



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Grants Management Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Office

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

DATE: June 9, 2005

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN URBANA HOME CONSORTIUM SUBRECIPIENT AGREEMENT
Ecological Construction Laboratory
(Affordable Homeownership Program – Passive Solar House FY2004-2005)

Description

Included on the June 13 agenda of the Committee of the Whole is a proposed HOME agreement to provide \$30,000 to the Ecological Construction Laboratory for the costs associated with construction of a passive solar home as part of their Affordable Homeownership Program.

Issues

The issue is whether to approve the agreement and ordinance.

Background

The Ecological Construction Laboratory (e-co lab) submitted an application for FY 2005-05 HOME funds, which was subsequently approved. Since that time, e-co lab has completed the process of securing the additional funds and support to complete this project. At this time, they are ready to enter into an agreement with the City and to proceed with construction.

Options

1. Approve the agreement and ordinance as written
2. Approve the agreement and ordinance with amendments
3. Do not approve the agreement and ordinance

Fiscal Impacts

There would be no fiscal impact to the city budget. Funds used for this project were budgeted in FY 2004-05.

Recommendations

At its May 31 meeting, the Community Development Commission recommended that City Council approve the agreement after changing a line in Section 2: Affordability from "...maximum construction price shall not exceed **\$172,632**, which is 95% 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." to "...maximum purchase price shall not exceed **\$145,374**, which is 80% of the median ...". This change is reflected in the attached agreement.

CDC members also wished to express to the Council that they strongly support the City's partnership with E-co Lab and its commitment to innovative solutions to affordable housing. A concern was raised about the potential circumstances that would increase construction cost and time for this project. Therefore, CDC has vowed to follow this project carefully in the hopes that the experience will provide an example for other projects within our community as well as throughout the nation.

Staff recommends that City Council approval of the attached agreement and ordinance.

Memorandum Prepared By:

Erin J. Bullok
Interim Manager
Grants Management Division

Attachments:

Ecological Construction Laboratory HOME Agreement

An Ordinance Approving and Authorizing the Execution of an Urbana HOME Consortium Sub-recipient Agreement

URBANA HOME CONSORTIUM
DEVELOPER AGREEMENT
ECOLOGICAL CONSTRUCTION LABORATORY

(Affordable Homeownership Program FY 2004-2005:
Passive Solar House Homeownership Program)

THIS Affordable Homeownership Program Agreement, hereafter referred to as the “**AGREEMENT**”, made and entered into by and between the CITY OF URBANA, an Illinois Municipal Corporation, acting as lead entity for the Urbana HOME Consortium (hereinafter the “**GRANTOR**”), and ECOLOGICAL CONSTRUCTION LABORATORY, an Illinois Not-For-Profit Organization (hereinafter “**DEVELOPER**”).

WITNESSETH

WHEREAS, the City of Urbana, the City of Champaign, and Champaign County have been jointly designated as a Participating Jurisdiction by the U.S. Department of Housing and Urban Development (hereinafter “HUD”) for purposes of receiving HOME Investment Partnership (hereinafter “HOME”) Program funds in the name of the Urbana HOME Consortium under provisions of Title II of the 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, the Urbana HOME Consortium has received HOME Program funds from HUD for the period beginning July 1, 2004, and ending June 30, 2005, to increase affordable housing opportunities for low-income residents of Urbana, Champaign, and unincorporated Champaign County; and

WHEREAS, the Urbana City Council has adopted a Consolidated Plan for Program Years 2000-2004 (hereinafter the “Consolidated Plan”) which budgets the following: \$1,180,274 in Urbana HOME Consortium funds for the period beginning July 1, 2004, and ending June 30, 2005, including \$268,512 allocated for the City of Urbana, in accordance with an Intergovernmental Agreement Concerning Administration of a Champaign/Urbana/Champaign County HOME Investment Partnerships Consortium executed by Mayor Tod Satterthwaite on behalf of the City on July 16, 2003 (hereinafter the “Intergovernmental Agreement”); and

WHEREAS, the GRANTOR, as the administrator of a HOME Program, has authority of the under the provisions of the HOME Program to provide financial assistance for the development of an affordable homeownership program

WHEREAS, DEVELOPER has applied to the GRANTOR for FY2004-2005 Urbana HOME Consortium funding for development assistance and to provide financial assistance to a family participating in DEVELOPERS Affordable Homeownership Program, for sale to very low-income and low-income households (hereinafter the “Project”); and

WHEREAS, the Consolidated Plan promotes expansion of homeownership opportunities and recommends that the Urbana HOME Consortium expand homeownership opportunities for low-income households; and

WHEREAS, DEVELOPER desires to serve as a project developer of an Affordable Homeownership Program (hereinafter the "PROGRAM") within the City of Urbana; and

WHEREAS, the GRANTOR has determined that the PROGRAM is eligible for funding under the HOME Program; and

WHEREAS, the GRANTOR has determined that the DEVELOPER has the ability to provide the required private matching funding to cover the cost of the PROGRAM; and

WHEREAS, the DEVELOPER has been fully informed regarding all requirements or obligations that must be met by DEVELOPER in order to utilize HOME Program funds for the PROGRAM, including but not limited to, the requirement that the assisted housing units must remain affordable to low-income households for a period of ten (10) years, in accordance with 24 CFR Part 92, Sections 203, 251-253, and

WHEREAS, the DEVELOPER, having been fully informed regarding the requirements of the HOME Program, is committed to starting the PROGRAM with the assistance of HOME Program funds on or before June 15, 2006 and has made necessary arrangements to provide any required matching private contribution towards the cost of said PROGRAM.

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 GRANTOR agrees to provide the DEVELOPER an amount not to exceed **\$30,000** from its Federal Fiscal Year FY 2004-2005 HOME grant City of Urbana allocation, to be used for related development functions and providing down payment assistance to a low-to moderate-income household for homeownership opportunities. The DEVELOPER shall use the Funds in accordance with the HOME program guidelines outlined in 24 CFR Part 92 in carrying out the PROGRAM in the manner as described below:

- a.) The DEVELOPER shall comply with the PROGRAM procedures and schedule, as described in "Attachment 2" attached hereto and by reference made a part hereof.

- b.) The DEVELOPER shall provide the GRANTOR with the budget and financial projection for each home from the preliminary budget for the construction of one (1) passive solar house as provided in “Attachment 3” or in a similar document format as approved by the GRANTOR.
- c.) The GRANTOR shall transfer ownership to the DEVELOPER the real property for the Project, commonly known as **1005 W. Fairview, Urbana IL, PI# 91-21-07-428-003.**
- d.) The DEVELOPER shall incorporate the sample documents for the PROGRAM as described in “Attachment 4” attached hereto and by reference made a part hereof.

Section 2: Affordability

The 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 DEVELOPER shall determine each family’s income eligibility by determining the family’s annual income in accordance with the Part 5 (Section 8) methodology allowed in 24 CFR 92.203. The 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 DEVELOPER determined that the family qualified as income eligible.

