



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
Center for Women in Transition
(Transitional Housing Capital Project FY2004-2005)

Description

Included on the June 13 agenda of the Committee of the Whole is a proposed HOME agreement to pledge \$28,000 to the Center for Women in Transition for the costs associated with construction of their new transitional housing facility for homeless women and families.

Issues

The issue is whether to approve the agreement and ordinance.

Background

The City of Urbana has acted as the grantee of a program entitled Homeless Families in Transition since 1994. Three local agencies, the Center for Women in Transition, A Woman's Fund and Salvation Army, act as the sponsors of this program, providing the services. Earlier this year, the City and the sponsor agencies were informed that the request for annual renewal of funds for this program, submitted to HUD as part of the 2004 NOFA Application, had been denied. This resulted in a shortfall in operating funds for the 2005-2006 fiscal year for each of the agencies providing services as a part of this program.

The City, these agencies, and the Continuum of Care, a partnership of agencies that provide services to homeless individuals and families in our community, immediately began searching for potential funding sources to help cover the gap in funding. The Community Development Commission and the Urbana City Council inquired about using HOME Investment Partnerships Program (HOME Program) funds for this purpose.

Although HOME funds may not be used for "soft costs" such as salaries and other operational costs associated with social service activities, another option was discovered. The Center for Women in Transition is currently building a new transitional housing facility. The construction expenses, commonly referred to as "bricks and mortar" costs, of such a facility are an eligible expense under

the HOME Program. Further, the City has \$28,000 allocated from the 2003-2004 program year for a rehabilitation project that fell through.

The Urbana City Council directed the Grants Management Division to reallocate the \$28,000 of HOME funds to the transitional housing facility. Thus, the sub-recipient agreement was drafted.

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 would be reallocated from a project previously budgeted in FY 2003-2004.

Recommendations

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

Memorandum Prepared By:

Erin J. Bullok
Interim Manager
Grants Management Division

Attachments:

Center for Women in Transition HOME Agreement

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

URBANA HOME CONSORTIUM
SUBRECIPIENT AGREEMENT
CENTER FOR WOMEN IN TRANSITION

(Transitional Housing Facility Construction Project FY 2004-2005)

THIS Subrecipient 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 CENTER FOR WOMEN IN TRANSITION, an Illinois Not-For-Profit Organization (hereinafter “**AGENCY**”).

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, 2003, and ending June 30, 2004, to support HOME eligible housing activities within 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: \$1,178,315 in Urbana HOME Consortium funds for the period beginning July 1, 2003, and ending June 30, 2004, 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 HOME eligible housing activities

WHEREAS, the Council of the City of Urbana (hereinafter “Council”) has indicated its desired to support transitional housing programs as provided under HOME regulations,

WHEREAS, the Consolidated Plan supports strategies for addressing and resolving identified needs associated with issues of homelessness; and

WHEREAS, AGENCY has fulfilled all HOME Program requirements necessary to be a SUBRECIPIENT; and

WHEREAS, AGENCY desires to undertake a Transitional Housing building project (hereinafter the "PROJECT") within the Cities of Champaign and Urbana; and

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

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

WHEREAS, the AGENCY has been fully informed regarding all requirements or obligations that must be met by AGENCY in order to utilize HOME Program funds for the PROJECT, including but not limited to, the requirement that the transitional housing facility must continue to function as such for a period of ten (10) years, in accordance with 24 CFR Part 92, Sections 203, 251-253, and

WHEREAS, the AGENCY, having been fully informed regarding the requirements of the HOME Program, is committed to starting the PROJECT with the assistance of HOME Program funds on or before July 15, 2005 and has made necessary arrangements to provide any required matching private contribution towards the cost of said PROJECT

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 AGENCY an amount not to exceed **\$28,000** from its Federal Fiscal Year FY 2003-2004 HOME allocation to be used for construction expenses related to the PROJECT. The AGENCY shall use the Funds in accordance with the HOME program guidelines outlined in 24 CFR Part 92 in carrying out the PROJECT.

Section 2: Affordability

The AGENCY 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 AGENCY shall determine each family's income eligibility by determining the family's annual income, at the time that transitional housing services are provided, in accordance with the Part 5 (Section 8) methodology allowed in 24 CFR 92.203.

The PROJECT must remain a transitional housing facility for the ten (10) year affordability period. ***The affordability period commences upon project completion.*** For purposes of this AGREEMENT, project completion means that construction has been completed; 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.

