOME Program, in an amount of Twenty Eight Thousand dollars (\$28,000) in HOME and Match funding; and

WHEREAS, the PROJECT DEVELOPER has been fully informed regarding any requirements or obligations that must be met by it order to utilize HOME Program funds for the Project, including but not limited to the requirement that the rehabilitated dwelling unit(s) must remain affordable to low-income households in accordance with 24 CFR Part 92, Sections 203, 251-253, and

WHEREAS, the PROJECT DEVELOPER, after said evaluation and assessment of the Project by the CITY, and having been fully informed regarding the requirements of the HOME Program, is committed to starting said Project with the assistance of HOME Program funds on or before October 7, 2003, maintaining progress in a manner consistent with the Schedule on Exhibit B and has made necessary arrangements to provide any required private contribution towards the cost of said Project; and

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

**ARTICLE I: HOME REQUIREMENTS**

**Section 1: Use of HOME Funds**

The CITY agrees to provide the PROJECT DEVELOPER an amount not to exceed Twenty Eight Thousand dollars (\$28,000) from its Federal Fiscal Year 2003-2004 HOME PROGRAM allocation to United Citizens and Neighbors to pursue the rehabilitation and resale of a home in the UCAN Neighborhood Area. Funds shall be used in the manner described in "Exhibit A". Said exhibit also includes the tasks to be performed, a schedule for completing the tasks and a budget for the use of the funds.

- a.) The scope of work including the schedule is provided as Exhibit "A".
- b.) The budget for completing tasks is provided as "Exhibit B".
- c.) The PROJECT DEVELOPER owns or will purchase the real property located within a geographic area and more fully described in Exhibit "C".

**Section 2: Affordability**

The PROJECT DEVELOPER shall comply with all income determinations and affordability requirements of the HOME program as set forth in HUD Regulations 24 CFR 92.203 or 92.254, as applicable.

The PROJECT DEVELOPER shall determine each family's income eligibility by determining the family's annual income in accordance with the methodologies allowed in 24 CFR 92.203.

The PROJECT DEVELOPER is not required to re-examine the family's income at the time the HOME assistance is provided, unless more than six (6) months has elapsed since the PROJECT DEVELOPER determined that the family qualified as income eligible.

The maximum purchase price shall not exceed 95 percent of the median purchase price for the metropolitan area as defined by the Single Family Mortgage Limits under Section 203(b) of the National Housing Act. The project shall be single-family housing, which includes one (1) to four (4) family residence or condominium unit. In the case of acquisition with rehabilitation, the housing shall have an estimated value after rehabilitation that does not exceed 95 percent of the median purchase price for the area, as described in 24 CFR 92.254(a)(2)(iii).

The PROJECT DEVELOPER, will return any amount of proceeds resulting from the sale of the property, above the amount required to retire the loan for the house and other documented project expenses, to the Urbana HOME Consortium for deposit into the HOME account.

The PROJECT DEVELOPER will ensure that the housing shall be the principal residence of the owner whose family qualifies as a low-income family at the time HOME funds are committed to the housing.

The HOME-assisted housing shall be acquired by a homebuyer whose family qualifies as a low-income family and the housing shall be the principal residence of the family during the required ten (10) year affordability period. The affordability period commences upon project completion. For purposes of this Agreement, project completion means that all necessary title transfer requirements and construction have been performed; the project complies with the requirements of 24 CFR Part 92 (including the property standards under 92.251); the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD. The affordability requirements apply without regard to the term of any loan or mortgage or the transfer of ownership. The affordability requirements shall be imposed by deed restrictions, covenants running with the land or other mechanism approved by HUD, except that the affordability restrictions may terminate upon foreclosure or transfer in lieu of foreclosure. The CITY may use purchase options, rights of first refusal or other preemptive rights to purchase the housing before foreclosure or deed in lieu of foreclosure to preserve affordability.

Affordability Period.

For the ten (10) years following project completion (hereinafter referred to “the Affordability Period”), the following restrictions shall apply. The project DEVELOPER agrees to restrict the use of the property by recording Deed Restrictions in form and with the same content as that executed under even date herewith.