The maximum purchase price shall not exceed **\$145,374**, which is 80% 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 unit.

The HOME-assisted housing shall be the principal residence of the owner whose family qualifies as a low-income family at the date of initial occupancy, and at the time of transfer of title, of the HOME-assisted housing.

The HOME-assisted housing must remain the principal residence of the family during the 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 24 CFR 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 as listed in Section 24 CFR 92.254(a)(4) 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. Said restrictions shall include that The GRANTOR 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 DEVELOPER agrees to assist the GRANTOR in restricting the use of the property by recording a Land Use Restriction Agreement, Mortgage, and Note (hereinafter the “DOCUMENTS”) in form and with the same content as that executed under even date herewith. DOCUMENTS shall be identical in substantial form as the forms in “Attachment 4” attached hereto and by reference made a part hereof.

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 GRANTOR shall recapture a portion of the HOME Program assistance provided to the homebuyers in accordance with the terms and conditions provided in the loan agreement and note. The HOME Program funds provided under this AGREEMENT will be recaptured in accordance with 24 CFR 92.254(a)(5)(ii) and shall be repaid to the GRANTOR, recorded as CONSORTIUM program income in accordance with 24 CFR 92.503, and used in accordance with the requirements of the HOME Program.

Should the 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, DEVELOPER shall reimburse the CONSORTIUM the amount of HOME funds disbursed on the project by the CONSORTIUM. The CONSORTIUM shall deposit said funds in the local HOME Trust Account to be utilized for other affordable housing activities at the discretion of the CONSORTIUM.

Section 3: HOME Project Requirements

Project Requirements:

The GRANTOR shall provide HOME funds not to exceed **\$30,000** in accordance with 24 CFR 92.205(b) for eligible costs as described in 24 CFR 92.206 and 92.207. HOME Program funds will be disbursed on behalf of the DEVELOPER under the following terms and conditions;

HOME funds are provided as a Deferred Payment Loan at 0% interest.

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 GRANTOR and DEVELOPER agree that the DOCUMENTS will be executed between the GRANTOR and the HOMEBUYER at the initial purchase closing for any housing unit receiving funds under the PROGRAM pursuant to this AGREEMENT. The DOCUMENTS shall include language to ensure that the affordability period will be honored through the duration of this AGREEMENT and include provision for recapture of the HOME Program funds invested in the housing unit. GRANTOR staff will prepare these DOCUMENTS and the GRANTOR will pay recording fees for the DOCUMENTS.

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). GRANTOR agrees to enter all information provided into IDIS within 30 days of receipt. Should the PROJECT be modified after initial commencement date of the affordability period, a new affordability period may be re-structured.

The terms of the recapture provision will be such that they reflect the HUD provisions in the HOME Final Rule 24 CFR 92.254. Details of a recapture provision will be provided in the DOCUMENTS. Failure to ensure that the DOCUMENTS are executed at the initial purchase closing will result in withholding HOME Program funds until said item is addressed. DEVELOPER also agrees to reference these required DOCUMENTS in each of their PROGRAM Agreements with the Homebuyers.

List of Documents

The following documents have been added to or made a part hereof by reference:

Attachment 4- Affordable Homeownership Program Sample Documents:

Land Use Restriction
Mortgage
Note

Section 4: Property Standards

The DEVELOPER agrees that all housing constructed with HOME Funds shall meet the property standards, as established by the GRANTOR, as well as all applicable State and local construction codes, rehabilitation standards, and zoning ordinances at the time of project completion.

DEVELOPER will provide homebuyers with a "walk-through" of the house and explain all maintenance concerns that are necessary to ensure the house remains in good repair and provide a bound document that includes information on all aspects of the home, including but not limited to architectural drawings, home warranty, appliance warranty, etc.

Section 5: Other Program Requirements

A. Affirmative Marketing of Vacant Units

DEVELOPER must adopt an affirmative marketing policy and procedure acceptable to HUD for homebuyers of newly renovated/constructed houses 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 CONSORTIUM's affirmative marketing policy
2. Requirements and practices DEVELOPER must adhere to in order to carry out the affirmative marketing procedures and requirements
3. Procedures to be used by 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 DEVELOPER to affirmatively market units and records to assess the results of these actions
5. A description of how the 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

DEVELOPER agrees that there shall be no discrimination against any person who is employed in carrying out the PROGRAM, or against any applicant for such employment, because of race, color, religion, sex, age, or national origin, or any other discrimination prohibited by Federal, State, County or local laws, 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. 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 GRANTOR and HUD.
2. It shall furnish the GRANTOR and HUD with information as they may require for the supervision of such compliance and will otherwise assist the GRANTOR 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 GRANTOR, or HUD.
4. It shall abide by the Human Rights Ordinance as set forth in Chapter 12 of the Urbana Code of Ordinances.

C. Displacement, Relocation and Acquisition

If applicable, DEVELOPER agrees to assist the GRANTOR to provide relocation assistance to persons temporarily relocated or permanently displaced 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 and Section 104(d) of the Housing and Community Development Act, as applicable.

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 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 DEVELOPER agrees that no members of the governing body of the locality in which the 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”), DEVELOPER agrees that no person who is an employee, agent, consultant, officer, or elected or appointed official of the 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 there under, 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 GRANTOR, no DEVELOPER, or officer, employee, agent or consultant of the DEVELOPER, may occupy a HOME-assisted affordable housing unit in a project.

Section 6: Records and Reports

A. Records

DEVELOPER authorizes the GRANTOR 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. DEVELOPER will ensure that all documents related to this Project shall be kept for a period of five (5) years after project’s affordability period has been completed (estimated at October 2020). 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.

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 and requirements of 24 CFR 92.203; record keeping requirements of 24 CFR 92.508; records demonstrating compliance with the labor requirements of 24 CFR 92.354; records demonstrating compliance with the lead-based paint requirements of 24 CFR 92.355; records supporting exceptions to the conflict of interest prohibition pursuant to 24 CFR 92.356; debarment and suspension certifications required by 24 CFR parts 24 and 91; and any other records as are deemed necessary by the GRANTOR to assure a proper accounting and monitoring of all HOME Funds. In the event the GRANTOR determines that such records are not being adequately maintained by DEVELOPER, the GRANTOR 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 GRANTOR, HUD, representatives of the Comptroller General of the United States or other Federal agency may require. 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 GRANTOR'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 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 provisions, 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) 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.

B. Reports

The Developer must submit quarterly reports no more than ten (10) days after the end of each quarter. The following table lists the end of the quarter and the corresponding quarterly report due date:

Quarter	Period	Quarterly Report Due Date
1 st	July 1 – September 30	October 10, 2005
2 nd	October 1 – December 31	January 10, 2006
3 rd	January 1 – March 31	April 10, 2006
4 th (year-end)	April 1 – June 30	July 10, 2006
5 th	July 1 – September 30	October 10, 2006
6 th	October 1 – December 31	January 10, 2007
7 th	January 1 – March 31	April 10, 2007
8 th (completion)	April 1 – June 30	July 10, 2007

The quarterly reports shall be submitted by the DEVELOPER quarterly until the final house has been constructed and transferred to the homebuyer. A sample is attached as “Attachment 5”.

