

**RESOLUTION NO. 2023-02-008R**

**A RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN  
URBANA HOME CONSORTIUM COMMUNITY HOUSING DEVELOPMENT  
ORGANIZATION AGREEMENT**

**(First Followers CHDO Developer PY 2022)**

**WHEREAS**, The City Council of the City of Urbana, Illinois, has found and determined that execution of the attached Community Housing Development Organization 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 Affordable Housing Needs of Low and Moderate Income Households described in the City of Urbana and Urbana HOME Consortium (Champaign/Urbana/Champaign County) FY 2020-2024 Consolidated Plan.

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

Section 1. That an Agreement providing \$30,000 in HOME Program funds, for the creation of one (1) affordable single family unit, between the City of Urbana and First Followers, in substantially the same 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.

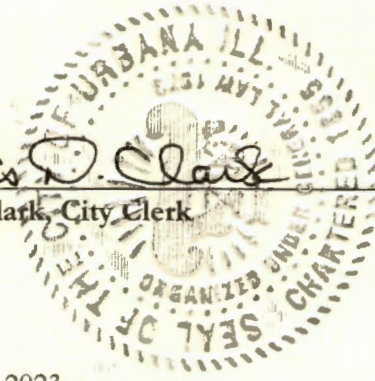
**PASSED BY THE CITY COUNCIL** this 13th day of February, 2023.

AYES: Wu, Evans, Hursey, Kolisetty, Wilken, Quisenberry

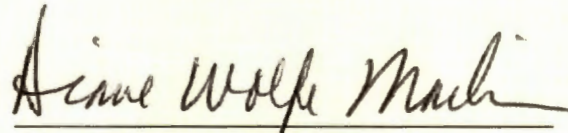
NAYS: None

ABSTAINED: None

  
Phyllis D. Clark, City Clerk



**APPROVED BY THE MAYOR** this 14<sup>th</sup> day of March, 2023.

  
Diane Wolfe Marlin, Mayor

**URBANA HOME CONSORTIUM**

**COMMUNITY HOUSING DEVELOPMENT CORPORATION  
RENTAL HOUSING DEVELOPER AGREEMENT  
(1407 Wiley Street)**

THIS Rental Housing Agreement, hereafter referred to as the “**AGREEMENT**”, is made as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the CITY OF URBANA, an Illinois Municipal Corporation, acting as lead entity for the Urbana HOME Consortium (hereinafter the “**GRANTOR**”), and **FirstFollowers**, an Illinois Not-For-Profit Organization (hereinafter “**PROJECT 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.*) (herein after the “**National Affordable Housing Act**”);

WHEREAS, the Urbana HOME Consortium has received HOME Program funds from HUD during the period beginning July 1, 2022, and ending June 30, 2023, and previous periods, 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 2020-2024 (hereinafter the “**Consolidated Plan**”) and Annual Action Plan for the program year FY 2022-2023, which budget Urbana HOME Consortium funds for the respective periods, set aside for use by Community Housing Development Organizations (hereinafter “**CHDOs**”) 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 under the provisions of the HOME Investment Partnerships Program (the “**HOME Program**”) to provide financial assistance for the development of a mixed-income, affordable residential rental development; and

WHEREAS, the PROJECT DEVELOPER has submitted a request to the GRANTOR for assistance to participate in the development of the real estate located at **1407 Wiley Street, Urbana, Illinois**, and legally described in “**Exhibit C**”, attached hereto and made a part hereof, (hereafter the “**Project**”); and

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

WHEREAS, PROJECT DEVELOPER desires to serve as a Developer of an affordable rental housing development within the City of 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 PROJECT DEVELOPER has the ability to provide the required private matching funding to cover the cost of the Project; and

WHEREAS, the PROJECT DEVELOPER has been fully informed regarding all requirements or obligations that must be met by PROJECT DEVELOPER in order to utilize HOME Program funds for the Project, including but not limited to the requirement that the assisted housing unit(s) 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.

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 PROJECT DEVELOPER the total amount not to exceed **\$30,000** from its Federal Fiscal Year 2022 HOME PROGRAM allocations to be used in conjunction with the redevelopment of 1407 Wiley Street, Urbana, IL an affordable rental housing development in the City of Urbana. Funds shall be used in the manner described in "Exhibit A". Said exhibit also includes the tasks to be performed, a schedule for completing the tasks, and a budget for the use of the funds.

- a.) The scope of work including the schedule is provided as Exhibit "A".
- b.) The budget for completing tasks is provided as "Exhibit B".
- c.) The PROJECT DEVELOPER owns the real property located at 1407 Wiley Street and more fully described in Exhibit "C".

### **Section 2. Affordability**

The PROJECT DEVELOPER shall comply with all income determinations and affordability requirements of the HOME Program as set forth in 24 CFR 92.203 and 92.252, as applicable.

The PROJECT DEVELOPER shall determine that each family is income eligible by determining the family's annual income in accordance with the Part 5 (Section 8) methodology allowed in 24 CFR 92.203. The HOME-assisted unit in a rental housing (HOUSING) project must be occupied only by households that are eligible as low-income families and must meet the affordability requirements for not less than the applicable period as described in 24 CFR 92.252(e).

- a.) Affordability Period: The PROJECT DEVELOPER agrees to restrict the use of the property by recording Deed Restrictions in form and with the same content as that executed under even date herewith. For the first ten (10) years following project completion (hereinafter referred to "the Affordability Period"), the restrictions shall apply:
- i. Maximum Tenant Income: The maximum income for households residing in HOME-assisted units cannot exceed sixty (60%) percent of the area median income, adjusted by family size as defined annually by HUD. For projects with five or more HOME-assisted units, a minimum of 20% of the assisted units must be restricted to households whose gross income does not exceed fifty (50%) percent of the area median income.
  - ii. Rent Limitations: The gross rent for all units (including applicable utility allowances computed in accordance with Section 42 of the Internal Revenue Code and applicable HOME regulations) shall not exceed the maximum High HOME Rents as published annually by HUD. For projects with five or more HOME-assisted units, a minimum of 20% of the assisted units must have rents that are no greater than the Low HOME rents as published by HUD. The initial monthly rent for each unit including utilities cannot exceed:  
  
3 bedroom units at \$1,187  
  
If the tenant pays for utilities, the rent must be reduced by the utility allowance. The utility allowance prepared by the local public housing authority and distributed by the GRANTOR is to be used when adjusting rents for tenant paid utilities.
  - iii. Fixed Unit Designation: PROJECT DEVELOPER in agreement with the GRANTOR has designated the unit in the City of Urbana/Urbana HOME Consortium HOME-assisted unit as fixed.
  - iv. Increases in Tenant Income: To the extent specifically required by the regulations under the HOME Program, if an existing tenant's adjusted income increases to the extent that it exceeds eighty (80%) percent of the area median income for the Metropolitan Statistical Area (MSA), as defined annually by HUD, said tenant's rent shall be increased to an amount equal to thirty (30%) per cent of the family's adjusted monthly income. (If the loan is being made available for units that have been allocated a low-income housing tax credit by

the State Housing Finance Agency pursuant to Section 42 of the Internal Revenue Code, and if and so long as applicable regulations under the HOME Program allow an exemption, such rental increase requirements shall not apply.)