In the event the housing does not continue to be the principal residence of the family for the duration of the period of affordability, the CITY shall recapture all or a portion of the HOME assistance provided to the homebuyers. This recapture provision shall be incorporated into a HOME agreement with any subsequent homeowners and/or a lien provision in the Mortgage and Note document given by any subsequent homeowners to the CITY. As previously stated in Section 2 of this Agreement, pursuant to 24 CFR 92.254(a)(4), the HOME funds will remain on the property if acquired by a homebuyer whose family qualifies as a low-income family and the housing is the principle residence of the family throughout the affordability period. If the property is subsequently sold to a homebuyer who does not meet these eligibility requirements, the HOME funds provided under this Agreement will be recaptured in accordance with 92.254(a)(5)(ii) and shall be repaid to the CITY and deposited in the CITY'S HOME Trust Account for use in accordance with the requirements of the HOME program.

Should the PROJECT DEVELOPER sell and transfer ownership of property assisted with HOME funds to a homeowner who does not meet the income eligibility of the HOME program, PROJECT DEVELOPER shall reimburse the CITY the amount of HOME funds disbursed on the project by the CITY. The CITY shall deposit said funds in the local HOME Trust Account to be utilized for other affordable housing activities at the discretion of the CITY.

**Section 3: HOME Project Requirements**

Project Requirements:

PROJECT DEVELOPER shall comply with all HOME project requirements in subpart F of 24 CFR Part 92. 92.250 Maximum per-unit subsidy amount and layering. The amount of HOME funds that a grantee may invest in affordable housing on a per-unit basis may not exceed the per-unit dollar limits established by HUD under 221.514(b)(1) and (c) of this title for elevator-type projects, involving nonprofit mortgagors, insured under section 221(d)(3) of the National Housing Act that apply to the area in which the housing is located. The CITY shall provide HOME funds not to exceed Twenty Eight Thousand (\$28,000) dollars in accordance with 24 CFR 92.205(b) for eligible costs as described in 24 CFR 92.206 and 92.207. HOME funds will be disbursed on behalf of the PROJECT DEVELOPER under the following terms and conditions:

HOME funds are provides as reimbursement for eligible administration and planning costs and the costs associated with the rehabilitation of the project.



Pursuant to 24 CFR 92.254(a)(4), the HOME funds will remain on the property if acquired by a homebuyer whose family qualifies as a low-income family and the housing is the principle residence of the family throughout the affordability period. If the property is subsequently sold to a homebuyer who does not meet these eligibility requirements, the HOME funds provided under this Agreement will be recaptured in accordance with 92.254(a)(5)(ii) and shall be repaid to the CITY and deposited in the CITY's HOME Trust Account for use in accordance with the requirements of the HOME program.

Restrictions on Subsequent Sales of Certain Units

The CITY and PROJECT DEVELOPER agree that, a Land Use Restriction Agreement will be executed at closing for the house receiving funds pursuant to this Agreement. The Land Use Restriction Agreement shall include language to ensure that the affordability period will be honored through the duration of this Agreement and include provision restricting subsequent sale of said house and-or a provision for recapture of the HOME funds invested in the house, should the house not sell within a pre-determined amount of time noted in the Land Use Restriction Agreement. CITY of Urbana, Grants Management staff will prepare this Land Use Restriction Agreement and the homebuyer will pay recording fees.

The terms of the resale provisions will be such that the house will be sold to a family having income at or below 80 percent of area median family income, as defined and updated annually by the U.S. Department of Housing and Urban Development, for the period of affordability determined by the HOME Investment Amount Per Unit. This period of affordability shall commence the date that all necessary project information is provided to HUD via HUD's Integrated Disbursement and Information System (IDIS). CITY of Urbana agrees to enter all information provided into IDIS within 15 days of recipient. Should the Project be modified after initial commencement date of the affordability period, a new affordability period will be re-structured. This land use restriction shall not apply to properties repossessed by a financial institution as a result of foreclosure proceedings.

The terms of the recapture provision will be such that they reflect the HUD provisions in the HOME Final Rule 92.254. Details of a recapture provision will be provided in the Land Use Restriction Agreement.

Failure to ensure that the Land Use Restriction Agreement is executed at closing will result in withholding HOME funds until said item is addressed.

PROJECT DEVELOPER also agrees to reference this required Land Use Restriction Agreement in their purchase agreement with the Homebuyer.

#### **Section 4: Property Standards**

The PROJECT DEVELOPER agrees that all housing rehabilitated with HOME Funds shall meet all applicable State and local construction codes, rehabilitation standards, and zoning ordinances at the time of project completion.