Section 7: Enforcing of Agreement

A default shall consist of any use of HOME Program funds for a purpose other than as authorized by this AGREEMENT, noncompliance with the HOME Program guidelines as outlined in 24 CFR Part 92, any material breach of the AGREEMENT, failure to timely comply with the audit requirements in Article XIII, failure to expend HOME Program funds in a timely manner, or a misrepresentation in the application submission which, if known by GRANTOR and/or HUD, would have resulted in HOME Program funds not being provided. Upon due notice to the DEVELOPER of the occurrence of any such default and the provision of a reasonable opportunity to respond, the GRANTOR may take one or more of the following actions:

- (a) Direct the 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) Direct the DEVELOPER to 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 Program funds for the activities;
- (d) Reprogram HOME funds that have not yet been expended from affected activities to other eligible activities or withhold HOME Program funds;
- (e) Direct the DEVELOPER to reimburse the GRANTOR’s program accounts in any amount not used in accordance with the requirements of 24 CFR Part 92, et al;
- (f) Suspend disbursement of HOME Program funds for affected activities;

- (g) Other appropriate action including, but not limited to, any remedial action legally available, such as 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 DEVELOPER of the GRANTOR's written notice of default. No delay or omission by GRANTOR 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 DEVELOPER default.

Unless the DEVELOPER's default is waived, the GRANTOR may, upon twenty-four (24) hour written notice, terminate this AGREEMENT for said default. Waiver by the GRANTOR of 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 DEVELOPER and the GRANTOR if delivered in person, or when deposited in the U.S. Mail, postage prepaid certified mail, return receipt requested.

Section 8: Request for Disbursement of Funds

DEVELOPER shall not request disbursement of HOME Program funds until HOME Program funds are needed to pay eligible costs related to the PROGRAM. The amount of any request for funds shall not exceed the amount needed and shall be supported by appropriate documentation such as a sales contract, invoice, completed property maintenance inspection report, and performance-progress reports, and settlement statements from HOMEBUYER mortgage closings. The GRANTOR shall make payment to DEVELOPER within fourteen (14) calendar days of receipt of a complete and acceptable request by the GRANTOR. The GRANTOR reserves the right to withhold disbursement of funds until appropriate documentation is submitted. All checks shall be made payable to "Ecological Construction Laboratory." All monies granted to DEVELOPER pursuant to this AGREEMENT shall be expended by June 15, 2007.

Further, no payments shall be released to DEVELOPER prior to the GRANTOR receiving environmental clearance from the Illinois Historic Preservation Agency stating no historical significance has been identified at the properties being developed with HOME Program funds and a flood plain map has been reviewed to prove the property is not located within a floodplain. GRANTOR will be responsible for obtaining the necessary environmental clearance documentation.

Section 9: Duration of Agreement

This AGREEMENT shall be effective as of the date executed by the Mayor and attested by the City Clerk and shall remain in effect until the latest of the following dates or events: June 15, 2006; the GRANTOR's complete and full

disbursement of HOME Program funds to DEVELOPER as described in “Attachment 3”; or the home has been constructed and transferred to subsequent homeowners for use as affordable housing in accordance with 24 CFR Part 92.

Section 10: Conditions for Religious Organizations

The DEVELOPER ensures that HOME Program funds shall not be provided to primarily religious organizations, such as churches, for any activity including secular activities. In addition, HOME Program 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 Program 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 applicable visitability standards.

ARTICLE III: FINANCIAL RESPONSIBILITY

The allocation of funds by the GRANTOR pursuant to this AGREEMENT shall in no way obligate the GRANTOR for any financial responsibility incurred by the PROGRAM in excess of the funding pledged herein. The GRANTOR reserves the right to withhold pledged funds if the GRANTOR is not satisfied with the DEVELOPER’s compliance with the terms and conditions of performance outlined in this AGREEMENT.

ARTICLE IV: CERTIFICATIONS

DEVELOPER represents the following with respect to this AGREEMENT.

- A. DEVELOPER possesses legal authority to receive HOME Program funds from the GRANTOR and to execute the PROGRAM as described herein.
- B. The governing body of 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 DEVELOPER to act in connection with this AGREEMENT and to provide such additional information as may be required.

- C. 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. 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), hereinafter referred to as "Section 3", which provides that, to the greatest extent feasible, opportunities for training and employment that arise through the PROGRAM shall be given to low-income residents of the Cities of Champaign, Urbana or Unincorporated Champaign County and that contracts in connection with the PROGRAM be awarded to business concerns located in or owned in substantial part by persons residing in the Cities of Champaign, Urbana or Unincorporated Champaign County. DEVELOPER agrees to comply with provisions of said Section 3 and the regulations as issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of HUD issued there under. DEVELOPER certifies and agrees that it is under no contractual or other disability that would prevent DEVELOPER from complying with these requirements. DEVELOPER's responsibility to comply with Section 3 regulations includes the following:
1. Including in each subcontract in excess of \$100,000 a requirement that the subcontractor comply with Section 3.
 2. Sending each labor organization or representative of workers with which DEVELOPER has a collective bargaining agreement or other understanding a notice of the 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 allowing a subcontractor to postpone filling any vacant employment and training positions after the subcontractor is selected but before the contract with the subcontractor is executed for the purpose of circumventing obligations under Section 3.
 5. Refraining 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. DEVELOPER agrees to give maximum feasible priority to very low-income persons when administering the PROGRAM described herein.
- F. 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 PROGRAM. 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. DEVELOPER shall separately and accurately identify use of HOME funds pursuant to this AGREEMENT.
- G. 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 DEVELOPER receives federal financial assistance.
- H. DEVELOPER shall comply with Executive Order 11246, and all regulations issued pursuant thereto, 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.
- I. 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.
- J. No Federal appropriated funds have been paid or will be paid, by or on behalf of DEVELOPER, to any person for influencing or attempting to influence an officer or employee of any agency including the GRANTOR, 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 GRANTOR, 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, DEVELOPER will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- K. 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 PROGRAM.
- L. 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. DEVELOPER shall be liable to perform all acts to the GRANTOR in the same manner as the GRANTOR performs these functions to the Federal government.
- M. 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 DEVELOPER, on account of personal injuries or death, or damages to property occurring, growing out of, incident to, or resulting under this PROGRAM, whether such loss, damage, injury, or liability is contributed to by the negligence of the GRANTOR 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 DEVELOPER shall have no liability for damages or the costs incident thereto caused by the sole negligence of the GRANTOR, or its officers, employees, or agents.
- N. DEVELOPER shall have full control of the ways and means of performing the services referred to herein. DEVELOPER acknowledges and agrees that its employees, representatives, subcontractors, and agents may in no respect be considered employees of the GRANTOR.
- O. DEVELOPER agrees that, to the greatest extent feasible, all construction-related expenditures made for the PROGRAM shall be made to City of Champaign, Urbana and Unincorporated Champaign County firms or individuals.