- v. Lease Provisions: All leases between the PROJECT DEVELOPER, or its assigns and its tenants shall be for not less than one (1) year in duration and shall comply with all the provisions of 24 CFR 92.253.
- vi. Certification of Tenants' Income: PROJECT DEVELOPER shall submit or cause to be submitted to the CONSORTUIM within ninety (90) days of its fiscal year end the income records of all tenants that are or have been occupying the unit within the preceding twelve (12) months, and verifying that tenants meet the income guidelines set forth above, or in the case of existing tenants whose income has increased above such income guideline, that PROJECT DEVELOPER has complied with applicable HOME Program regulations in filling vacant units.
- vii. Non-Discrimination Against Subsidy Holders: The PROJECT DEVELOPER shall not, in the provision of services, or in any other manner, discriminate against any person on the basis of age, race, color, creed, religion, sex, handicap, familial status, or national origin. Unwed parents, families with children born out of wedlock, and recipients of public assistance shall not be excluded from the participation in, or be denied the benefits of the Section 8 Existing Housing Program because of such status.

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.

### **Section 3. HOME Project Requirements**

#### Project Requirements:

The GRANTOR shall provide HOME funds not to exceed **\$30,000** shall be provided as a grant 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 PROJECT DEVELOPER under the following terms and conditions:

The Grant shall be evidenced by a Regulatory and Land Use Restriction Agreement in the substantially the form as attached hereto as Exhibit D. The Regulatory and Land Use Restriction Agreement shall be executed by the Partnership, providing, among other things, for certain

restrictions on the use of the Project and repayment of the Grant upon violation of such restrictions.

The PROJECT DEVELOPER shall comply with all HOME project requirements in subpart F of 24 CFR Part 92, including 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 PROJECT DEVELOPER shall comply with requirements imposed by Title VIII of the Civil Rights Act of 1968, and any related rules and regulations. The PROJECT DEVELOPER shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; the HUD regulations issued there under, 24 CFR, Subtitle A, Part 1, the HUD requirements pursuant to these regulations; and Executive Order 11063.

In accordance with any rules and regulations issued by HUD under Section 504 of the Rehabilitation Act of 1973, the PROJECT DEVELOPER shall not discriminate against any person based on handicap.

The PROJECT DEVELOPER shall comply with any rules and regulations issued by HUD under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR parts 146.

The PROJECT DEVELOPER shall cooperate with GRANTOR and HUD in conducting compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

#### **Section 4. Property Standards**

The PROJECT DEVELOPER agrees that all construction and housing constructed with HOME Program funds shall meet all applicable state and local construction codes, rehabilitation standards, and zoning ordinances, at the time of project completion. All housing must meet the accessibility requirements at 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and covered multifamily dwellings, as defined at 24 CFR 100.201, must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

The PROJECT DEVELOPER agrees to maintain the property to the applicable standards listed in this subpart for the duration of the affordability period.

#### **Section 5. Other Program Requirements**

- a.) Affirmative Marketing of Rental or Vacant Units

The PROJECT DEVELOPER will affirmatively market any unit available for rent or purchase in a manner to attract tenants or homebuyers without regard to race, color, national origin, sex, religion, familial status or disability. The PROJECT DEVELOPER agrees, in soliciting tenants, to do the following:

- 1) Use the Equal Housing Opportunity logo in all advertising;
- 2) Display a Fair Housing poster in the rental and sales office;
- 3) Where appropriate, advertise, use media, including minority outlets, likely to reach persons least likely to apply for the housing;
- 4) Maintain files of the Project's affirmative marketing activities for five (5) years after the expiration of the affordability period and provide access thereto to GRANTOR Staff;
- 5) Not refrain from renting to any tenant holding a Section 8 Existing Housing Certificate, except for good cause, such as previous failure to pay rent and/or to maintain a rental unit, or the tenant's violation of other terms and conditions of tenancy;
- 6) Comply with Section 8 Existing Housing Regulations when renting to any Section 8 tenant;
- 7) Exercise affirmative marketing of the units when vacated; and
- 8) Verify all information concerning the Applicant, or family members, which may be obtained from any source by the Champaign County Housing Authority, or its assignees or designees.

b.) Non-discrimination and Equal Opportunity

In carrying out this Agreement, the PROJECT DEVELOPER shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, familial status, handicap, or national origin. The PROJECT DEVELOPER shall take the necessary steps to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, familial status, handicap or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The PROJECT DEVELOPER shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this non-discrimination clause. The PROJECT DEVELOPER, upon execution of this Agreement, shall agree that all qualified candidates will



receive consideration for employment without regard to race, color, religion, sex, age, familial status, handicap or national origin. The PROJECT DEVELOPER shall comply with GRANTOR Ordinance 26.5 Part 2, regarding Equal Employment Opportunity and Affirmative Action.

