



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: July 14, 2005

**SUBJECT: AN ORDINANCE AUTHORIZING THE TRANSFER
OF CERTAIN REAL ESTATE
(1005 W. Fairview Ave.)**

Description

Included on the July 18 agenda of the Urbana City Council is an ordinance authorizing the sale of 1005 W. Fairview Ave. to Ecological Construction Laboratory (e-co lab) for the amount of \$1.00.

Issues

The issue is whether to approve the ordinance.

Background

Ecological Construction Laboratory (e-co lab) submitted an application for HOME funds to be used to construct a single-family passive solar home, which would be sold to a family whose income did not exceed 80% Median Family Income. This application was allocated \$30,000 as part of the 2004-2005 Annual Action Plan.

At the June 20, 2005 meeting, An Ordinance Approving and Authorizing the Execution of an Urbana HOME Consortium Subrecipient Agreement (Ecological Construction Laboratory Affordable Homeownership Program 2004-2005; Passive Solar House Ownership Program – Ordinance 2005-06-083) was passed by City Council. The subrecipient agreement presented at this time identified 1005 W. Fairview Avenue as the location for this project.

Options

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

Fiscal Impacts

There would be no fiscal impact to the city budget. Funds for this project have been allocated from the 2004-2005 HOME Budget, as identified in the amended Annual Action Plan.

Recommendations

Staff recommends that City Council approval of the attached ordinance.

Memorandum Prepared By:

Erin J. Bullok
Interim Manager
Grants Management Division

Attachments:

Contract for Sale of Real Estate

Warranty Deed

An Ordinance Authorizing the Transfer of Certain Real Estate (1005 W. Fairview Ave.)

CONTRACT FOR SALE OF REAL ESTATE

This Contract made and entered into this _____ day of _____, 2005, by and between the City of Urbana, Illinois, a municipal corporation of the State of Illinois (hereinafter referred to as Seller), and Ecological Construction Laboratory, an Illinois not-for-profit corporation (hereinafter referred to as Buyer).

WITNESSETH:

IT IS MUTUALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES
HERETO as follows:

1. Sale. Seller agrees to sell and convey, and Buyer agrees to buy, the following described parcel of real estate:

Lot 8 of Sarah A. Sim's Addition to the City of Urbana, Illinois, situated in the City of Urbana, County of Champaign and State of Illinois;

PIN: 91-21-07-428-003;

more commonly known as 1005 W. Fairview Ave., Urbana, Illinois
(hereinafter referred to as Subject Property).

2. Purchase Price. Seller agrees to convey title to Subject Property for One Dollar (\$1.00) and other consideration as described herein.
3. Evidence of Title. Within a reasonable time, Seller shall select and deliver one of the following to Buyer as evidence of title:
 - a. A copy of a title insurance policy issued to the City by Allied Title Services, Inc., Champaign, Illinois, in connection with acquisition of Subject Property by the City; the City warrants that it has done nothing to encumber Subject Property since its acquisition of Subject Property; or
 - b. A commitment of title insurance issued by a title insurance company regularly doing business in Champaign County, committing the company to issue a policy in the usual form insuring title to Subject Property to Buyer for the amount of the Seller's purchase price or the minimum amount of title insurance, whichever is greater.

Permissible exceptions to title shall include only the lien of general taxes; zoning laws and building ordinances; easements, apparent or of record, which do not underlie the improvements, if any; and covenants and restrictions of record which are not violated by the existing improvements or the present use of the property and which do not restrict reasonable use of the property.

Buyer shall point out in writing to Seller within a reasonable time after receipt of the evidence of title any objections that Buyer may have thereto and unless so pointed out the evidence of title shall be conclusively presumed to be accepted by Buyer.

Seller shall have a reasonable time to cure any objections actually interfering with or impairing the merchantability of the title to Subject Property. If Seller is unable to cure such objections and is unable to procure a title policy insuring over such objections, then Buyer shall have the option to terminate the Contract.

The evidence of title and title insurance shall be at the sole expense of the Seller.

4. Conveyance. Seller agrees to convey Subject Property to Buyer by good and sufficient Warranty Deed, subject to current general taxes, covenants, conditions, restrictions, easements apparent or of record, and to all applicable zoning laws and ordinances.

At the time of closing of this transaction, a Warranty Deed from Seller in favor of Buyer shall be placed in escrow with the City of Urbana Department of Community Development Services (hereinafter referred to as "Escrow Agent"). At the same time, a Quit Claim Deed from Buyer in favor of Seller shall be placed in escrow with the Escrow Agent.

In the event that Buyer constructs a single-family residence on Subject Property and is issued a certificate of occupancy for said residence by the Urbana Building Safety Division on or before June 30, 2006, or on or before the date established in any modification to this Contract, the Escrow Agent shall deliver said Warranty Deed to Buyer and shall destroy said Quit Claim Deed.

In the event that Buyer has not started construction of a single-family residence on Subject Property as of June 30, 2006, or as of the date established in any modification to this Contract, the Escrow Agent shall destroy said Warranty Deed and shall release said Quit Claim Deed to Seller.

