



Interoffice Memorandum

AGENDA ITEM

September 20, 2022

TO: Mayor Jerry L. Demings
–AND–
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and
Development Services Department

**CONTACT PERSON: Mitchell Glasser, Manager
Housing and Community Development Division
407-836-5190**

SUBJECT: October 11, 2022 – Consent Item
Developer’s Agreement for the Construction of Affordable
Townhomes

On September 10, 2021, Orange County Housing and Community Development Division issued a Request for Applications for affordable housing projects. On January 3, 2022 Orange County selected The Cornerstone at Sixth (the “Project”) for gap financing. The Project, located at 350 East 6th Street in the City of Apopka, is a 24-unit owner-occupied affordable townhome project being developed by Hannibal Square Community Land Trust, Inc. The units will be sold to income-eligible very-low, low or moderate-income households under a land trust model for long-term affordability. The Project has a \$1,500,000 funding gap, and the total project costs are projected to be \$10,107,053.

Funding for the Project will come from the Housing Trust Fund (HTF) in the amount of \$750,000 and the Hurricane Housing Recovery Program (HHRP) in the amount of \$750,000, for a total of \$1,500,000. The gap financing will be used for the purpose of affordable housing construction. Hannibal Square Community Land Trust, Inc. has met all of the conditions and requirements of the programs and is eligible for HTF and HHRP funding to assist with the cost of the Project. The committed funds are currently budgeted under our HTF and HHRP programs.

The County Attorney’s Office has reviewed the agreement as to form.

ACTION REQUESTED: Approval and execution of Developer’s Agreement for the Construction of Affordable Townhomes between Orange County, Florida and Hannibal Square Community Land Trust, Inc. regarding the Cornerstone at Sixth providing gap financing in the amount of \$750,000 from the Housing Trust Fund and \$750,000 from the Hurricane Housing Recover Program. District 2

JVW:MG
Attachment

BCC Mtg. Date: October 11, 2022

**DEVELOPER'S AGREEMENT FOR THE CONSTRUCTION
OF AFFORDABLE TOWNHOMES**

between

ORANGE COUNTY, FLORIDA

and

HANNIBAL SQUARE COMMUNITY LAND TRUST, INC.

regarding

THE CORNERSTONE AT SIXTH

THIS DEVELOPER'S AGREEMENT ("Agreement") is made and entered into by and between **ORANGE COUNTY, FLORIDA**, a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32802 (hereinafter "**County**"), and **HANNIBAL SQUARE COMMUNITY LAND TRUST, INC.**, a qualified not-for-profit corporation registered under the laws of the State of Florida at 2265 Lee Road, Ste 117, Winter Park, FL 32789 (hereinafter "**Agency**"). The County and Agency may be referred to in this Agreement individually as "party" or collectively as "parties."

RECITALS

WHEREAS, the Agency owns that certain tract of real property, more specifically described in **Exhibit "A"**, attached hereto and incorporated herein by reference (the "Property") and intends to develop a new 24-unit owner-occupied affordable townhome project to be known as The Cornerstone at Sixth (the "Project"); and

WHEREAS, on March 24, 2020, the Orange County Board of County Commissioners (the "Board") adopted Ordinance 2020-09 establishing the Affordable Housing Trust Fund Program known as the "Housing Trust Fund" or the "Trust Fund" for the purpose of providing the financial resources and the leverage necessary to create and preserve affordable housing units in Orange County; and

WHEREAS, on September 22, 2020, the Board adopted the Affordable Housing Trust Fund Plan that outlines the eligible uses of the Trust Fund, including a strategy to provide gap financing to developers of affordable housing when additional funds are needed to secure the production or acquisition of affordable housing; and

WHEREAS, on September 10, 2021, Orange County issued a Request for Applications for affordable housing projects; and

WHEREAS, on November 3, 2021, the Agency submitted an application for \$500,000 for the construction of 24 townhomes to be sold affordably under a land trust model to income-eligible homebuyers; and

WHEREAS, the Affordable Housing Trust Fund Plan allows for the selection of projects through competitive processes such as a Request for Applications process; and

WHEREAS, on December 6, 2021, the Orange County Housing and Community Development Division selected the Project and identified the Housing Trust Fund as a funding source for the Project; and

WHEREAS, on January 3, 2022, the Orange County Housing and Community Development Division approved the Project for \$500,000 in funding; and

WHEREAS, on June 27, 2022, the Agency identified a total funding gap of \$1,500,000 for the \$10,107,053.00 Project and requested additional assistance from the County; and

WHEREAS, the County has identified \$750,000 in eligible program income from the Hurricane Housing Recovery Program (HHRP) and \$750,000 from the Affordable Housing Trust Fund (HTF) for the purpose of affordable housing construction; and

WHEREAS, the County now desires to provide funding for the Project to the Agency in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000); and

WHEREAS, the Board is permitted and desires to utilize available Affordable Housing Trust Fund Program and Hurricane Housing Recovery Program funds for the funding for the Project; and

WHEREAS, the County desires to enter into an agreement with the Agency to provide \$1,500,000 to build 24 affordable townhomes for sale to income eligible families.