c.) Displacement, Relocation, and Acquisition

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

d.) Disbarment & Suspension

The PROJECT DEVELOPER certifies that it is not debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549. The PROJECT DEVELOPER shall establish procedures to ensure they do not make any award to grantees and subgrantees (including contractors) at any tier in violation of the nonprocurement debarment and suspension common. The PROJECT DEVELOPER shall verify and document that none of its grantees, subgrantees or contractors are debarred, suspended or otherwise excluded from participation through the effective use of the List of Parties Excluded from Federal Procurement or Nonprocurement programs ("List"). The PROJECT DEVELOPER may request assistance from the GRANTOR to access the List and document results

f.) Conflict of Interest

The PROJECT DEVELOPER guarantees that no member of, or Delegate to, the Congress of the United States shall be admitted to any share or part of this contract or to any benefit to arise from the same. The PROJECT DEVELOPER agrees that no members of the governing body of the locality in which the PROJECT DEVELOPER is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Agreement during their 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 HUD, PROJECT DEVELOPER agrees that no person who is an employee, agent, consultant, officer, or elected or appointed official of the PROJECT DEVELOPER and who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME Program 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 themselves or for those with whom they have family or business ties, during his or her tenure or for one (1) year thereafter. Unless expressly permitted by the GRANTOR, no PROJECT DEVELOPER, or

officer, employee, agent or consultant of the PROJECT DEVELOPER, may occupy a HOME-assisted affordable housing unit in a project.

g.) Air and Water

The PROJECT DEVELOPER agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

## Section 6: Records and Reports

### A. Records

PROJECT 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. PROJECT 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 year 2033). 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-imbursement of expenses.

PROJECT DEVELOPER shall maintain such records and accounts, including program records, project records; financial records; program administration records; equal opportunity and fair housing records; affirmative marketing and MBE/WBE records; records demonstrating compliance with the income determination 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 PROJECT 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. PROJECT DEVELOPER will permit same to be examined and excerpts or transcriptions made or duplicated from such

records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this AGREEMENT. The 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 PROJECT DEVELOPER shall retain all records and supporting documentation applicable to this AGREEMENT for the most recent five (5) year period, except as provided below:

- (a) For housing projects, records shall 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 PROJECT DEVELOPER must submit quarterly reports no more than ten (10) days after the end of each quarter until completion of project. The following table lists the end of the quarter and the corresponding quarterly report due date:

Quarter	Period	Quarterly Report Due Date
1st	July 1 – September 30	October 10
2nd	October 1 – December 31	January 10
3rd	January 1 – March 31	April 10
4th	April 1 – June 30	July 10
5th	July 1 – September 30	October 10
6th	October 1 – December 31	January 10
7th	January 1 – March 31	April 10
8th	April 1 – June 30	July 10

The quarterly reports shall be submitted by the PROJECT DEVELOPER quarterly until the final house has been constructed and leased.

**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 I, 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 PROJECT 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 PROJECT DEVELOPER to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, timetables and milestones necessary to implement the affected activities;
- (b) Direct the PROJECT 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 PROJECT 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 PROJECT 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 PROJECT DEVELOPER default.

Unless the PROJECT 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 PROJECT DEVELOPER'S default under this AGREEMENT shall not be deemed to be a waiver of any other default nor shall it be termination notice.

Notices required herein, shall be considered received by the PROJECT DEVELOPER and the GRANTOR if delivered in person, or when deposited in the U.S. Mail, postage prepaid certified mail, return receipt requested.

#### **Section 8. Requests for Disbursement of Funds – Progress and Final Payments**

A request for disbursement shall be submitted by the PROJECT DEVELOPER to the GRANTOR. The PROJECT DEVELOPER may not request disbursement of HOME Program funds under this Agreement until the funds are needed for payment of eligible HOME Program project related costs and the amount of each disbursement request shall be limited to the amount expended.

The amount of any request for funds shall be supported by appropriate documentation such as Contractor's Verified Statement, and Architect's performance-progress reports. Upon approval or request, the GRANTOR shall make payment to PROJECT DEVELOPER within fourteen (14) business days of receipt of a complete and acceptable request by the GRANTOR.

The GRANTOR reserves the right to withhold disbursement of funds until all associated appropriate documentation is submitted. The GRANTOR or his/her designee shall authorize the schedule for said payments. If all conditions are met, and the work performed and materials supplied are satisfactory to the GRANTOR, the PROJECT DEVELOPER shall receive final payment.

All checks shall be made payable to "FirstFollowers." All monies granted to PROJECT DEVELOPER pursuant to this AGREEMENT shall be expended by July 31, 2025.

Reimbursement for expenditures shall be made in accordance with the budget detailed in "Exhibit B" and shall be limited to the statement of work described in "Exhibit A".

Further, no payments shall be released to PROJECT DEVELOPER prior to the GRANTOR receiving environmental clearance in the form of a "Phase I" or comparable environmental audit of the Development, performed by a company acceptable to the GRANTOR, and such other environmental assessments, as the GRANTOR may, in its sole discretion, require.

#### **Section 9: Duration of Agreement**

This AGREEMENT shall be effective as of the date executed by the Mayor and shall remain in effect until July 31, 2025.

#### **Section 10: Conditions for Religious Organizations**

The PROJECT 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.

#### **Section 11: Community Housing Development Organization (CHDO Provisions)**

CHDO has been re-certified by the CONSORTIUM and has been found to be in compliance with the composition of a CHDO under the HOME Requirements. The CHDO agrees to maintain their CHDO status during the period of this funding cycle.

CHDO may retain any and all proceeds resulting from this HOME investment. Proceeds are to be used as specified under ARTICLE XIII of this AGREEMENT.

## **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 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 PROJECT DEVELOPER'S compliance with the terms and conditions of performance outlined in this AGREEMENT.

## **ARTICLE IV: CERTIFICATIONS**

PROJECT DEVELOPER represents the following with respect to this AGREEMENT.

- A. PROJECT DEVELOPER possesses legal authority to receive HOME Program funds from the GRANTOR and to execute the PROGRAM as described herein.
- B. The governing body of PROJECT DEVELOPER has duly adopted or passed as an official act a resolution, motion, or similar action authorizing execution of this AGREEMENT including all understandings and assurances contained herein, and directing and designating the authorized representative of PROJECT DEVELOPER to act in connection with this AGREEMENT and to provide such additional information as may be required.
- C. PROJECT DEVELOPER, its successors and assigns, agrees to develop and operate the PROJECT in accordance with HOME Program regulations promulgated at 24 CFR Part 92 and with applicable building codes.
- D. PROJECT DEVELOPER, its successors and assigns, agrees to comply with Section 3 of the Fair Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u), 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. PROJECT 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. PROJECT DEVELOPER certifies and agrees that it is under no contractual or other disability that would prevent PROJECT DEVELOPER from complying with these requirements. PROJECT 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 PROJECT DEVELOPER has a collective bargaining agreement or other understanding a notice of the PROJECT DEVELOPER commitment under Section 3.
  3. Posting copies of the notice in conspicuous places at work sites where both employees and applicants for employment positions can see the notice.
  4. Refrain from 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. PROJECT DEVELOPER agrees to give maximum feasible priority to very low-income persons when administering the PROGRAM described herein.
- F. PROJECT DEVELOPER acknowledges it shall match HOME Program funds disbursed by the GRANTOR and shall provide acceptable documentation of said match funds pursuant to this AGREEMENT in the amount of **\$4,500** in non-federal funds as defined in 24 CFR Part 92.220. Excess match shall be contributed to this project from the Grantor,
- G. PROJECT DEVELOPER shall comply with the regulations, policies, guidelines, and requirements of federal management circulars as they relate to the acceptance