ARTICLE V: PROHIBITION AGAINST LOBBYING

PROJECT SPONSOR acknowledges that no funds disbursed pursuant to this Agreement shall be used to finance lobbying activities. Furthermore, PROJECT SPONSOR acknowledges that no PROJECT SPONSOR 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. Sponsorship of candidate forums
- C. Sponsorship 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 GRANTOR: Erin J. Bullok
Grants Management Division
400 South Vine Street
Urbana, Illinois 61801

TO THE DEVELOPER: Katrin Klingenberg, Executive Director
Ecological Construction Laboratory
201 ½ Brady Lane
Urbana, IL 61801

ARTICLE VII: CONTINGENCIES

This AGREEMENT, including the provision of funds by the GRANTOR for the PROJECT as described herein, is contingent upon the signing of GRANTOR and the DEVELOPER.

ARTICLE VIII: ASSIGNMENT

DEVELOPER shall not assign this AGREEMENT, nor any part thereof, without prior written approval of the GRANTOR.

ARTICLE IX: MODIFICATION

No modification of this AGREEMENT, including modification of the PROGRAM budget in "Attachment 3", shall be effective unless in writing and executed by the parties hereto.

ARTICLE X: EXECUTION OF AGREEMENT

This AGREEMENT shall be binding upon the GRANTOR and DEVELOPER, their successors and assigns, and shall be effective as of the date executed by the Mayor of Urbana and attested by the City Clerk.

ARTICLE IX: PROJECT PUBLICITY

Any news release or other type of publicity pertaining to the work performed pursuant to this AGREEMENT must recognize GRANTOR as a DEVELOPER, funded by HUD.

ARTICLE X: MONITORING AND EVALUATING

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

Said evaluation may be accomplished by the GRANTOR through a management evaluation of the services provided under this AGREEMENT during the term of this AGREEMENT.

During the period of affordability, the GRANTOR shall perform on-site inspections to ensure unit is the principal residence of the homebuyers and it is maintained to minimum property standards as determined by the code requirements as adopted by the City of Urbana.

ARTICLE XI: INDEMNIFICATION

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

- A. The loss of any monies paid to DEVELOPER;
- B. Fraud, defalcation or dishonesty on the part of any person representing, employed by, contracted or subcontracted by DEVELOPER;
- C. Any act, omission, wrongdoing, misconduct, want of care or skill, negligence or default on the part of 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 GRANTOR upon any liability arising out of the AGREEMENT, or any other matter indemnified against, the GRANTOR at once shall give notice in writing thereof to DEVELOPER by registered or certified mail addressed to DEVELOPER. Upon receipt of such notice, 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 GRANTOR.

GRANTOR:

Signature

Title

Attest

DEVELOPER:

Signature

Title

Attest

- Attachment 1 - Notice (the State of Illinois Prevailing Wage Act)**
- Attachment 2- Procedures and Schedule of Program**
- Attachment 3- Sample Budget/ Financial Projections per Property**
- Attachment 4- Affordable Homeownership Program Sample Documents:
Land Use Restriction, Mortgage, and Note**
- Attachment 5- Sample Quarterly Report Required by the Urbana HOME Consortium**

Attachment 1 Notice

The Illinois State Prevailing Wage Act (820 ILCS 130/0.01 et seq.) provides in part as follows: "Not less than the general prevailing rate of hourly wages for work of a similar character on public works in the locality in which the work is performed, and not less than the general prevailing rate of hourly wages for a legal, holiday and overtime work, shall be paid to all laborers, workers and mechanics employed by or on behalf of any public body engaged in the construction of public works." (820 ILCS 130/3, quoted in part).

The Act defines a public body as follows: "'Public body' means the state or any officer, board or commissioner of the state or any political subdivision or department thereof, or any institution supported in whole or part by public funds..." (820 ILCS 130/2, quoted in part).

The Department of Labor has recently applied this provision to a not-for-profit corporation, indicating that it was the opinion of the Department that the not-for-profit, because of its State funding, was considered a public body for the purposes of the Prevailing Wage Act. You are encouraged to contact the Department of Labor for its guidance with respect to whether or not it considers your organization a "public body" under the Act for the purposes of the Prevailing Wage Act. If the Prevailing Wage Act applies, you are required to compensate all workers on the project, including volunteers, for work done on the project.

Since, by the terms of this agreement you are required to follow all local, State and Federal laws, if the State Prevailing Wage Act is applicable to your organization, then you are required to comply with the Act by the terms of this contract.

DEVELOPER: Ecological Construction Laboratory, 201 ½ Brady Lane, Urbana, IL 61801

Signed by: _____

Title: _____ Date: _____

Attachment 3
Sample Budget/ Financial Projections

Preliminary Budget

Single-Family House, 1350 sq ft
1005 Fairview Avenue

Item	Cost
Design Consulting	\$1,000
Site Preparation	\$500
Excavation and Forms	\$4,000
Sand Fill, Soil Insect Treatment	\$1,500
Sewer Hook Up	\$3,500
Visqueen and Foundation Insulation	\$1,500
Plumbing Rough-in and Water Line	\$1,000
8" Gravel Fill with Block Form Cores	\$2,500
Concrete Pour and Finish, Color Texture and Grout cuts	\$6,800
Wall Frame and Sill Seal	\$7,200
2nd Floor Joists and Decking	\$6,500
2nd Floor Walls and Roof Frame	\$9,400
Double skin Roof, Insulation, 2x4 Fur Strip and OSB Decking with Black-in	\$9,500
Sheath walls	\$2,800
Doors and Windows and Install	\$10,000
Electric Rough-in	\$4,100
Plumbing Rough-in	\$3,600
Insulate throughout	\$10,500
Siding and Trim Exterior	\$4,300
Finished Roofing	\$6,800
Drywall Interior, hang and finish	\$7,200
Paint interior	\$5,100
Other floor finish and trim	\$3,200
Electric and plumbing finish	\$6,000
Kitchen Cabinets	\$6,000
Appliance and Mechanical Finish	\$4,000
Site Grading and Landscape Finish	\$1,500
	\$130,000

Attachment 4
Affordable Homeownership Program Sample Documents:
Land-Use Restriction, Mortgage, and Note
(Part 1 Land Use Restriction)
(Part 2 Mortgage/Note)

Attachment 5 Part 1

CITY OF URBANA
INDIRECT HOMEBUYER ASSISTANCE
LAND-USE REGULATORY AGREEMENT

THIS LAND-USE REGULATORY AGREEMENT (the "Agreement") is made and entered into as of this _____ day of _____, 2004, by and between Affordable Homeownership Program Customer Name (the "Borrower"), and the City of Urbana, Illinois, a unit of local government having its principal offices at 400 South Vine Street, Urbana, Illinois 61801, as a member of the entity of the Urbana HOME Consortium (the "Grantor") as a condition of and in partial consideration for the Borrower's purchase of the property set forth below and delivery of a deed for that property to the Borrower pursuant to the Real Estate Contract For Affordable Homeownership Program entered into by the Borrower and Ecological Construction Laboratory on Date of Contract, 2004.