In the event that Buyer has begun construction of a single-family residence on Subject Property as of June 30, 2006, or as of the date established in any modification to this Contract, but has not received a Certificate of Occupancy for said residence as of that date, Seller retains the right to pay Buyer, in care of the Escrow Agent, an amount equivalent to the value of improvements in place on Subject Property as of June 30, 2006, or as of the date established in any modification to this Contract, taking credit against said amount for any outstanding liens or encumbrances against Subject Property, said liens including real estate taxes prorated up to the date Seller assumes possession under this paragraph. Said value shall be certified to both Buyer and Seller by an architect licensed by the State of Illinois, doing business in Champaign County, Illinois and mutually acceptable to Buyer and Seller. The Escrow Agent shall deliver said payment to Buyer, destroy said Warranty Deed, and release said Quit Claim Deed to the Seller.

No legal right, title, or interest, except as Contract Purchaser, in the Subject Property or any improvements thereon, shall vest in Buyer until delivery of said Warranty Deed by Escrow Agent to Buyer in the manner and under the conditions prescribed herein.

Any and all escrow charges shall be paid by Buyer.

5. Taxes and Assessments. Seller shall pay all special assessments confirmed prior to the date of this Contract and real estate taxes assessed against Subject Property for 2005 payable in 2006 up to the date of possession. Buyer shall pay all special assessments and real estate taxes assessed against Subject Property after the date of possession

Buyer shall promptly pay all bills for utilities and taxes associated with Buyer's possession and use of Subject Property, including but not limited to water, gas, electric, cable television, sewage treatment, and sewer benefit taxes.

6. Condition of Subject Property. Buyer agrees to accept Subject Property in its "as-is" condition, and Seller disclaims all warranties express or implied as to the condition of Subject Property.
7. Compliance with Development Codes. Any residence constructed pursuant to this Contract shall be constructed in accordance with all applicable land development, zoning, and building codes of the City of Urbana, Illinois, and with any and all covenants recorded for the subdivision in which Subject Property is located. Buyer shall be responsible for obtaining and paying for all permits required under said codes.
8. House Design. Any residence constructed pursuant to this Contract shall be substantially compatible in design and quality of construction with drawings previously submitted by Ecological Construction Laboratory to the City of Urbana. Prior to issuance of any building permit by the Building Safety Division of the City of Urbana, Illinois, the Grants Management Division Manager of the Department of Community Development Services of the City of Urbana, Illinois, acting on behalf of the City, may request alterations to the proposed house design so as to comply with this Section.
9. Use of Subject Property. The primary purpose of Buyer activities undertaken pursuant to this Contract shall be construction of a single-family residence for sale to a low-income household through Buyer's Homeownership Program.
10. Limitation on Subsequent Sale of Subject Property. Any residence constructed by Buyer on Subject Property pursuant to this Contract may subsequently be sold by Buyer only to a family having income at or below 80 percent of median family income for Champaign County based on household size. Applicable income limits are those certified by the Grants Management Division Manager of the Department of Community Development Services of the City of Urbana, Illinois, acting on behalf of the City, to be in effect at the time Buyer accepts a household into its Homeownership Program. Buyer shall keep

record of compliance with this Section on file for inspection by representatives of the City and the U.S. Department of Housing and Urban Development.

11. Property Maintenance. Buyer agrees to keep Subject Property properly mowed and free of excess vegetation and debris at all times from the date of this contract. Buyer shall neither suffer nor commit any waste on or to Subject Property. Buyer agrees to promptly respond to any notices received from the City of Urbana, Illinois, with regard to violation of the City's nuisance codes and to promptly correct any violation cited by said City. Buyer shall promptly pay all bills or charges incurred for materials, services, labor, or other like items that may create encumbrances against Subject Property. Buyer will become responsible for all property maintenance as of the date of this Contract.
12. Construction Schedule. Buyer agrees to construct a single-family residence on Subject Property such that a Certificate of Occupancy is issued for the newly constructed residence by the Urbana Building Safety Division on or before June 30, 2006, or, on or before a date established in any modification to this Contract.
13. Storage of Building Materials. Building materials needed to construct any residence pursuant to this Contract shall be stored within property lines and shall not be placed in the public right-of-way.
14. Seller Held Harmless. Buyer agrees to indemnify and hold Seller, its officers, agents, and employees, harmless for any liability or damages of any nature or kind concerning undertaking of any activity pursuant to this Contract, including reasonable attorneys' fees incurred in defending against any such claim.
15. Assignment. Buyer shall not assign this Contract without prior written consent of Seller to such assignment; provided, however, that Seller shall not unreasonably withhold such consent and further provided that no such assignment shall act as a discharge or release of Buyer's liability under this Contract.
16. Possession. City shall deliver possession of Subject Property to Buyer concurrently with closing of this transaction to be held on or before August 1, 2005.
17. Default. If Buyer fails to perform any obligation imposed upon it by this Contract, Seller may serve written notice of default upon Buyer and if such default is not corrected within ten (10) days thereafter, this Contract shall terminate. In the event of failure of Seller to perform obligations imposed upon it by this Contract, Buyer may terminate this Contract upon similar notice served upon Seller and similar expiration of time period. The foregoing remedies in the event of default are not intended to be exclusive, and the parties shall have the right to all other lawful remedies, including specific performance. Default by Seller or Buyer shall entitle the non-defaulting party to claim as damages all reasonable costs, attorneys' fees, and expenses in connection with enforcement of this Contract.