For the ten (10) years following project completion (hereinafter referred to “the Affordability Period”), the following restrictions shall apply. The AGENCY agrees to assist the GRANTOR in restricting the use of the property by recording a Land Use Restriction Agreement (hereinafter the “DOCUMENT”) in form and with the same content as that executed under even date herewith. DOCUMENT shall be identical in substantial form as the form in “Attachment 2” attached hereto and by reference made a part hereof.

In the event the facility does not continue to operate as transitional housing 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 DOCUMENT. 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 AGENCY sell and transfer ownership of property assisted with HOME funds to another organization that does not continue to operate the facility as transitional housing, AGENCY 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 **\$28,000** 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 AGENCY under the following terms and conditions;

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

AGENCY 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 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 mortgages, 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 AGENCY agree that the DOCUMENT will be executed between the GRANTOR and the AGENCY at the completion of construction of the facility pursuant to this AGREEMENT. The DOCUMENT 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. GRANTOR staff will prepare this DOCUMENT 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 DOCUMENT. Failure to ensure that the DOCUMENT is executed at the initial purchase closing will result in withholding HOME Program funds until said item is addressed.

Section 4: Property Standards

The AGENCY agrees that facility receiving 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.

Section 5: Other Program Requirements

A. Non-discrimination and Equal Opportunity

AGENCY 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 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. AGENCY 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.

B. Displacement, Relocation and Acquisition

If applicable, AGENCY 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.

C. Labor Requirements

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

Section 6: Records

A. Records

AGENCY 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. AGENCY 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 2021). 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.

AGENCY 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 AGENCY, 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. AGENCY 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 AGENCY 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 construction 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.

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 AGENCY 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 AGENCY 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 AGENCY 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 AGENCY 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 AGENCY 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 AGENCY default.

Unless the AGENCY'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 AGENCY'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 AGENCY 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

AGENCY 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. The GRANTOR shall make payment to AGENCY 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 "Center for Women in Transition." All monies granted to AGENCY pursuant to this AGREEMENT shall be expended by June 15, 2006.

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 or the GRANTOR's complete and full disbursement of HOME Program funds to AGENCY as described in Section 2.

Section 10: Conditions for Religious Organizations

The AGENCY 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 and the City of Champaign shall incorporate applicable visitability for the jurisdiction in which the project is located.

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 PROJECT in excess of the funding pledged herein. The GRANTOR reserves the right to withhold pledged funds if the GRANTOR is not satisfied with the AGENCY's compliance with the terms and conditions of performance outlined in this AGREEMENT.

ARTICLE IV: CERTIFICATIONS

AGENCY represents the following with respect to this AGREEMENT.

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

- C. AGENCY, 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. AGENCY, 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 PROJECT 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. AGENCY 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. AGENCY certifies and agrees that it is under no contractual or other disability that would prevent AGENCY from complying with these requirements. AGENCY'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 AGENCY has a collective bargaining agreement or other understanding a notice of the AGENCY 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. AGENCY agrees to give maximum feasible priority to very low-income persons when administering the PROJECT described herein.

- F. AGENCY acknowledges it shall match HOME Program funds disbursed by the GRANTOR and pursuant to this AGREEMENT in the amount of **\$7,000** in non-federal funds as defined in 24 CFR Part 92.220.
- G. AGENCY 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. AGENCY 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. AGENCY shall separately and accurately identify use of HOME funds pursuant to this AGREEMENT.
- H. AGENCY 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 AGENCY receives federal financial assistance.
- I. AGENCY 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.
- J. AGENCY 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 AGENCY, 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, AGENCY will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- L. AGENCY 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. AGENCY 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. AGENCY shall be liable to perform all acts to the GRANTOR in the same manner as the GRANTOR performs these functions to the Federal government.
- N. AGENCY 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 AGENCY, 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 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 AGENCY 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.
- O. AGENCY shall have full control of the ways and means of performing the services referred to herein. AGENCY acknowledges and agrees that its employees, representatives, subcontractors, and agents may in no respect be considered employees of the GRANTOR.
- P. AGENCY agrees that, to the greatest extent feasible, all construction-related expenditures made for the PROJECT 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, Interim Manager
Grants Management Division
400 South Vine Street
Urbana, Illinois 61801

TO THE AGENCY: Kathy Sims, Executive Director
Center for Women in Transition
506 E. Church Street
Champaign, IL 61820

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 AGENCY.