and use of Federal funds for the PROGRAM. PROJECT DEVELOPER agrees to maintain financial records in accordance with applicable Federal guidelines as defined in 24 CFR Part 200. PROJECT DEVELOPER shall separately and accurately identify use of HOME funds pursuant to this AGREEMENT.

- H. PROJECT DEVELOPER shall comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which PROJECT DEVELOPER receives federal financial assistance.
- I. PROJECT DEVELOPER shall comply with Executive Order 11246, and all regulations issued pursuant thereto, which provide that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of federal or federally assisted contracts. Such contractors and subcontractors shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.
- J. PROJECT DEVELOPER shall establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- K. No Federal appropriated funds have been paid or will be paid, by or on behalf of PROJECT DEVELOPER, to any person for influencing or attempting to influence an officer or employee of any agency including the 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, PROJECT DEVELOPER will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.



- L. PROJECT DEVELOPER shall give HUD and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers, or documents related to the PROGRAM.
- M. PROJECT DEVELOPER shall at all times observe and comply with all laws, ordinances, or regulations of Federal, State, and local governments which may in any manner affect the performance of this AGREEMENT. PROJECT DEVELOPER shall be liable to perform all acts to the GRANTOR in the same manner as the GRANTOR performs these functions to the Federal government.
- N. PROJECT DEVELOPER shall be responsible for any and all claims, costs, causes, actions, and expenses, including, but not limited to, attorneys' fees incurred by reason of a law suit or claim for compensation arising in favor of any person, including the employees, officers, independent contractors, subcontractors, or agents of PROJECT DEVELOPER, on account of personal injuries or death, or damages to property occurring, growing out of, incident to, or resulting under this 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 PROJECT 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.
- O. PROJECT DEVELOPER shall have full control of the ways and means of performing the services referred to herein. PROJECT DEVELOPER acknowledges and agrees that its employees, representatives, subcontractors, and agents may in no respect be considered employees of the GRANTOR.
- P. PROJECT 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 DEVELOPER acknowledges that no funds disbursed pursuant to this Agreement shall be used to finance lobbying activities. Furthermore, PROJECT DEVELOPER acknowledges that no PROJECT DEVELOPER employee funded in whole or part pursuant to this Agreement shall engage in lobbying activities at any time during the term of this Agreement. For purposes of this Agreement, the term "lobbying activities" shall include the following.

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

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

**ARTICLE VI: NOTICES**

The GRANTOR and the PROJECT DEVELOPER agree that all notices required by the Agreement shall be in writing and delivered by mail or hand delivered to the office of the Chief Administrative Officer or duly authorized appointed representative of the GRANTOR or PROJECT DEVELOPER as specified herein:

**PROJECT DEVELOPER:**

Name: Marlon Mitchell  
 Title: Executive Director  
 Organization: FirstFollowers  
 Address: PO Box 8923  
 Champaign, IL 61826

**URBANA CONSTORTIUM:**

Title: Manager, Grants Management Division  
 Organization: City of Urbana  
 Address: 400 S. Vine Street  
 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 PROJECT DEVELOPER.

**ARTICLE VIII: ASSIGNMENT**

PROJECT 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 “Exhibit B”, 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 PROJECT 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 XI: PROJECT PUBLICITY**

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

## **ARTICLE XII: MONITORING AND EVALUATING**

The GRANTOR shall be responsible for monitoring and/or evaluating all aspects of the services provided by PROJECT 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 PROJECT DEVELOPER’S performance under this AGREEMENT, the GRANTOR shall make on-site inspections annually or as often as it deems necessary. Failure by the PROJECT DEVELOPER to assist the GRANTOR in this effort, including allowing the GRANTOR to conduct the on-site inspections and have access to the PROJECT DEVELOPER’S records, shall result in the imposition of sanctions as specified in Article I Section 7 herein.

Said evaluation 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 XIII: PROGRAM INCOME**

DEVELOPER shall retain any proceeds from the sale of the property in the form of principal and interest on any mortgage issued through the sale, late payment fees, or any other income earned as a result of this PROJECT. Proceeds earned shall be used for expenses related to the furthering of affordable housing in the form of hard and soft costs associated with housing construction, provision of educational services related to homeownership, and operating expenses associated

with carrying out affordable housing activities, which includes, but is not limited to: staff salaries, rent and utilities, taxes, marketing, etc. Furthermore, affordable housing initiatives undertaken with the support of proceeds from this PROJECT need not conform to the HOME regulations found at 24 CFR Part 92.

**ARTICLE XIV: INDEMNIFICATION**

PROJECT 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:

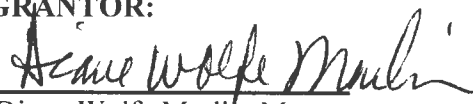
- A. The loss of any monies paid to PROJECT DEVELOPER;
- B. Fraud, defalcation, or dishonesty on the part of any person representing, employed by, contracted or subcontracted by PROJECT DEVELOPER;
- C. Any act, omission, wrongdoing, misconduct, want of care or skill, negligence or default on the part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

The indemnity hereunder shall survive termination of the AGREEMENT. In the event that any action, suit or proceeding is brought against the 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 PROJECT DEVELOPER by registered or certified mail addressed to PROJECT DEVELOPER. Upon receipt of such notice, PROJECT DEVELOPER, at its own expense, shall defend against such action and take all such steps as may be necessary or proper to prevent the obtaining of a judgment against the GRANTOR.