#### **Section 5: Other Program Requirements**

##### A. Affirmative Marketing of Vacant Units

PROJECT DEVELOPER must adopt an affirmative marketing policy and procedure acceptable to HUD to attract homebuyers for their newly rehabilitated house per 24 CFR 92.351. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. The affirmative marketing requirements and procedures adopted must include:

1. Methods for informing the public, owners, and potential tenants about Federal fair housing laws and the CITY's affirmative marketing policy
2. Requirements and practices PROJECT DEVELOPER must adhere to in order to carry out the affirmative marketing procedures and requirements
3. Procedures to be used by PROJECT DEVELOPER to inform and solicit applications from persons in the housing market area who are not likely to apply for the housing without special outreach
4. Records that will be kept describing actions taken by PROJECT DEVELOPER to affirmatively market units and records to assess the results of these actions
5. A description of how the PROJECT DEVELOPER will annually assess the success of affirmative marketing actions and what corrective actions will be taken where affirmative marketing requirements are not met.

##### B. Non-discrimination and Equal Opportunity

PROJECT DEVELOPER agrees that there shall be no discrimination against any person who is employed in carrying out the Project, or against any applicant for such employment, because of race, color, religion, sex, age, or national origin, or any other discrimination prohibited by State and local law, including but not limited to employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. PROJECT DEVELOPER further agrees to the following.

1. It shall be bound by said equal opportunity clause with respect to its own employment practices during the duration of its participation with the CITY and HUD.

2. It shall furnish the CITY and HUD with information as they may require for the supervision of such compliance and will otherwise assist the CITY and HUD in the discharge of primary responsibility for securing compliance.
3. It shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Secretary of Labor, the CITY, or HUD.
4. It shall abide by the Human Rights Ordinance adopted by the City of Urbana regarding equal employment.

C. Displacement, Relocation and Acquisition

If applicable, PROJECT DEVELOPER agrees to provide relocation assistance for displaced persons at the levels described in and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C.4201 to 4655) and 49 CFR, Part 24

D. Labor Requirements

PROJECT DEVELOPER and its contractors and subcontractors shall comply with Davis-Bacon Act (40 U.S.C. 276a-276a-5) with regard to all its requirements including wage rates paid pursuant to or as a result of this Agreement. Any contracts executed as a result of this Agreement may also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-332).

E. Conflict of Interest

The PROJECT DEVELOPER guarantees that no member of, or Delegate to, the Congress of the United States shall be admitted to any share or part of this contract or to any benefit to arise from the same. The PROJECT DEVELOPER agrees that no members of the governing body of the locality in which the PROJECT DEVELOPER is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Agreement during his/her tenure, or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the services performed under this Agreement. Unless expressly permitted by U.S. Department and Housing and Urban Development (“HUD”), PROJECT DEVELOPER agrees that no person who is an employee, agent, consultant, officer, or elected or appointed official of the PROJECT DEVELOPER and who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds, or who is in a position to participate in a decision making process to gain inside information with regard to such HOME-assisted activities, may obtain a financial interest or benefit from the HOME-assisted activity, or have any interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business

ties, during his or her tenure or for one (1) year thereafter. Unless expressly permitted by the CITY, no PROJECT DEVELOPER, or officer, employee, agent or consultant of the PROJECT DEVELOPER, may occupy a HOME-assisted affordable housing unit in a project.

## **Section 6: Records and Reports**

### Records

PROJECT DEVELOPER authorizes the CITY and HUD to conduct on-site reviews, examine personnel records, and to conduct any other procedure or practice necessary to assure compliance with this Agreement and applicable HUD regulations. PROJECT DEVELOPER will ensure that all documents related to this Project shall be kept for a period of five years after project's affordability period has been completed (estimated at October 2018). Records to be retained include, but are not limited to timesheets; receipts and invoices for materials, supplies, and services; and documentation used to request reimbursement of expenses.

PROJECT DEVELOPER shall maintain such records and accounts, including program records, project records; financial records; program administration records; equal opportunity and fair housing records; affirmative marketing and MBE/WBE records; records demonstrating compliance with the income determination requirements of 92.203; recordkeeping requirements of 92.508; the environment review requirements of 92.352 and 24 CFR part 58; records demonstrating compliance with the requirements of 92.353 regarding displacement, relocation and real property acquisitions; records demonstrating compliance with the labor requirements of 92.354; records demonstrating compliance with the lead-based paint requirements of 92.355; records supporting exceptions to the conflict of interest prohibition pursuant to 92.356; debarment and suspension certifications required by 24 CFR parts 24 and 91; and any other records as are deemed necessary by the CITY to assure a proper accounting and monitoring of all HOME Funds. In the event the CITY determines that such records are not being adequately maintained by PROJECT DEVELOPER, the CITY may cancel this Agreement in accordance with Article I Section 7 and Article II herein.