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

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein as a material part of this Agreement.

Section 2. Documents.

A. The following documents form a material part of this Agreement and are hereby incorporated by reference:

1. This Agreement;
2. **Exhibit A:** Legal Description;
3. **Exhibit B:** Scope of Project;
4. **Exhibit C:** Project Budget;
5. **Exhibit D:** Payment Invoice; and
6. **Exhibit E:** Project Report;

Section 3. Definitions.

A. **“Affordable”** shall be defined as that monthly mortgage payment, including taxes and insurance, that does not exceed thirty-percent (30%) of the median adjusted gross annual income for households earning one hundred-twenty-percent (120%) or less of the Orlando Metropolitan Statistical Area (**“MSA”**) median income as determined by the U.S. Department of Housing and Urban Development (**“HUD”**). However, it is not the intent to limit an individual’s ability to devote more than thirty-percent (30%) of household income for housing. Housing, for which a household devotes more than thirty-percent (30%) of its income, shall be deemed affordable if the first mortgage lender is satisfied that the household can afford mortgage payments in excess of the thirty-percent (30%) benchmark.

B. **“Housing Unit”** shall be defined as an owner-occupied affordable residence for a very low, low, or moderate-income person or household that is constructed, developed, and sold in a manner consistent with the Florida Legislature’s use of “permanent affordable housing” in Section 125.379(2), Florida Statutes. Housing Units must be affordable and must provide for a fixed, regular, and adequate nighttime residence for the owner-occupier.

C. **“Very Low Income Person or Household”** shall mean a person or household whose incomes does not exceed fifty-percent (50%) of the Orlando Metropolitan Statistical Area (hereinafter **“Orlando MSA”**) Median Income, published annually by the U.S. Department of Housing and Urban Development (**“HUD”**) adjusted for family size.

D. **“Low Income Person or Household”** shall mean a person or household whose income does not exceed eighty-percent (80%) of the Orlando MSA Median Income published annually by HUD adjusted for family size.

E. **“Moderate Income Person or Household”** shall mean a person or household whose income does not exceed one hundred twenty-percent (120%) of the Orlando MSA Median Income published annually by HUD adjusted for family size.

Section 4. Description of Project and Property.

A. **Project Description.** The Agency, a non-profit housing developer, will construct 24 owner occupied townhomes in Apopka to be sold to very low, low, or moderate-income persons or households (**“Qualified Homebuyer(s)”**).

B. **Legal Description.** The Agency owns and intends to develop an owner-occupied townhome affordable housing project on that certain tract of real property, as further described in the *Legal Description* attached to this Agreement as **“Exhibit A”**.

C. The Project funds provided by the County pursuant to this Agreement shall be used to complete the Project as further described in the *Scope of Project* attached to this Agreement as **“Exhibit B.”**

Section 5. Completion Date and Extensions.

- A. The Agency shall complete the Project no later than **36 Months** after the date of execution of this Agreement (“**Completion Date**”).
- B. In the event of unavoidable delays deemed by the County to be beyond the control of the Agency, the Housing Division Manager, in their sole discretion, may extend the Completion Date with reasonable discretion (“**Extension Date**”). All requests for extension must be submitted in writing to the Housing Division Manager for approval no less than forty-five (45) days prior to the established Completion Date. Any such extension of the Completion Date approved by the Housing Division Manager will be done in writing and may not extend beyond the term of any relevant grant.
- C. The County shall retain the right to be fully informed of all pre-development issues associated with the Project that may result in a change in the Completion Date or in the *Scope of Project*. In no event shall the Completion Date be changed or otherwise modified beyond the term of this Agreement without prior written approval by the County.
- D. In the event that the Agency fails to completely develop and construct the Housing Units, as evidenced by the Agency’s receipt of a Certificate of Occupancy for each Housing Unit, and subsequently fails to sell the Property to very low, low, or moderate-income persons or households in accordance with the terms of this Agreement by the Completion Date or Extension Date, if applicable, the Agency may have the opportunity to cure as outlined in Section 11.C.

Section 6. The Parties’ Obligations.