ARTICLE VIII: ASSIGNMENT

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

ARTICLE IX: EXECUTION OF AGREEMENT

This AGREEMENT shall be binding upon the GRANTOR and AGENCY, 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 X: PROJECT PUBLICITY

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

ARTICLE XI: MONITORING AND EVALUATING

The GRANTOR shall be responsible for monitoring and/or evaluating all aspects of the services provided by AGENCY 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 AGENCY'S performance under this AGREEMENT, the GRANTOR shall make on-site inspections annually or as often as it deems necessary. Failure by the AGENCY to assist the GRANTOR in this effort, including allowing the GRANTOR to conduct the on-site inspections and have access to the AGENCY'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 units are the principal residence of the homebuyers and they are maintained to minimum property standards as determined by the code requirements as adopted by the local jurisdiction the Project is located in.

ARTICLE XII: INDEMNIFICATION

AGENCY 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 AGENCY;
- B. Fraud, defalcation or dishonesty on the part of any person representing, employed by, contracted or subcontracted by AGENCY;
- C. Any act, omission, wrongdoing, misconduct, want of care or skill, negligence or default on the part of AGENCY 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 AGENCY by registered or certified mail addressed to AGENCY. Upon receipt of such notice, AGENCY, 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

AGENCY:

Signature

Title

Attest

- Attachment 1 - Notice (the State of Illinois Prevailing Wage Act)**
- Attachment 2- Land Use Restriction Agreement**

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, authorized by law to construct public works . . ." (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."

**AGENCY: Center for Women in Transition
506 E. Church Street
Champaign IL 61820**

Signed by: _____

Title: _____ Date: _____

**CITY OF URBANA
TRANSITIONAL HOUSING FACILITY
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 Center for Women in Transition (the “Agency”), 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 Agency’s construction of a transitional housing facility on the property set forth below.

RECITALS

- A. The Grantor receives funds to promote housing activities 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 \$28,000 from the HOME Program to promote homeownership to support transitional housing for homeless women and families, whereby the Center for Women in Transition constructed the facility located at Street Address, Champaign, IL, more particularly described as Legal Description.
- C. The Grantor has determined that the rights and restrictions granted herein to the Grantor serve the public’s interest in the creation of transitional housing for homeless women and families in the restriction of how the Property may be used to in order to assure the property’s affordability continued operation as a transitional housing facility.

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 the Agency agrees to comply with the terms and conditions of the HOME Act and Regulations, as amended and supplemented from time to time.

3. **AGENCY CERTIFICATIONS.** The Agency certifies to the Grantor the following.
 - (a) **Title.** Center for Women in Transition holds free and simple title to the Property at this time.
 - (b) **Use.** Agency will use the Property as a transitional housing facility for a period of ten (10) years from the date of this Agreement.
4. **TRANSFER RESTRICTIONS DURING AFFORDABILITY PERIOD.** The Agency agrees that this Agreement shall restrict the subsequent transfer, through sale or other means, of the Property to another agency that has the intention and capacity to continue to use the Property as a transitional housing facility operating at the same or greater volume. This requirement will terminate ten (10) years from the date of this Agreement.
5. **ACTS REQUIRING GRANTOR'S APPROVAL.** Agency 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.

If Agency transfers ownership of the Property during the affordability period other than as defined by Section 4 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. Agency 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 AGENCY.** Upon violation of the affordability requirements of this Agreement by the Agency, Grantor shall give written notice thereof to Agency. 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 Agency 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), Agency may declare a default under this Agreement, effective on the date of such declaration of default and notice thereof to the

Agency, and upon such default Grantor may require 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 Agency 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 Agency'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 Agency is responsible pursuant to Subsection (a) above, the Agency shall defend, at the Agency'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, Interim Manager,
Grants Management Division
City of Urbana
400 South Vine Street
Urbana, IL 61801

TO: Kathy Sims, Executive Director
Center for Women in Transition
506 E. Church Street
Champaign, IL 61820

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

AGENCY:
Kathy Sims, Executive Director
Center for Women in Transition

Signature

GRANTOR:
CITY OF URBANA, ILLINOIS

By: _____
Erin J. Bullok, Interim Manager, 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

ORDINANCE NO. 2005-06-080

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

(Center for Women in Transition Capital Project FY 2004-2005)

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 Strategies and Objectives to Address the Needs of Homeless Individuals and Families 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 \$28,000 in HOME funds, for the construction of a transitional housing facility in the City of Champaign for use by the Center for Women in Transition to provide transitional housing and supportive services to homeless women and families, between the City of Urbana and the Center for Women in Transition, 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