With respect to all matters covered by this Agreement, records will be made available for examination, audit, inspection or copying purposes at any time during normal business hours and as often as the CITY, HUD, representatives of the Comptroller General of the United States or other Federal agency may require. PROJECT DEVELOPER will permit same to be examined and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this Agreement. The CITY's right of inspection and audit shall obtain likewise with reference to any audits made by any other agency, whether local, State or Federal.

The PROJECT DEVELOPER shall retain all records and supporting documentation applicable to this Agreement for the most recent five (5) year period, except as provided below:

- (a) For homeownership housing projects, records shall be retained for five (5) years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five (5) years after the affordability period terminates.
- (b) Written agreements must be retained for five (5) years after the agreement terminates.
- (c) Records covering displacements and acquisition must be retained for five (5) years after the date by which all persons displaced from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 92.353.
- (d) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

### Reports

The PROJECT DEVELOPER must submit a quarterly progress reports within 15 days of the end of each quarter of the calendar year.

### **Section 7: Enforcing of Agreement**

A default shall consist of any use of HOME Funds for a purpose other than as authorized by this Agreement, noncompliance with the HOME Investment Partnerships Act, any material breach of the Agreement, failure to timely comply with the audit requirements in Article XIII, failure to expend HOME Funds in a timely manner, or a misrepresentation in the application submission which, if known by CITY and/or HUD, would have resulted in HOME funds not being provided. Upon due notice to the PROJECT DEVELOPER of the occurrence of any such default and the provision of a reasonable opportunity to respond, the CITY may take one or more of the following actions:

- (a) Direct the PROJECT DEVELOPER to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables and milestones necessary to implement the affected activities;
- (b) Establish and follow a management plan that assigns responsibilities for carrying out the remedial actions;
- (c) Cancel or revise activities likely to be affected by the performance deficiency, before expending HOME funds for the activities;

- (d) Reprogram HOME funds that have not yet been expended from affected activities to other eligible activities or withhold HOME funds;
- (e) Direct the PROJECT DEVELOPER to reimburse the CITY's program accounts in any amount not used in accordance with the requirements of 24 CFR Part 92;
- (f) Suspend disbursement of HOME funds for affected activities;
- (g) Other appropriate action including, but not limited to, any remedial action legally available, such as affirmative litigation seeking declaratory judgment, specific performance, damages, temporary or permanent injunctions, termination of the Agreement and any other available remedies.

For purposes of this Agreement, a reasonable opportunity to respond to any default shall be thirty (30) days from receipt by PROJECT DEVELOPER of the CITY's written notice of default. No delay or omission by CITY and/or HUD in exercising any right or remedy available to it under the Agreement shall impair any such right or remedy or constitute a waiver or acquiescence in any PROJECT DEVELOPER default.

Unless the PROJECT DEVELOPER'S default is waived, the CITY may, upon twenty-four (24) hour written notice, terminate this Agreement for said default. Waiver by the CITY of PROJECT DEVELOPER'S default under this Agreement shall not be deemed to be a waiver of any other default nor shall it be termination notice.

Notices required herein, shall be considered received by the PROJECT DEVELOPER and the CITY if delivered in person with written proof thereof, or when deposited in the U.S. Mail, in a prepaid wrapper marked certified, return receipt requested.

**Section 8: Request for Disbursement of Funds**

PROJECT DEVELOPER shall not request disbursement of HOME funds until HOME funds are needed to pay eligible costs related to the Project. The amount of any request for funds shall not exceed the amount needed and shall be supported by appropriate documentation (i.e. payroll documentation, receipts, invoices, project schedule). The CITY shall make payment to PROJECT DEVELOPER within fourteen (14) calendar days of receipt of a complete and acceptable request by the CITY. The CITY reserves the right to withhold disbursement of funds until appropriate documentation is submitted. Such documentation may include, but not be limited to performance-progress reports, lien waivers, etc. All checks shall be made payable to "PROJECT DEVELOPER." All monies granted to PROJECT DEVELOPER pursuant to this Agreement shall be expended by June 30, 2004

Further, no payments shall be released to PROJECT DEVELOPER prior to the CITY receiving environmental clearance from the Illinois Historic Preservation Agency stating no historical significance has been identified at the properties being rehabilitated with

HOME funds. CITY will be responsible for obtaining the necessary environmental clearance documentation.