**ARTICLE XV: SIGNATURE OF AGREEMENT**

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by its officers as of the date indicated below:

**GRANTOR:**

  
Diane Wolfe Marlin, Mayor

3.14.2023  
Date

**PROJECT DEVELOPER:**

  
Marlon Mitchell (Feb 16, 2023 18:27 CST)  
Signature

Executive Director  
Title

\_\_\_\_\_  
Attest

\_\_\_\_\_  
Attest

**Exhibit A  
Scope of Work**



# QUOTE

Date: 1/23/2023

To Sheila Dodd, Interim Community Development Services

Prepared By	Location	Project Type
Marlon Mitchell	1407 N. Wiley, Urbana 61801	Renovation/Rehab

Funding Source	Description	Comments	Line Total
CHDO	24x24 ft Garage	Subcontract	\$25,000
CHDO	HVAC (Central Air, Furnace, Hot Water Heater)	Subcontract	\$15,000
CHDO	Electrical	Subcontract	\$5,000
CHDO	Plumbing	Subcontract	\$5,000
CHDO	Siding	Subcontract	\$5,000
General	Windows & Doors Materials		\$3,000
General	Flooring Material		\$3,000
General	Wall Material (Drywall, Insulation, Paint)		\$3,000
General	Cabinetry & Vanity Material (Kitchen, Bathroom)		\$2,000
Champaign ARPA	Labor (Construction, Administrative)		\$65,000
CHDO	Miscellaneous Expenses		\$5,000
<b>Subtotal</b>			<b>\$138,000</b>
<b>Sales Tax</b>			<b>0.00</b>
<b>Total</b>			<b>\$138,000</b>

FirstFollowers, PO Box 8923, Champaign IL 61826 Phone: 951-906-7271  
Email: FirstFollowersCU@gmail.com

**Exhibit B  
Budget**



# QUOTE

Date: 1/23/2023

To Sheila Dodd, Interim Community Development Services

Prepared By	Location	Project Type	
Marlon Mitchell	1407 N. Wiley, Urbana 61801	Renovation/Rehab	

Funding Source	Description	Comments	Line Total
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General	Cabinetry & Vanity Material (Kitchen, Bathroom)		\$2,000
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CHDO	Miscellaneous Expenses		\$5,000
		<b>Subtotal</b>	<b>\$138,000</b>
		<b>Sales Tax</b>	<b>0.00</b>
		<b>Total</b>	<b>\$138,000</b>

FirstFollowers, PO Box 8923, Champaign Il. 61826 Phone: 951-906-7271  
Email: FirstFollowersCU@gmail.com

**Exhibit C**  
**Location of Project**

Lot 79 in Fairlawn Park Fourth Addition to the City of Urbana, Illinois as per plat recorded April 16, 1952 as Document Number 490417 in Plat Book "K" at Page 18, situated in Champaign County Illinois.

PIN 92-21-16-352-006

Commonly known as 1407 N Wiley Drive Urbana, Illinois



**Exhibit  
D  
Regulatory and Land Use Restriction Agreement**

**CITY OF URBANA HOME PROGRAM  
REGULATORY AND LAND USE RESTRICTION  
AGREEMENT**

THIS REGULATORY AND LAND USE RESTRICTION AGREEMENT (the "Agreement") is made and entered into as of this 22 day of February, 2022, by and between

**FirstFollowers, an Illinois Not-For-Profit Organization Humanity of Champaign County (the "Owner")**, and the **City of Urbana, Illinois**, a unit of local government having its principal offices at 400 South Vine Street, Urbana, Illinois 61801 (the "Agency").

**RECITALS**

- A. The Agency 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 "Act") and the regulations promulgated thereunder and codified at 24 CFR Part 92 (the "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 Act and the Regulations.
- B. The Owner is the owner of the real property commonly known as 1407 Wiley, Urbana, IL, more particularly described in Exhibit A attached hereto and made a part hereof (the "Property") and has agreed to maintain the property as an Affordable Rental Housing Unit (the "Project") as described in Title 24 of the Code of Federal Regulations at Part 92 for the full ten-year term of affordability, commencing on February 27, 2023.

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 Owner agrees to comply with, the terms and conditions of the Act and the Regulations, as amended and supplemented from time to time.
- 3. **OWNER COVENANTS, REPRESENTATIONS, AND WARRANTIES.** The Owner covenants, represents, and warrants to the Agency as follows.
  - (a) Title. The Owner holds fee simple title to the Property.
  - (b) Rental Property. The Property is and during the term of this Agreement shall remain a rental housing unit owned by the Owner.
  - (c) Affordability Requirements. The Owner shall comply with the occupancy restrictions set forth in Section 6.
- 4. **ACTS REQUIRING AGENCY APPROVAL.** Owner shall not without the prior written approval of Agency, which may be given or withheld in Agency's sole discretion:
  - (a) Transfer of Project. Convey, transfer, or encumber the Project or any part thereof, or permit the conveyance, transfer, or encumbrance of the Project or

any part thereof;

- (b) Transfer of Rents. Convey, assign, or transfer any right to manage or receive the rents and profits from the Project;
- (c) Security Deposits. Require, as a condition of the occupancy or leasing of any unit in the Project, any consideration or deposit other than the pre-payment of the first month's rent plus a security deposit in an amount not to exceed one (1) month's rent to guarantee the performance by the Tenant of the covenants of such lease. Any funds collected by Owner as security deposits shall be kept separate and apart from all other funds of the Project; or

5. **PROGRAM & PROJECT REQUIREMENTS**. Owner further covenants, represents, and warrants to the Agency as follows.

- (a) Governmental Approvals. The Owner shall obtain all Federal, State, and local governmental approvals required by law for the Project.
- (b) Compliance With Laws. The Owner shall cause the Project to comply with all local codes, ordinances, zoning ordinances, and HUD Section 8 Housing Quality Standards, as set forth in Section 370.601 of the Rules.
- (c) Flood Insurance. The Owner shall procure flood insurance satisfactory to the Agency if the Property is located within a 100-year flood plain.
- (d) Inspections. The Agency shall have the right to inspect the Property during the course of the Project and during the Affordability Period (as defined in Section 6) to insure the Project's compliance with the project requirements described in Section 5(b).

6. **OCCUPANCY AND RENTAL RESTRICTIONS**. The Owner further covenants as follows.