RECITALS

- A. The Grantor receives funds to promote affordable housing from the U.S. Department of Housing and Urban Development ("HUD") through the HOME Investment Partnerships Program (the "HOME Program"), as authorized by Title II of the National Affordable Housing Act of 1990 (P.L. 101-165) (the "HOME Act") and the regulations promulgated thereunder and codified at 24 CFR Part 92 (the "HOME Regulations"), as may be amended and supplemented from time to time. All capitalized terms used herein and not otherwise defined shall have the meaning established in the HOME Act and the HOME Regulations.
- B. The Grantor has elected to utilize (amount of HOME funding) from the HOME Program to promote homeownership to low-income families through Ecological Construction Laboratory's Affordable Homeownership Program, whereby Ecological Construction Laboratory constructed the house located at 1005 W. Fairlawn, Urbana, IL, more particularly described in Exhibit A (the "Property") for sale to Borrower.
- C. The Grantor has determined that the rights and restrictions granted herein to the Grantor serve the public's interest in the creation and retention of affordable housing for low-income persons and families in the restriction of whom the Property may be resold to in order to assure the property's affordability by future low-income purchasers.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

1. **RECITALS.** The foregoing recitals are made a part of this Agreement.
2. **GENERAL CONDITIONS.** This Agreement shall be subject to, and Borrower agrees to comply with the terms and conditions of the HOME Act and Regulations, as amended and supplemented from time to time.
3. **BORROWER CERTIFICATIONS.** The Borrower certifies to the Grantor the following.
 - (a) **Title.** Ecological Construction Laboratory has transferred possession of the Property to the Borrower. After successful completion of the homebuyer-counseling period, Ecological Construction Laboratory will transfer ownership to the Borrower such that Borrower will hold fee simple title to the Property at that time.
 - (b) **Residence.** Borrower will use the Property as Borrower's primary place of residence for a period of ten (10) years from the date of this Agreement.
 - (c) **Household Income.** At the time of execution of the Affordable Homeownership Program contract, the Borrower's family income does not exceed eighty percent (80.0%) of the median family income based upon family size, for Champaign County, Illinois as determined by U.S. Department of Housing and Urban Development (HUD).
4. **RESALE RESTRICTIONS DURING AFFORDABILITY PERIOD.** The Borrower agrees that this Agreement shall restrict the subsequent sale of the Property to a household having income at or below eighty percent (80.0%) of the median family income based upon family size, for Champaign County, Illinois as determined by HUD. This requirement will terminate ten (10) years from the date of this Agreement.
5. **ACTS REQUIRING GRANTOR'S APPROVAL.** Borrower shall not convey or transfer or encumber the Property, or permit the conveyance or transfer of the Property or any part thereof without the written approval from the Grantor. In order to transfer the Property, the Grantor must document the household income of any new buyer to ensure that the new household's income is at or below eighty (80.0%) of the median family income based upon family size for Champaign County, Illinois as determined by HUD.
6. **PROPERTY TRANSFER.** If Borrower transfers ownership of the Property during the affordability period as defined in Section 4, the Borrower is allowed to receive a fair return of investment in the property. Homeowner investment is

defined as the sum of downpayment, capital improvements, and loan principal payments. Costs associated with repairs and maintenance shall not be included as homeowner investment.

- (a) Transfer to Low-Income Family. Borrower will be allowed to retain all sales proceeds if the Property is transferred to a low-income family as defined in Section 5.
- (b) Transfer to a Non Low-Income Family. Any sales proceeds from a sale/transfer of the Property to a non low-income homebuyer as defined in Section 5 will be distributed between Borrower, Ecological Construction Laboratory and the Grantor.

If Borrower transfers ownership of the Property during the affordability period to a family that is not low-income as defined by Section 5 of this agreement, a portion of the HOME funds provided this property, as defined in "Recital B" of this Agreement will be re-paid to the Grantor. On the first anniversary date of the execution of the Agreement and on each successive anniversary of said date of execution thereafter until ten (10) years after the date of this Agreement, one tenth (1/10) of the initial amount of the HOME funds provided by the Grantor shall be forgiven. Borrower shall be responsible for repayment of the balance not forgiven to the Grantor.

- 7. FORECLOSURE. The affordability requirements as stated herein may terminate upon foreclosure or transfer in lieu of foreclosure in accordance with HUD regulations at 24 CFR Part 92.254(a). Said restrictions shall include that Grantor may use purchase options, rights of first refusal or other preemptive rights to purchase the property before foreclosure or deed in lieu of foreclosure to preserve affordability.
- 8. VIOLATION OF AGREEMENT BY BORROWER. Upon violation of the affordability requirements of this Agreement by the Borrower, Grantor shall give written notice thereof to Borrower. If such violation is not corrected to the satisfaction of Grantor within thirty (30) days after the date such notice is mailed, or within such further time as the Grantor in its sole discretion permits (but if such violation is of a nature that it cannot be cured within such thirty (30) day period, then so long as the Borrower commences to cure within such thirty (30) day period and diligently pursues such cure to completion within a reasonable period not to be considered a violation), Borrower may declare a default under this Agreement, effective on the date of such declaration of default and notice thereof to the Borrower, and upon such default Grantor may:
 - (a) Require that the Property be purchased by a household that meets the affordability requirements in Section 4.
 - (b) If the Property cannot be purchased by a low-income family as defined in Section 4 or has been purchased by a non low-income household as

defined in Section 4, Grantor requires that the HOME investment as defined in "Recital B" by the method outlined in Section 5(b) of this Agreement be repaid to the Grantor.

9. **TERMS OF AGREEMENT; COVENANTS RUN WITH PROPERTY.** The requirements and agreements set forth in this Agreement shall be deemed to run with, bind, and burden the Property and shall be deemed to bind any New Buyer and any other future owners of the Property and the holder of any legal, equitable, or beneficial interest therein for the Affordability Period.
10. **INDEMNIFICATION.**
 - (a) The Borrower shall indemnify the Grantor and the Grantor's officers, agents, employees, or servants against, and hold them harmless from, liabilities, claims, damages, losses, and expenses, including but not limited to, legal defense costs, attorneys' fees, settlements, or judgements, whether by direct suit or from third parties, arising out of the Borrower's purchase of the Property in any claim or suit brought by a person or third party against the Grantor or the Grantor's officers, agents, employees, or servants.
 - (b) If a claim or suit is brought against the Grantor or the Grantor's officers, agents, employees, or servants, for which the Borrower is responsible pursuant to Subsection (a) above, the Borrower shall defend, at the Borrower's cost and expense, any suit or claim, and shall pay resulting claims, judgements, damages, losses, costs expenses, or settlements against the Grantor or the Grantor's officers, agents, employees, or servants.
11. **AMENDMENT.** This Agreement shall not be altered or amended except in writing and signed by the parties hereto.
12. **COUNTERPARTS.** This Agreement may be executed in counterparts, and each counterpart shall, for all purposes for which an original of this Agreement must be produced or exhibited, be the Agreement, but all such counterparts shall constitute one and the same agreement.
13. **NOTICES.** Notices and communications under this Agreement shall be sent first class, prepaid to the respective parties as follows.