**Section 9: Duration of Agreement**

This Agreement shall be effective October 7, 2003, and unless otherwise earlier cancelled as provided herein, shall remain in effect until August 31, 2004 following the CITY's complete and full disbursement of HOME Funds to PROJECT DEVELOPER, as described in Exhibit "B", or the property title is transferred to subsequent homeowners for use as affordable housing in accordance with 24 CFR Part 92. However, should the project not be completed within one (1) year from date of execution, this Agreement shall be canceled and HOME funds disbursed under this Agreement shall be repaid to the CITY.

**Section 10: Conditions for Religious Organizations**

The PROJECT DEVELOPER ensures that HOME Funds shall not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME Funds shall not be used to rehabilitate or construct housing owned by primarily religious organizations or to assist primarily religious organizations in acquiring housing. However, HOME Funds may be used by a secular entity to acquire housing from a primarily religious organization, and a primarily religious entity may transfer title to its property to a wholly secular entity and the entity may participate in the HOME program in accordance with the requirements of this 24 CFR Part 92.257. The entity may be an existing or newly established entity, which may be an entity established by the religious organization. The completed housing project must be used exclusively by the owner entity for secular purposes, available to all persons regardless of religion. In particular, there must be no religious or membership criteria for tenants of the property.

**ARTICLE II: COMPLIANCE WITH VISITABILITY STANDARDS**

Any residence constructed pursuant to this Agreement within the corporate limits of the City of Urbana shall incorporate visitability standards as adopted by the Urbana City Council.

**ARTICLE III: FINANCIAL RESPONSIBILITY**

The allocation of funds by the CITY pursuant to this Agreement shall in no way obligate the CITY for any financial responsibility incurred by the Project in excess of the funding pledged herein. The CITY reserves the right to withhold pledged funds if the CITY is not satisfied with the terms and conditions of performance outlined in this Agreement.

**ARTICLE IV: CERTIFICATIONS**

PROJECT DEVELOPER represents the following with respect to this Agreement.

- A. PROJECT DEVELOPER possesses legal authority to receive HOME Program funds from the CITY and to execute the Project as described herein.
- B. The governing body of PROJECT DEVELOPER has duly adopted or passed as an official act a resolution, motion, or similar action authorizing execution of this Agreement including all understandings and assurances contained herein, and directing and designating the authorized representative of PROJECT DEVELOPER to act in connection with this Agreement and to provide such additional information as may be required.
- C. PROJECT DEVELOPER, its successors and assigns, agrees to develop and operate the Project in accordance with HOME Program regulations promulgated at 24 CFR Part 92 and with applicable building codes.
- D. PROJECT DEVELOPER, its successors and assigns, agrees to comply with Section 3 of the Fair Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), which provides that, to the greatest extent feasible, opportunities for training and employment that arise through the Project shall be given to low-income residents of the CITY area and that contracts in connection with the Project be awarded to business concerns located in or owned in substantial part by persons residing in the CITY area. PROJECT DEVELOPER agrees to comply with provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of HUD issued thereunder. PROJECT DEVELOPER certifies and agrees that it is under no contractual or other disability that would prevent PROJECT DEVELOPER from complying with these requirements. The responsibility to comply with Section 3 regulations includes the following.
  - 1. Including reference to Section 3 in each subcontract in excess of \$100,000.
  - 2. Sending each labor organization or representative of workers with which PROJECT DEVELOPER has a collective bargaining agreement or other understanding a notice of the PROJECT DEVELOPER commitment under Section 3.
  - 3. Posting copies of the notice in conspicuous places at work sites where both employees and applicants for employment positions can see the notice.
  - 4. Refrain from filling any vacant employment and training positions after the contractor is selected but before the contract is executed to circumvent obligations under Section 3.