- (a) Occupancy Restrictions. The rental housing unit shall be occupied by persons or households with incomes at or below 60 percent of the Median Family Income as published annually by the Department of Housing and Urban Development for the period described in Paragraph 6(c) below (the "Affordability Period").
- (b) Rental Restrictions. During the Affordability Period the rent for the units in the Project shall comply with the Regulations, including, without limitation, 24 CFR Part 92.252. The initial rent for the unit in the Project is set forth in **Exhibit B**. On an annual basis, the Agency shall review and approve rent proposed by the Owner for the Project unit, and if applicable, the monthly allowances proposed by the Owner for utilities and services to be paid by the tenant. The Agency shall recalculate the maximum monthly rent annually and may change such maximum rent as changes in the applicable gross rent amount, the income adjustments, or the monthly allowances for utilities and services warrant. Any increase in rent for the Project units are subject to the provisions of outstanding leases, and in any event, the Owner must provide tenants of the units not less than thirty (30) days prior written notice before implementing any increase in rent and only at the time of resigning the lease.
- (c) Certification of Income. On forms provided by the Agency, the Owner shall

obtain from each Low-Income Family applying for a Project unit, prior to their admission to the Project, a Certification of Income (the "Certification") annually during the Affordability Period, a recertification of such income (the "Recertification") from each such Family. The Owner shall submit such Certifications and Recertifications, and such other certifications as the Agency may require, to the Agency in the manner prescribed by the Agency.

- (d) Occupancy and Rental Restrictions. Subject to termination in the event of foreclosure or transfer in lieu of foreclosure as provided in Section 92.252(a)(5) of the Regulations, the occupancy and rental restriction provisions of this Section 6 shall remain in effect for a period of **ten (10) years** from the date of "project completion" (as such term is defined in the Regulations). The Owner acknowledges and agrees that such Affordability Period shall apply notwithstanding any contrary affordability period set forth in the Rules and Regulations. In the event of foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Project, the Agency shall have the right, but not the obligation, to acquire the Project prior to such foreclosure or deed in lieu of foreclosure to preserve the foregoing affordability provisions in Section 92.252 of the Regulations.
7. **RECORDS**. At the request of the Agency, the Owner shall furnish such records and information as required by the Agency in connection with the maintenance, occupancy, and physical condition of the Property.
8. **VIOLATION OF AGREEMENT BY OWNER**. Upon violation of any of the provisions of this Agreement or upon a default (as defined therein) under any of the other Loan Documents by Owner, Agency shall give written notice thereof to the Owner, as provided in Section 13 hereof. If such violation is not corrected to the satisfaction of Agency within thirty (30) days after the date such notice is mailed, or within such further time as the Agency 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 Owner commences to cure within such thirty (30) day period and diligently pursues such cure to completion within a reasonable period not to exceed one hundred twenty (120) days from the date of such notice, it shall not 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 Owner, and upon such default Agency may:
- (a) Collection of Rents. Collect all rents and charges in connection with the operation of the Project to induce Owner to maintain compliance with the requirements of the Project, and such other obligations of the Owner in connection with the Project and the necessary expenses of preserving and operating the Project;
- (b) Possession. Take possession of the Project, bring any action necessary to enforce any rights of the Owner growing out of the operation of the Project, and operate the Project in accordance with the terms of this Agreement until such time as the Agency, in its sole discretion, determines that the Owner is again in a position to operate the Project in accordance with the terms of this Agreement and in compliance with the requirements of the Project;
- (c) Judicial Relief. Apply to any court, State or Federal, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Project in accordance with the terms of this Agreement, or for such other relief as may be appropriate. Because the injury to the Agency arising from a default under any

of the terms of this Agreement would be irreparable and the amount of damages would be difficult to ascertain, the Owner acknowledges and agrees that in the event of a violation of this Agreement, the Agency's remedies at law would be inadequate to assure the Agency's public purpose under the Act;

- (d) Other Available Remedies. Exercise such other rights or remedies as may be available to the Agency hereunder, at law or in equity.

The Agency's remedies are cumulative, and the exercise of one remedy shall not be deemed an election of remedies nor foreclose the exercise of any other remedy by the Agency. No waiver of any breach of this Agreement by the Agency shall be deemed to be a waiver of any other breach or a subsequent breach. If the Agency fails to exercise, or delays in exercising, any right under this Agreement, such failure or delay shall not be deemed a waiver of such right or any other right.

9. **TERMINATION OF LIABILITIES.**

- (a) Permitted Assignment. In the event the Agency, in its sole discretion, consents to a sale or other transfer of the Project, all of the duties, obligations, undertakings, and liabilities of the transferor under the terms of this Agreement shall thereafter cease and terminate as to such transferor, except as to any acts or omissions or obligations to be paid or performed by such transferor that occurred or arose prior to such sale or transfer; provided, however, as a condition precedent to the termination of the liability of the transferor hereunder, the transferee of the Project (a "New Owner") shall assume in writing, on the same terms and conditions as apply hereunder to the transferor, all of the duties and obligations of such transferor arising under this Agreement from and after such sale or transfer. Such assumption shall be in form and substance acceptable to Agency.
- (b) Assumption By New Owner. Any New Owner shall be bound by the terms of this Agreement to the same extent and on the same terms as the present Owner is bound hereunder and shall execute an assumption of such obligations in form and substance acceptable to Agency as a condition precedent to such party's admission as a New Owner; provided, however, that any such New Owner shall not be obligated with respect to matters or events which occur or arise prior to such party's admission as a New Owner.

10. **TERMS OF AGREEMENT; COVENANTS RUN WITH PROPERTY.** The covenants, conditions, restrictions, and agreements set forth in this Agreement (collectively, the "Obligations") shall be deemed to run with, bind, and burden the Property and shall be deemed to bind any New Owner and any other future owners of the Property and the holder of any legal, equitable, or beneficial interest therein for the Affordability Period. The Owner shall, if so requested by the Agency, execute a written memorandum prepared by the Agency, which memorandum shall memorialize said date of project completion and the foregoing Affordability Period. Any waiver by the Agency of its right to prepare or record any such memorandum and any failure by the Owner to execute and deliver the same shall not affect the validity or enforceability of the Obligations. In the event of a foreclosure or deed in lieu of foreclosure relating to any other loan encumbering the Property, the Agency 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 Section 92.252 of the Regulations.