TO THE CITY: Erin J. Bullok, Grants Management Division
City of Urbana
400 South Vine Street
Urbana, IL 61801

TO: Affordable Homeownership Program Customer Name
Street Address
Urbana, IL zip code

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

BORROWERS:
Affordable Homeownership Program Customer Name

Signature

GRANTOR:
CITY OF URBANA, ILLINOIS

By: _____
Erin J. Bullok, Grants Management Division
City of Urbana

Document Created By:
Grants Management Division
City of Urbana
400 South Vine Street
Urbana, IL 61801
217-384-2447

Return Document To:
Grants Management Division
City of Urbana
400 South Vine Street
Urbana, IL 61801
217-384-2447

EXHIBIT A - LEGAL DESCRIPTION

Lot xxx in xxx Subdivision, in the City of Urbana/Champaign, Champaign County, Illinois.

Common Address: Street Address, Urbana, Illinois zip code

PIN: xx-xx-xx-xxx-xxx

MORTGAGE

THIS MORTGAGE (“Mortgage”) is given on <closing date> , by _____ (the “Borrower”) to The City of Urbana, a unit of local government (the “Grantor”). Borrower conditionally owes the Grantor a maximum amount of <amount> and 00/100 Dollars (\$<amount>). This debt is evidenced by Borrower’s promissory note dated the same date as this Mortgage (the “Note”), a copy of which is attached hereto as Exhibit “A”, which provides for a five-year term, hereinafter referred to as the “Affordability Period,” commencing on <closing date>.

This Mortgage secures to the Grantor: (a) all repayment of the debt evidenced by the Note, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums advanced by the Grantor pursuant to paragraph 7 of this Mortgage to protect the security of this Mortgage; and (c) the performance of Borrower’s covenants and agreements under this Mortgage, Indirect Homebuyer Assistance Land-Use Regulatory Agreement between Borrower and Grantor dated the date hereof (the “Land Use Restriction Agreement”) and the Note.

For these purposes, Borrower hereby mortgages, grants and conveys to the Grantor, its successors and assigns, the real property described on Exhibit “B”, attached hereto and incorporated by reference herein, located in the County of Champaign, State of Illinois, together with (a) all the improvements now or hereafter erected on the property and all easements, rights and appurtenances thereto; (b) all leases and licenses with respect to the property; (c) all rents, royalties and profits thereof; and (d) all fixtures and equipment now or hereafter in or on the property. All replacements and additions shall also be covered by this Mortgage. The real property referenced in Exhibit B and all of the other property subject to this mortgage is hereinafter referred to collectively in this Mortgage as the “Property”.

Borrower covenants that Borrower is the lawful owner of the Property conveyed by this Mortgage and has the full right and power to mortgage, grant and convey the Property and that the Property is unencumbered, except for the encumbrances of record described in Exhibit “C” hereto acceptable to the Grantor (the “Permitted Encumbrances”). Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any Permitted Encumbrances.

Borrower covenants to the Grantor as follows:

1. **Payment Under the Note.** Borrower agrees to promptly pay when due any amounts required to be paid by the Note.

2. **Application of Payments.** Unless applicable law provides otherwise, all payments received by the Grantor under paragraph 1 will be applied to principal due under the Note.

3. **Charges and Liens.** Borrower will pay all taxes, assessments, charges and fines attributable to the Property which may attain priority over this Mortgage. Borrower will pay these obligations on time directly to the person to whom payment is owed.

Borrower will promptly discharge any lien which may attain priority over this Mortgage unless Borrower: (a) agrees in writing to pay the obligation secured by the lien in a manner acceptable to the Grantor; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which, in the Grantor's opinion, operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to the Grantor subordinating the lien to this Mortgage. If the Grantor determines that any part of the Property is subject to a lien which may attain priority over this Mortgage, the Grantor may give Borrower a notice identifying the lien. Borrower will satisfy the lien or take one or more of the actions set forth above within ten (10) days of the Grantor's giving of such notice.

4. **Hazard Insurance.** Borrower will keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and any other hazards for which the Grantor requires insurance. All policies of insurance hereunder will be from such companies and in such form and amounts as may be satisfactory to the Grantor, will name the Grantor as a loss payee and will include a provision requiring 30 days advance written notice to the Grantor prior to the termination or modification of such policy.

All insurance policies and renewals must be acceptable to the Grantor and must include a standard mortgage clause. The Grantor may hold the policies and renewals and, if the Grantor requires, Borrower will promptly give to the Grantor all receipts of paid premiums and renewal notices. Upon the occurrence of a loss covered by insurance. Borrower will give prompt notice to the insurance carrier and the Grantor. The Grantor may make proof of loss if not made promptly by Borrower.

Insurance proceeds will be applied to restoration or repair of the Property damaged if the Grantor determines that the restoration or repair is economically feasible and the Grantor's security is not lessened by such restoration or repair. In such event, the Grantor has the right to collect and hold the insurance proceeds and make the proceeds available to Borrower from time to time for the payment of the cost and expense of repair and restoration upon receipt of satisfactory evidence that such cost or expense has been incurred. If the Grantor determines that the restoration or repair is not economically feasible or the Grantor's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Mortgage, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property or does not answer within 30 days a notice from the Grantor that the insurance carrier has offered to settle a claim, then the Grantor may settle the claim with the insurance carrier and collect the insurance proceeds from the insurance carrier and may use the proceeds to repair or restore the Property or to pay sums secured by this Mortgage, whether or not then due.

If under paragraph 19 the Property is acquired by the Grantor, Borrower's right to any insurance policies and all insurance proceeds resulting from damage to the Property prior to the Grantor's acquisition shall pass to the Grantor to the extent of the sums secured by this Mortgage immediately prior to such acquisition.

5. **Preservation and Maintenance of Property.** Borrower shall not destroy, damage or substantially change the Property, allow the Property to deteriorate, or commit waste. Borrower shall cause the Property to comply with all local codes, ordinances, zoning ordinances, the Model Energy Code and the United States Department of Housing and Urban Development's ("HUD") Section 8 Housing Quality Standards, as set forth in Section 370.601 of the Rules.

6. **Occupancy and Resale Restrictions.** Borrower covenants that during the Affordability Period, the property shall be occupied and maintained as the principal residence of the owner and that any subsequent sales of the Property is restricted to a household having an income at or below 80 percent of area median family income as determined by HUD (the "Affordability Requirements").

In the event of a foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Property, the Grantor shall have the right, but not the obligation, to acquire the Property prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions as provided in 24 CFR Part 92.254 (a)(4) of the Regulations.