5. Refrain from entering into any contract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of Section 3 regulations.
  6. Directing efforts to award covered contracts to Section 3 business concerns in order of priority.
  7. Directing efforts to employ and train Section 3 residents in the order of priority.
  8. Documenting actions taken to comply with Section 3 requirements.
  9. Submitting required Section 3 reports.
- E. PROJECT DEVELOPER agrees to give maximum feasible priority to very low-income persons when administering the Project described herein.
- F. PROJECT DEVELOPER acknowledges it shall match HOME CHDO funds disbursed by the CITY and pursuant to this Agreement in the amount required to purchase a house to be rehabilitated and maintain ownership until the house is resold to a qualified homebuyer.
- G. PROJECT DEVELOPER shall comply with the regulations, policies, guidelines, and requirements of federal management circulars as they relate to the acceptance and use of federal funds for the Project. PROJECT DEVELOPER agrees to maintain financial records in accordance with applicable Federal guidelines; OMB circulars A-110, A-122, and A-133; the following requirements of 24 CFR Part 84: 84.2, 84.5, 84.13, 84.16, 84.21, 84.22, 84.26 - 84.28, 84.30, 84.31, 84.34 - 84.37, 84.40 - 84.48, 84.51, 84.60 - 84.62, 84.72, and 84.73. PROJECT DEVELOPER shall separately and accurately identify use of HOME funds pursuant to this Agreement.
- H. PROJECT DEVELOPER shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which PROJECT DEVELOPER receives federal financial assistance.
- I. PROJECT DEVELOPER shall comply with Executive Order 11246, and all regulations issued pursuant thereto (24 CFR Part 130), which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally-assisted contracts. Such contractors and subcontractors shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment

advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

- J. PROJECT DEVELOPER shall establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- K. No Federal appropriated funds have been paid or will be paid, by or on behalf of PROJECT DEVELOPER, to any person for influencing or attempting to influence an officer or employee of any agency including the CITY, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency including the CITY, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, PROJECT DEVELOPER will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- L. PROJECT DEVELOPER shall give HUD and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the Project.
- M. PROJECT DEVELOPER authorizes the CITY and HUD to conduct on-site reviews, examine personnel records, and to conduct any other procedure or practice necessary to assure compliance with this Agreement and applicable HUD regulations. PROJECT DEVELOPER will ensure that all documents related to this Project shall be kept for a period of five years after project's affordability period has been completed (estimated at October 2018). Records to be retained include, but are not limited to timesheets; receipts and invoices for materials, supplies, and services; and documentation used to request re-imbusement of expenses.
- N. PROJECT DEVELOPER shall at all times observe and comply with all laws, ordinances, or regulations of Federal, State, and local governments which may in any manner affect the performance of this Agreement.

PROJECT DEVELOPER shall be liable to perform all acts to the CITY in the same manner as the CITY performs these functions to the Federal government.

- O. PROJECT DEVELOPER shall be responsible for any and all claims, costs, causes, actions, and expenses, including, but not limited to, attorneys' fees incurred by reason of a law suit or claim for compensation arising in favor of any person, including the employees, officers, independent contractors, subcontractors, or agents of PROJECT DEVELOPER, on account of personal injuries or death, or damages to property occurring, growing out of, incident to, or resulting under this Project, whether such loss, damage, injury, or liability is contributed to by the negligence of the CITY or its officers, employees, or agents, or by the premises themselves or any equipment thereon whether latent or patent, or from other causes whatsoever, except that PROJECT DEVELOPER shall have no liability for damages or the costs incident thereto caused by the sole negligence of the CITY, or its officers, employees, or agents.
- P. PROJECT DEVELOPER shall have full control of the ways and means of performing the services referred to herein. PROJECT DEVELOPER acknowledges and agrees that its employees, representatives, subcontractors, and agents may in no respect be considered employees of the CITY.
- Q. PROJECT DEVELOPER agrees that, to the greatest extent feasible, all construction-related expenditures made for the Project shall be made to CITY firms or individuals.

**ARTICLE V: PROHIBITION AGAINST LOBBYING**

PROJECT DEVELOPER acknowledges that no funds disbursed pursuant to this Agreement shall be used to finance lobbying activities. Furthermore, PROJECT DEVELOPER acknowledges that no PROJECT DEVELOPER employee funded in whole or part pursuant to this Agreement shall engage in lobbying activities at any time during the term of this Agreement. For purposes of this Agreement the term "lobbying activities" shall include the following.

- A. Any activity related to the election or appointment of an individual to public office, including, but not limited to, contributions to campaign funds, solicitation in an attempt to influence the outcome of an election for public office, and preparation and dissemination of campaign materials
- B. DEVELOPERship of candidate forums

- C. DEVELOPERship of voter registration drives
- D. Provision of transportation to polling places
- E. Contributing financially to elected or appointed public officials in an attempt to influence legislation
- F. Hiring an individual or individuals to represent an organization and/or its position before elected or appointed public officials.

**ARTICLE VI: NOTICES**

Notices and communications under this Agreement shall be sent first class, prepaid to the respective parties as follows.