18. Notices. Any notice required under this Contract to be served upon Seller or Buyer shall be personally delivered, or shall be mailed by certified mail to such parties at the address shown herein following their signatures, or at such other place as the parties may from time to time designate in writing.
19. Modification. No modification or extension of this Contract shall be effective unless in writing and executed by the parties hereto.
20. Terms Binding. All terms of this Contract shall be binding upon the heirs, legatees, devisees, representatives, and assignees of the parties.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year first above written.

SELLER::

City of Urbana, Illinois
400 South Vine Street
Urbana, Illinois 61801

BY: _____
Laurel Lunt Prussing, Mayor

ATTEST: _____
Phyllis D. Clark, City Clerk

BUYER:

Ecological Construction Laboratory
206 1/2 Brady Lane
Urbana, Illinois 61802

BY: _____
Mark Whitney, President

ATTEST: _____
Katrin Klingenberg, Executive Director

WARRANTY DEED

THIS INDENTURE WITNESSETH, that the Grantor, THE CITY OF URBANA, ILLINOIS, a municipal corporation duly organized and existing under and by virtue of the laws of the State of Illinois, for and in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, and pursuant to authority given by the City Council of the City of Urbana, Illinois, by virtue of Ordinance No. _____, CONVEYS AND WARRANTS to ECOLOGICAL CONSTRUCTION LABORATORY, an Illinois not-for-profit corporation, the following described real estate, to-wit:

Lot 8 of Sarah A. Sim's Addition to the City of Urbana, Illinois, situated in the City of Urbana, County of Champaign and State of Illinois;

more commonly known as 1005 W. Fairview Avenue,
Urbana, Illinois;
PTN: 91-21-07-428-003

Subject to:

- (1) Real estate taxes for the year 2005 and subsequent years;
- (2) Covenants, conditions, restrictions, and easements apparent or of record;
- (3) All applicable zoning laws and ordinances.

IN WITNESSETH, said Grantor has caused its corporate seal to be affixed, and has caused its name to be signed to these presents by LAUREL LUNT PRUSSING, its Mayor, and attested by Phyllis D. Clark, its City Clerk, this ____ day of _____, 2005.

CITY OF URBANA, ILLINOIS

By: _____
Laurel Lunt Prussing, Mayor

ATTEST:

By: _____
Phyllis D. Clark, City Clerk

STATE OF ILLINOIS)
) SS.
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that LAUREL LUNT PRUSSING, personally known to me to be the Mayor of the City of Urbana, Illinois, the GRANTOR, and PHYLLIS D. CLARK, personally known to me to be the City Clerk of the City of Urbana, Illinois, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as Laurel Lunt Prussing, Mayor, and Phyllis D. Clark, City Clerk, they signed and delivered the said instrument and caused the corporate seal of the City to be affixed thereto, pursuant to authority given by the City Council of said City by virtue of Ordinance No. _____ as their free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of _____, 2005.

Notary Public

Exempt under provisions of Paragraph (b), Section 4, Real Estate Transfer Act (35 ILCS 305/4(b)).

Date: _____ Signature: _____

Deed Prepared By:
Jack Waaler, City Attorney
City of Urbana
400 South Vine Street
Urbana, Illinois 61801

Return Deed, Send Tax Bill To:
Ecological Construction Laboratory
206 ½ Brady Lane
Urbana, Illinois 61802

ORDINANCE NO. 2005-07-114

**AN ORDINANCE AUTHORIZING THE TRANSFER
OF CERTAIN REAL ESTATE**

(1005 W. Fairview Ave.)

WHEREAS, Subsection (a), entitled “Sale of real estate,” of Section 2-118, entitled “Purchase, sale, lease, etc., of real estate,” of the Code of Ordinances, City of Urbana, Illinois, provides that any real estate owned by the City of Urbana may be sold in any manner prescribed by the City Council in an ordinance authorizing such sale; and

WHEREAS, the requirements of said Subsection (a) of Section 2-118 for a public hearing and for the required notice for such public hearing do not, pursuant to the terms thereof, apply to the sale of residential property acquired under the community development program; and

WHEREAS, the City Council now desires to sell the real estate commonly known as 1005 W. Fairview Ave., which said property has heretofore been acquired under the community development program, in accordance with said Subsection (a) of Section 2-118 and the policy heretofore established with respect thereto; and

WHEREAS, the City Council expressly finds and declares that said real estate is not needed for governmental purposes or proprietary activity of the City of Urbana.

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

Section 1. That the Contract for Sale of Real Estate by and between the City of Urbana, Illinois, and the Ecological Construction Laboratory, a copy of which said Contract

is attached hereto and incorporated herein by reference, be and the same is hereby authorized and approved.

Section 2. The Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute said Contract together with the deed and all other necessary documents required by said Contract 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