7. **Protection of the Grantor's Rights in the Property: Mortgage Insurance.** If Borrower fails to perform the covenants and agreements contained in this Mortgage or there is a legal proceeding that might significantly affect the Grantor's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or to enforce laws or regulations), then the Grantor may do and pay for whatever is necessary to protect the value of the Property and the Grantor's rights in the Property. The Grantor's actions may include paying any sums secured by a lien which has priority over this Mortgage, appearing in court, paying reasonable attorneys' fees and entering on the Property to make repairs. Although the Grantor may take action under this paragraph 7, the Grantor does not have to do so. Any amount disbursed by the Grantor under this paragraph 7 shall become additional debt of Borrower secured by this Mortgage.

8. **Inspection.** The Grantor or its agents may make reasonable entries upon and inspections of the Property. The Grantor shall give Borrower notice prior to the time of an inspection specifying reasonable cause for the inspection.

9. **Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property or for conveyance in lieu of condemnation are hereby assigned and shall be paid to the Grantor and shall be applied to the sums secured by this Mortgage as if the Note had been prepaid on the date the condemnation award is approved, whether or not then due, with any excess paid to Borrower. If the Property is abandoned by Borrower or if,

after notice by the Grantor to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to the Grantor within 30 days after the date the notice is given, the Grantor is authorized to accept such award or settlement and to collect and apply the proceeds, at its option, either to restoration or repair of the Property or to the sums secured by this Mortgage, whether or not then due.

10. **Borrower Not Released; Forbearance Not a Waiver.** Extension of the time for payment or modification of payment of the sums secured by this Mortgage granted by the Grantor to any successor in interest of Borrower shall not operate to release the liability of the original Borrower or Borrower' successors in interest. The Grantor shall not be required to commence proceedings against any successor in interest and may refuse to extend time for payment or otherwise modify payment of the sums secured by this Mortgage by reason of any demand made by the original Borrower or Borrower' successors in interest. Any forbearance by the Grantor in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

11. **Successors and Assigns Bound.** The covenants and agreements of this Mortgage shall bind and benefit the successors and assigns of the Grantor and Borrower and shall be covenants running with, binding and burdening the Property, subject to the provisions of paragraphs 17 and 21.

12. **Loan Charges.** If the loan secured by this Mortgage is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the loan charges collected or to be collected in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. The Grantor may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note. Notwithstanding anything to the contrary set forth in this paragraph 12, no interest or prepayment charge is payable under the Note.

13. **Legislation Affecting the Grantor's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Mortgage unenforceable according to its terms, the Grantor, at its option, may require immediate payment in full of all sums secured by this Mortgage and may invoke any remedies permitted by paragraph 19. If the Grantor exercises this option, the Grantor shall take the steps specified in paragraph 19.

14. **Notices.** Any notices, demand, request or other communication that any party may desire or may be required to give to any other party hereunder shall be given in writing at the addresses set forth below by any of the following means: (a) personal service; (b) electronic communication, whether by telegram or telecopier, together with confirmation of transmission; (c) overnight courier; or (d) registered or certified United States mail, postage prepaid, return receipt requested.

The Borrower

Urbana, IL 61801
Telephone No.: (217)

The Grantor:

City of Urbana
ATTN: Grants Management, Manager
Grants Management Division
400 S. Vine Street
Urbana, IL 61801
217.384.2447

Such addresses may be changed by notice to the other party given in the same manner as herein provided. Any notice, demand, request or other communication sent pursuant to either subsection (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means. Any notice, demand, request or other communication sent pursuant to subsection (c) shall be served and effective one (1) business day after deposit with the overnight courier. Any notice, demand, request or other communication sent pursuant to subsection (d) shall be served and effective three (3) business days after proper deposit with the United States Postal Service.

15. **Governing Law; Severability.** This Mortgage shall be governed by the laws of the State of Illinois (without giving effect to Illinois choice of law principles). In the event that any provision or clause of this Mortgage, the Agreement or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage, the Agreement or the Note, as the case may be, which can be given effect without the conflicting provision. To this end, the provisions of this Mortgage, the Agreement and the Note are declared to be severable.

16. **Borrower's Copy.** Borrower shall be given one conformed copy of the Note, the Agreement and this Mortgage.

17. **Transfer of the Property or a Beneficial Interest in Borrower.** In the event of (a) a default by Borrower, beyond any applicable cure period, of its obligations under the Note or this Mortgage, or (b) a sale, conveyance or other transfer of the Property to a non-income eligible buyer for consideration, excluding, however, if Borrower are individuals, any sale, conveyance or transfer to a spouse upon a dissolution of marriage, or to a surviving spouse upon the death of a Borrower, then Borrower shall repay to the Grantor the Loan, or such portion of the Loan as may be due and payable under the terms of the Note and Land Use Regulatory Agreement.

Upon the occurrence of either of the foregoing events, the Grantor shall give Borrower notice of acceleration. This notice shall provide a period of not less than 30 days from the date the notice is given within which Borrower must pay all sums required

by this paragraph 17. If Borrower fails to pay these sums prior to the expiration of this period, the Grantor may invoke any remedies permitted by this Mortgage without further notice or demand on Borrower.

18. **Borrower's Right to Reinstate.** If Borrower meets certain conditions, Borrower will have the right to have enforcement of this Mortgage discontinued at any time prior to the earlier of: (a) five (5) days (or such other period as applicable law may specify for reinstatement) before sale of the Property pursuant to any power of sale contained in this Mortgage; or (b) entry of a judgment enforcing this Mortgage. Those conditions are that Borrower: (w) pays the Grantor all sums which then would be due under this Mortgage and the Note had no acceleration occurred; (x) cures any default of any other covenants or agreements; (y) pays all expenses incurred in enforcing this Mortgage, including, but not limited to, reasonable attorneys' fees; and (z) takes such action as the Grantor may reasonably require to assure that the lien of this Mortgage, the Grantor's rights in the Property and Borrower's obligations to pay the sums secured by this Mortgage shall continue unchanged. Upon reinstatement by Borrower, this Mortgage and the obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under paragraphs 13 or 17.

19. **Acceleration; Remedies.** Prior to any acceleration of the amounts owed to the Grantor under the Note or this Mortgage (other than an acceleration under paragraphs 13 and 17 unless applicable law provides otherwise) the Grantor shall give notice to Borrower following Borrower's breach of any covenant or agreement in this Mortgage (the "Default"). The notice shall specify: (a) the Default; (b) the action required to cure the Default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the Default must be cured; and (d) that failure to cure the Default on or before the date specified in the notice may result in acceleration of the sums secured by this Mortgage, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert, in the foreclosure proceeding, the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the Default is not cured on or before the date specified in the notice, the Grantor at its option may require immediate payment in full of all sums secured by this Mortgage without further demand and may foreclose this Mortgage by judicial proceeding. The Grantor shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph 19, including, but not limited to, reasonable attorneys' fees and costs of title evidence, and such sums shall be immediately due and payable and shall be secured by this Mortgage. Upon any sale of the Property made by virtue of judicial proceedings or a decree of foreclosure and sale, the Grantor may bid for and acquire the Property and in lieu of paying cash therefore may make settlement for the purchase price by crediting upon Borrower's indebtedness secured by this Mortgage, the sale price, after first deducting from the sale price the expenses of the sale and the cost of the foreclosure. The proceeds of any foreclosure sale of the Property shall be distributed and applied in the following order of priority: first, on account of all costs and expenses of the foreclosure proceedings; second, to repayment of

the indebtedness of Borrower secured by this Mortgage; and third, any excess to Borrower, its successors and assigns.