**TO THE CITY:**

Michael Loschen, Grants Coordinator  
Grants Management Division  
400 South Vine Street  
Urbana, Illinois 61801

**TO THE PROJECT DEVELOPER:**

Jerry Moreland, President  
United Citizens and Neighbors  
44 East Main Street Suite 208  
Champaign, Illinois 61820

**ARTICLE VII: CONTINGENCIES**

There are no additional contingencies associated this Agreement, except for the terms and conditions noted herein.

**ARTICLE VIII: ASSIGNMENT**

PROJECT DEVELOPER shall not assign this Agreement, nor any part thereof, without prior written approval of the CITY.

**ARTICLE IX: MODIFICATION**

No modification of this Agreement, including modification of the administrative budget in *Exhibit 1*, shall be effective unless in writing and executed by the parties hereto.

**ARTICLE X: EXECUTION OF AGREEMENT**

This Agreement shall be binding upon the CITY and PROJECT DEVELOPER, their successors and assigns, and shall be effective as of the date executed by the Mayor and attested by the City Clerk.

**ARTICLE XI: PROJECT PUBLICITY**

Any news release or other type of publicity pertaining to the work performed pursuant to this Agreement must recognize that the project was funded by HUD and must be approved by the CITY.

**ARTICLE XII: EVALUATION**

The CITY shall be responsible for monitoring and evaluating all aspects of the services provided by PROJECT DEVELOPER under this Agreement. The CITY shall have access to and be able to make copies and transcriptions of such records as may be necessary in the determination of the CITY or HUD to accomplish this evaluation. In order to properly monitor and evaluate the PROJECT DEVELOPER’S performance under this Agreement, the CITY shall make on-site inspections annually or as often as it deems necessary. Failure by the PROJECT DEVELOPER to assist the CITY in this effort, including allowing the CITY to conduct the on-site inspections and have access to the PROJECT DEVELOPER’S records, shall result in the imposition of sanctions as specified in Article I Section 7 herein.

Said evaluation shall be accomplished by the CITY through a management evaluation of the services provided under this Agreement during the term of this Agreement.

During the period of affordability, the CITY shall perform on-site inspections to ensure units are the principal residence of the homebuyers and they are maintained to minimum standards.<sup>1</sup>

**ARTICLE XIII: INDEMNIFICATION**

PROJECT DEVELOPER shall defend, hold harmless and indemnify the CITY from and against any and all liability, injury, loss, claims, damages, costs, attorneys' fees and expenses of whatever kind or nature which the CITY may sustain, suffer or incur or be required to pay by reason of:

- A. The loss of any monies paid to PROJECT DEVELOPER;
- B. Fraud, defalcation or dishonesty on the part of any person representing, employed by, contracted or subcontracted by PROJECT DEVELOPER;
- C. Any act, omission, wrongdoing, misconduct, want of care or skill, negligence or default on the part of PROJECT DEVELOPER or any of its contractors, subcontractors, sub-subcontractors, materialmen, suppliers and laborers in the execution or performance of this Agreement; or

The indemnity hereunder shall survive termination of the Agreement. In the event that any action, suit or proceeding is brought against the CITY upon any liability arising out of the Agreement, or any other matter indemnified against, the CITY at once shall give notice in writing thereof to PROJECT DEVELOPER by registered or certified mail addressed to PROJECT DEVELOPER. Upon receipt of such notice, PROJECT DEVELOPER, at its own expense, shall defend against such action and take all such steps as may be necessary or proper to prevent the obtaining of a judgment against the CITY.

**ARTICLE XIV: INSURANCE**

During the life of this Agreement, PROJECT DEVELOPER shall provide, pay for and maintain with companies satisfactory to the CITY, the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Illinois. Such insurance shall be primary coverage afforded the Additional Insured and shall contain a cross-liability or severability of interest clause. The general liability policy shall provide that the CITY is an additional insured as to the operation of the PROJECT DEVELOPER under this Agreement. The insurance coverage and limits required must be evidenced by properly executed certificates of insurance on forms, which are to be furnished by the CITY. The authorized representative of the insurance company shown on the certificate must personally manually sign each certificate. Thirty (30) days written notice by registered or certified mail must be given the CITY of any

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<sup>1</sup> Need to define the standards.

cancellations, intent not to renew, or reduction in the policy coverage, except in the application of the aggregate liability limits provisions. Should any aggregate limit of liability coverage be reduced, it shall be immediately increased back to the limit required by this Agreement. The insurance coverages required herein are to be primary to any insurance carried by the CITY or any self-insurance program thereof. The PROJECT DEVELOPER shall be responsible for any deductibles under its policies. The PROJECT DEVELOPER shall ensure that all of its contractors and subcontractors carry adequate types and limits of insurance.