It is hereby expressly acknowledged by Owner that the undertaking of the Obligations by

Owner is given to induce Agency to make the Loan and that, notwithstanding that the Loan may be repaid prior to the expiration of the Affordability Period, the Owner's undertaking to perform the Obligations for the full Affordability Period set forth in the previous paragraph is a condition precedent to the willingness of Agency to make the Loan.

11. **INDEMNIFICATION.**

- (a) The Owner shall indemnify the Agency and the Agency'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 Owner's performance under this Agreement or the work performed by a contractor in connection with the Project, in any claim or suit brought by a person or third party against the Agency or the Agency's officers, agents, employees, or servants.
- (b) If a claim or suit is brought against the Agency or the Agency's officers, agents, employees, or servants, for which the Owner is responsible pursuant to Subsection (a) above, the Owner shall defend, at the Owner's cost and expense, any suit or claim, and shall pay any resulting claims, judgements, damages, losses, costs, expenses, or settlements against the Agency or the Agency's officers, agents, employees, or servants.

12. **AMENDMENT.** This Agreement shall not be altered or amended except in writing signed by the parties hereto.

13. **NOTICES.** Any notice, 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 in Exhibit A, 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 OWNER:** FirstFollowers  
Attn: Executive Director  
PO Box 8923  
Champaign, IL 61826

**The AGENCY:** City of Urbana  
Manager, Grants Management Division  
400 South Vine Street  
Urbana, IL 61801

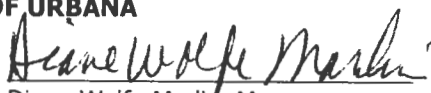
Such addresses may be changed by notice to the other party given in the same manner as herein provided. Any notice, demand, request, or other communication sent pursuant to either Subsection (a) or (b) hereof shall be served and effective upon such personal service or upon confirmation of transmission by such electronic means. Any notice, demand, request, or other communication sent pursuant to Subsection (c) shall be served and effective upon 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.

14. **SUCCESSORS.** This Agreement shall bind, and the benefits shall inure to, the parties hereto, their legal representatives, successors in office or interest and assigns, provided that the Owner may not assign this Agreement, or any of its obligations hereunder without the prior written approval of the Agency.
15. **SURVIVAL OF OBLIGATIONS.** The Owner's obligations, as set forth in this Agreement, shall survive the sale of the property or foreclosure therein, and the Owner shall continue to cooperate with the Agency and furnish any documents, exhibits, or showings required.
16. **CONSTRUCTION OF AGREEMENT.**
- (a) **Partial Invalidity.** If any term, covenant, condition, or provision of this Agreement, or the application thereof to any circumstance, shall, at any time or to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement, or the application thereof to circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, condition, and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
- (b) **Gender.** The use of the plural in this Agreement shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.
- (c) **Captions.** The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of the intent of any provision of the Agreement.
- (e) **Construction.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.
17. **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.
18. **WAIVER OF JURY TRIAL. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR CONTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE PROJECT OR THIS AGREEMENT.**

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

**CITY OF URBANA**

BY:

  
Diane Wolfe Marlin, Mayor

**BORROWER**

BY:

  
Marlon Mitchell (Feb 16, 2023 18:27 CST)

Marlon Mitchell, Executive Director



ATTEST  
*Rhylis Clark*  
Rhylis Clark, City Clerk

)  
STATE OF ILLINOIS )  
) SS  
)  
COUNTY OF CHAMPAIGN )

I, the undersigned Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that Marlon Mitchell, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that she signed and delivered the said instrument as her free and voluntary act in her capacity as Executive Director of Habitat for Humanity of Champaign County, and as the free and voluntary act of said organization for the purposes therein set forth.

Given under my hand and official seal, this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTION**

**Legal Description:**

**Common address:** \_\_\_\_\_, Urbana, Illinois 61801

**PIN:** \_ \_ \_ \_ \_



**Urbana HOME Consortium  
Resale and Recapture  
Guidelines for HOME  
Program Activities**

The Urbana HOME Consortium will use HOME Investment Partnerships Program funds to provide housing for low-income persons. The forms of funding used to assist homebuyers and/or developers include: down payment assistance, development subsidies, or some combination of these methods. The Consortium will use the Recapture method of insuring affordability for all homebuyer activities in which direct HOME funds assistance is provided. The Consortium will use the Resale provision of insuring affordability when direct HOME funds assistance is not provided. Only one method shall be utilized for each project, the Recapture method is only allowed when there is direct HOME funds assistance provided.

**Recapture Provisions**

Subject to recapture are the HOME funds that are invested in a HOME assisted unit, as a direct subsidy to the homebuyer. The subsidy could include down payment assistance and the amount of each subsidy would be a minimum of \$1,000 and differ per each homebuyer. The minimum length of affordability is based on the total direct HOME funds assistance provided:

Under \$15,000	5 Years
\$15,000 to \$40,000	10 Years
Over \$40,000	15 Years

**Affordability Requirements for the HOME Program**

The period of affordability shall commence from the date the activity is identified as “completed” in HUD’s Integrated Disbursement Information System (IDIS).

The Recapture Provisions are as follows:

- The Affordability Period shall be based on the total direct HOME subsidy to the homebuyer and does not take into account a development subsidy provided on the unit.
- The buyer must be purchasing the home to use as a principal residence. In other words, the buyer must intend to live in the home for the entire affordability period and not be buying the home for any other purpose, such as investment or rental property.
- Enforcement Mechanisms – Recapture provisions shall be detailed within each program written agreement between the homebuyer and a Consortium entity and enforced through a Notice of Use Restriction filed with the Champaign County Recorder’s Office. The Urbana HOME Consortium members and designated Community Housing Development Organizations agree that, to the extent allowable by law, to secure the HOME funds, an agreement with the homebuyer, as well as a mortgage, promissory note, and land use regulatory agreement shall be executed for any HOME funded

homeownership property. Each document will include the prescribed net sales proceeds provisions for the recapture of HOME funds. The mortgage and promissory note are to be recorded against the title to the property.