20. **Possession**. Upon acceleration under paragraph 19 or abandonment of the Property and at any time prior to the expiration of any period of redemption following judicial sale, the Grantor (in person, by agent or by judicially appointed receiver) shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. Any rents collected by the Grantor or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds and reasonable attorneys' fees, and then to the sums secured by this Mortgage.

21. **Release**. Upon the expiration of the Affordability Period, the Grantor shall release this Mortgage without charge to Borrower. Borrower shall pay any recordation costs. Notwithstanding any satisfaction of the Note prior to the expiration of the Affordability Period, however, the Regulatory and Land Use Restriction Agreement shall not be released, but shall remain effective for the entire Affordability Period.

22. **Waiver of Homestead**. Borrower waives all right of homestead exemption in the Property.

23. **Filing and Recording Fees**. Borrower shall pay all title insurance premiums, escrow charges, filing, registration or recording fees, and all expenses incident to the execution and acknowledgement of this Mortgage and all federal, state, county and municipal taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and performance of this Mortgage.

By signing below, Borrower accepts and agrees to be bound by the terms and covenants in this Mortgage.

Borrower

Borrower

STATE OF ILLINOIS)
) ss.
COUNTY OF CHAMPAIGN)

I, _____, a Notary Public in and for said county and state, do hereby certify that

Personally known to me to be the same person(s) whose name(s) _____ subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that _____ signed and delivered the said instrument as _____ free and voluntary act for the uses and purposes therein set forth.

Given under my hand and official seal, this _____ day of _____, 20_____.

Notary Public

EXHIBIT "A" (to mortgage)

PROMISSORY NOTE

U.S. \$ _____

FOR VALUE RECEIVED, the undersigned ("Borrower") covenants and promise(s) to pay to the order of the City of Urbana (the "Payee"), a unit of local government, the principal sum of _____ and _____ /100 Dollars (\$_____), with interest in the amount of zero percent (0%). Absent the occurrence of either of the events set forth in clauses (i) or (ii) below (each, a "Recapture Event"), no principal payments shall be due or payable. On the first anniversary of the date of execution of this note and on each successive anniversary of said date of execution year thereafter until ten (10) years after the date of this Note, Payee shall forgive the one ten (1/10) of the initial amount of indebtedness from the principal balance of this Promissory Note. The period from the date of this Promissory Note to the date that is ten (10) years after the date of this Note is referred to herein as the "Affordability Period".

Borrower agrees to repay to the Payee, and the Payee shall have the right to accelerate payment of, the outstanding principal balance upon the earliest to occur, within the Affordability Period, of the following:

- (i) a default by the Borrower, beyond any applicable cure period, under the Mortgage, the Regulatory and Land Use Restriction Agreement or any other document evidencing or securing the Loan; or
- (ii) the sale, conveyance or transfer of ownership of the Property to a Buyer whose household income exceeds 80 percent of the median county income, provided, however, that if the Borrower is an individual, that no transfer to a spouse upon a dissolution of a marriage or to a surviving spouse upon the death of Borrower, as the case may be, shall be deemed to be a sale, conveyance or transfer for purposes of this subparagraph.

The Payee may exercise the foregoing right to accelerate, regardless of any prior forbearance, in accordance with the terms of the Mortgage. If suit is brought to collect the sums due under this Note, the Payee shall be entitled to collect all reasonable costs and expenses of suit, including, but not limited to, reasonable attorneys' fees.

Presentment, notice of dishonor and protest are hereby waived by all Borrower, sureties, guarantors and endorsers hereof. This Note shall be the joint and several obligation of all Borrower, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns. Any subsequent holder of this Note shall have the same rights under this Note as Payee.

EXHIBIT "B" (to mortgage)

LEGAL DESCRIPTION:

Common address: Urbana, IL 61801

PIN:

EXHIBIT "C" (to mortgage)

PERMITTED ENCUMBRANCES:

Attachment 6
Sample Quarterly Report Required By the Urbana HOME Consortium

Circle the Quarter
1 2 3 4 **Quarterly Report**

FY 03/04			
Agency Name:			
Accomplishments:	# of clients served	duplicate? (circle y/n)	
estimated at application		yes no	
actual served during this quarter		yes no	
RACE:	# served	Notes:	
American Indian/Alaskan Native			
Asian			
Black/African-American			
Native Hawaii/Oth. Pacific Islander			
White			
Am Indian/Alaskan Native & White			
Asian & White			
American Indian/Alaskan Native & Black African American			
Black/African American & White			
Other Multi-Racial			
ETHNICITY:		Quarter:	Due Date:
# of clients of Hispanic ethnicity:		July-Sept	10-Oct
		Oct-Dec	10-Jan
INCOME:	see chart or comment fields	Jan-March	10-Apr
Extremely Low Income (ELI)		Apr-June	10-Jul
Very Low Income (VLI)			
Low Income			
Moderate Income			
GENDER:	Male:	Female:	
Total served:			
FEMALE HEAD of HOUSEHOLD	Yes:	No:	
Total served:			

Please email completed form to:
 bpgrewe@city.urbana.il.us

Is the Project on schedule for completion prior to termination date of the development agreement? yes no

ORDINANCE NO. 2005-06-083

**AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN
URBANA HOME CONSORTIUM SUB-RECIPIENT AGREEMENT**

**(Ecological Construction Laboratory
Affordable Homeownership Passive Solar House FY 2004-05)**

WHEREAS, The City Council of the City of Urbana, Illinois, has found and determined that execution of the attached sub-recipient agreement is desirable and necessary to carry out one of the corporate purposes of the City of Urbana, to wit: implementation of Affordable Housing Strategies and Objectives described in the *Urbana HOME Consortium and the City of Urbana Consolidated Plan for Program Years 2000-2004*, and the *Urbana HOME Consortium and the City of Urbana Consolidated Plan for Program Years 2005-2009*.

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

Section 1. That an Agreement providing \$30,000 in HOME funds, for the construction of a passive solar house in the City of Urbana as part of the Affordable Homeownership Program of the Ecological Construction Laboratory to homeownership opportunities to low- and moderate- income households, between the City of Urbana and the Ecological Construction Laboratory, 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 _____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this _____ day of _____, _____.

Laurel Lunt Prussing, Mayor