- A. Workers' Compensation and Employers' Liability Insurance shall be provided for all employees engaged in the work under this Agreement in accordance with the laws of the State of Illinois. The amount of the employers' liability insurance shall not be less than \$100,000.00 each accident, \$500,000.00 disease aggregate, and \$100,000.00 disease each employee.
- B. Commercial General Liability Insurance shall be written on ISO occurrence form CG 00 01, or substitute form providing equivalent coverage, with a minimum limit of \$1,000,000.00 each occurrence. Such policy shall include the CITY as an additional insured and shall cover liability arising from premises and operations, independent contractors, products and completed operations, personal and advertising injury, and liability assumed under this Agreement. Completed operations liability coverage shall be maintained for a minimum of one-year following completion of the work.
- C. All Risk Property Damage Insurance on property financed by this grant shall be written to cover all risks of physical damage before, during, and after renovation on a replacement cost agreed amount form. Claim payments shall be payable to the CITY and the Provider as their interests may appear.

**Exhibit A**

**Scope of Work**

The Project DEVELOPER will complete the following activities:

Purchase a house in the UCAN Neighborhood Area for resale to a household below 80% of the Median Family Income for Champaign County, Illinois, as determined by the U.S. Department of Housing and Urban Development.

Before purchasing the selected house, UCAN must obtain written meet the approval for such a purchase from the Division Manager of the Grants Management Division. This will ensure that a code review and environmental review have been successfully completed.

Identify and procure volunteer services and donated materials related to the rehabilitation of the house.

However, such services and materials cannot interfere with the successful and timely completion of the contracted rehabilitation activities.

UCAN will provide the CITY with a regular written summary that documents the number of volunteer hours and donated materials associated with the project.

Sell the house to a household that has a household income below 80% of the Median Family Income for Champaign County, Illinois, as determined by the U.S. Department of Housing and Urban Development.

The CITY will complete the following activities:

Assist UCAN by inspecting prospective houses to purchase and provide technical assistance regarding the likelihood that all local building codes could be met with the amount of rehabilitation funds and resources available.

The CITY will conduct an environmental review of the property in a manner consistent with HUD regulations and requirements.

Once UCAN selects a house for purchase, the CITY will complete a rehabilitation project, for an amount not to exceed \$24,500, in a manner consistent with the regulations and guidelines associated with the CITY's Owner-Occupied Rehabilitation Program.



**Exhibit B**

**Budget and Schedule**

United Citizens and Neighbors Rehabilitation – Resale Project  
FY 2003-2004

**PROJECT REVENUES**

FY 2003-2004 HOME Funds	\$28,000.00
Bank Loan	\$64,500.00*
Donated Labor and Materials	to be determined*
<b>TOTAL</b>	<b>\$92,500.00</b>

**PROJECT EXPENSES**

Eligible Administration and Planning Costs	\$3,500.00
House Purchase	60,000.00
Rehabilitation Activities	24,500.00
Loan interest, utilities, closing costs etc.	4,500.00
<b>TOTAL</b>	<b>92,500.00</b>

\*The amount of the bank loan is only an estimate

\*The value of donated labor and materials cannot be quantified until the house has been identified.

October 7, 2003	Project start date.
February 29, 2004	Purchase a house.
March 31, 2004	Rehabilitation specifications prepared and project prepared for bid.
April 30, 2004	Bids reviewed and rehabilitation contract awarded.
May 1, 2004	Notice to proceed provided to contractor
August 31, 2004	Project complete and home sold.

**Exhibit C**

**Location of Project**

The project shall be located in the UCAN Neighborhood Area. This area is defined as having the following geographic boundaries:

From Wright Street east to Broadway Avenue and from University Avenue north to Bradley Avenue.

Project location is subject to environmental review, CITY code inspection and CITY's written approval to purchase the property

**Exhibit D**

**Plans, drawings, specifications or write-ups**

The City of Urbana Rehabilitation Coordinator will prepare the write-up for the rehabilitation portion of the project.

DEVELOPER will contact Rehabilitation Coordinator in advance of the completion of the rehabilitation write-up in order to include specific provisions for volunteer labor and donated materials that are associated with the project.

The project specifications will be contingent on the rehabilitation needs of the house selected for the project.

The project specifications and rehabilitation write-up will be done in a manner consistent with the current City of Urbana Building Codes.