- The requirements within shall be triggered upon sale or transfer of the HOME assisted property. As listed below:
  - In the event of a sale, conveyance or other transfer of the property, excluding any one or more of the following (each, a “Permitted Transfer”): any sale, conveyance or transfer
    - (A) to a spouse upon a dissolution of marriage, (B) to the surviving spouse upon the death of a joint tenant Owner, (C) by will, or (D) upon foreclosure or deed in lieu of foreclosure, provided however that there are no Net Proceeds from the foreclosure or deed in lieu of foreclosure or that the Consortium has received all or a portion of the funds from the Net Proceeds from the foreclosure or deed in lieu of foreclosure, then the Consortium shall receive a portion of the funds from the Net Proceeds.
- The Consortium will reduce the HOME investment amount to be recaptured from the Net Proceeds on a prorated basis for the time the Homeowner has owned and occupied the housing measured against the remaining years in the required Affordability Period. The prorated basis is as follows:

First Year	90% of HOME investment from available Net Proceeds
Second Year	70% of HOME investment from available Net Proceeds
Third Year	50% of HOME investment from available Net Proceeds
Fourth Year	30% of HOME investment from available Net Proceeds
Fifth Year	10% of HOME investment from available Net Proceeds

- The amount of recapture funds are subject to the availability of Net Proceeds available from the resale of the property. The term “Net Proceeds” shall mean the proceeds as indicated upon a closing settlement statement of the net amount to be paid to the seller. In the event that no such statement exists, “Net Proceeds” shall mean the amount equal to the sales price (X) minus any superior private debt (Y) and minus any reasonable closing costs (Z), as determined by the Consortium, including, but not limited to, title insurance, recording fees, Realtor’s commissions or property taxes.
- Additionally, the assisted Homebuyer will agree within the Affordability Period, to not vacate and then lease the property. In the event that the Homebuyer should vacate and then lease the property within the Affordability Period, the Homebuyer agrees, upon written demand from the Consortium sent to the Homebuyer’s last known address, to re-occupy the property within a reasonable time as determined by the Consortium and remain in the property until the expiration of the Affordability Period. If re-occupancy does not occur the Homebuyer agrees to repay the total amount of the HOME subsidy assistance to the Consortium. The repayment shall become due and payable upon the Consortium’s demand.

**Resale Provisions**

Subject to Resale Provisions are the total HOME funds that are invested in a HOME-assisted unit in which no direct subsidy assistance is provided. The minimum length of affordability is based on the total HOME funds assistance provided:

**Affordability Requirements for the HOME Program**

Under \$15,000	5 Years
\$15,000 to \$40,000	10 Years
Over \$40,000	15 Years

The period of affordability shall commence from the date the activity is identified as “completed” in HUD’s Integrated Disbursement Information System (IDIS).

The Resale Provisions are as follows:

- The Affordability Period is based on the total amount of HOME funds invested in a property.
- The buyer must be purchasing the home to use as a principal residence. In other words, the buyer must intend to live in the home for the entire affordability period and not be buying the home for any other purpose, such as investment or rental property.
- Enforcement Mechanisms – Recapture provisions shall be detailed within each program written agreement between the homebuyer and the Urbana HOME Consortium and enforced through a Notice of Use Restriction filed with the Champaign County Recorder’s Office.
- Methods – The Resale option ensures that the HOME assisted unit remains affordable over the entire period of affordability. Resale Provisions must be used where there is no direct HOME funds assistance provided.
- The requirements within shall be triggered upon sale or transfer of the HOME assisted property. As listed below:
  - Within the Affordability Period, the Owner agrees to only sell, convey or otherwise transfer the property to a low-income buyer for a sales price that is affordable and provides a fair return on owner investment, excluding any one or more of the following (each, a “Permitted Transfer”): any sale, conveyance or transfer (A) to a spouse upon a dissolution of marriage, (B) to the surviving spouse upon the death of a joint tenant Owner, (C) by will to a low-income buyer, or (D) upon foreclosure or deed in lieu of foreclosure, provided however the Affordability Period has not expired and any resale of the property is to a low-income buyer who will occupy the property for the remainder of the Affordability Period.
- The term “low-income buyer” has an annual income, as adjusted for family size, that is less than or equal to eighty percent (80%) of the area median income (as defined by HUD) for the Champaign County area.
- For HOME assisted projects that do not include direct buyer assistance, a resale restriction will be used, to be in effect for the duration of the affordability period. The affordability period is

based on the amount of HOME assistance provided to the project. A land use restriction shall be recorded against the title to the property. This document will include a provision restricting the sales price such that it must be "affordable" to low-income buyers. In this instance, the affordable price results in a monthly housing cost for principal, interest, taxes and insurance of not more than 30% of the gross monthly income for a household below 80% of the area median income for the Champaign County Area.

- For HOME-assisted, homeownership units, wherein HOME funds are not utilized to provide direct assistance to the homebuyer, net proceeds from the sale must provide the original homebuyer, now the home seller, a "fair return" on his/her investment (including any down payment and capital improvement investment made by the seller since purchase). The sales price may encompass the following in its formula:
  - The cost of any capital improvements, documented with receipts including but not limited to the following:
    - Any additions to the home such as a bedroom, bathroom, or garage;
    - Replacement of heating, ventilation, and air conditioning systems;
    - Accessibility improvements such as bathroom modifications for disabled or elderly which were not installed through a federal, state, or locally-funded grant program; and
    - Outdoor improvements such as a new driveway, walkway, retaining wall, or fence.
  - The increase in the value of owner equity and investment as calculated by the cumulative percentage of change which is calculated by the Housing Price Index (HPI) calculator of the Federal Housing Finance Agency (X) plus 1.00 times the total owner investment at time of purchase (Y) plus the documented improvements as described above (Z).
    - (Example - Home purchased in 2000 for \$50,000. The HPI for 2000-2004 stayed the same at +.03 for each year, which calculates to a cumulative percentage of .12. To calculate "fair return" one must multiply  $\$50,000 \times 1.12 = \$56,000$ , plus the documented improvements of \$4,000 would total \$60,000. The "fair return" to the seller would be the increase in value of \$60,000, minus the original investment of \$50,000 to equal a \$10,000 fair return.)
- Additionally, the assisted Homebuyer will agree within the Affordability Period, to not vacate and then lease the property. In the event that the Homebuyer should vacate and then lease the property within the Affordability Period, the Homebuyer agrees, upon written demand from the Consortium sent to the Homebuyer's last known address, to re-occupy the property within a reasonable time as determined by the Consortium and remain in the property until the expiration of the Affordability Period. If re-occupancy does not occur the Homebuyer agrees to repay the total amount of the HOME subsidy assistance to the Consortium. The repayment shall become due and payable upon the Consortium's demand.