- A. The Agency shall be responsible for all closing costs, recording fees, and any other expenses associated with the sale of completed homes between the Qualified Homebuyer and the Agency.
- B. The Agency shall oversee all phases of the Project including, but not limited to, the solicitation of construction bids, permitting, review and evaluation of all bids, awarding of contracts, on-site inspections, and final approval of the Project.
- C. The County and Housing Division Manager shall retain the right, but not the obligation, to perform inspections of the Project and to conduct investigations as required. The County’s investigations, or any lack thereof, shall not relieve the Agency of any responsibility, obligation, or liability that it has assumed in this Agreement.
- D. The Agency shall ensure that all services provided by its employees, agents, or any of its sub-contractors are performed in accordance with this Agreement.
- E. The Housing Division Manager shall retain the right to review and evaluate all submittals, attend all construction progress meetings, and be fully informed of all issues including, but not limited to, any deletions or revisions in work resulting in a change to the Completion Date or *Scope of Project*. In no event shall the Completion Date be changed or otherwise modified beyond the term of this Agreement without prior written approval by the County. The County’s review

and participation as described in this subsection shall not relieve the Agency of any responsibility, obligation, or liability that it has assumed in this Agreement.

F. The Agency shall ensure that all services relating to the Project are completed by the Completion Date, or the County approved Extension Date.

Section 7. Project Funding.

A. The County has reserved funds in an amount not to exceed one million five-hundred thousand dollars (\$1,500,000) for costs associated with the construction of Housing Units on the Property in accordance with the *Project Budget* attached to this Agreement as “**Exhibit C**”; the Agency understands that seven-hundred fifty thousand (\$750,000) of the funding received pursuant to this Agreement comes from the Orange County Affordable Housing Trust Fund (HTF) and seven-hundred fifty thousand (\$750,000) of the funding pursuant to this Agreement comes from the Hurricane Housing Recovery Program (HHRP) (“**Project Funds**”).

B. The Agency shall use the Project Funds only towards the Project which shall include only those eligible expenses permitted under the *Scope of Project*, *Project Budget*, and other terms of this Agreement. Should the Housing Division Manager, in their sole discretion, find that the Agency is not utilizing the Project Funds in accordance with this Agreement’s requirements, the Housing Division Manager may reduce or otherwise alter the funding amount of this Agreement.

C. Any Project Funds allocated to the Agency by the County for this Project that are not expended within the term of this Agreement shall be retained by the County. The County shall not pay the Agency for any Project services, costs, or expenses incurred by the Agency that are outside the scope or term of this Agreement.

Section 8. Project Budget.

A. The Agency may incur expenses for soft and hard costs associated with the construction of the Project for an amount not to exceed one million five-hundred thousand dollars (\$1,500,000) (“**Project Budget**”). The County’s payment of the Project Budget shall be subject to the terms and conditions set forth in this Agreement and pursuant to the *Project Budget* attached to this Agreement as “**Exhibit C**.” The parties agree that the County shall have the sole authority and discretion in determining the final amount to be expended by the County for the Project.

B. Budget Amendments; Eligible Uses.

1. As the intention of this Agreement is to broadly address the affordable housing concerns of Orange County, Florida, the Housing Division Manager is hereby given discretion to amend the *Project Budget* and/or approve expenses that may not explicitly be permitted in this Agreement’s *Scope of Project* or *Project Budget*, without formal amendment to this Agreement.
2. The above-referenced discretion is granted so long as the amendment or expense approved by the Housing Division Manager:

- a. Does not increase the total *Project Budget* amount; and
 - b. Is provided in writing that it is in the Housing Division Manager's opinion, that the amendment to the *Project Budget* or *Scope of Project*, will assist the County in meeting its affordable housing provision objectives.
3. Without such written approval from the Housing Division Manager, the Agency must use the funds in strict compliance with the terms of the *Scope of Project* and *Project Budget* in order for any expenses to be considered an "eligible use" of the funds.
 4. Any amendments to the *Project Budget* that do not meet the requirements of this provision must be made by formal written amendment to this Agreement.
- C. The Agency acknowledges and agrees that it shall be responsible for any costs associated with the Project that exceed the Project Budget or the County's anticipated payment as set forth in this Agreement. The Agency may seek and obtain financing for the design, development, construction and other Project costs through public agencies, private institutions, or private funds.
- D. The Agency shall maintain sufficient financial resources to meet any expenses incurred during the period of time between the provision of services under this Agreement and payment by the County.

Section 9. Billing Requirements.

- A. The Agency may submit requests for payment to the County throughout the duration of this Agreement, and up to sixty (60) days after this Agreement's expiration.
- B. The Agency's request for payment must be submitted to the County in writing on the Agency's letterhead and include copies of invoices for the actual work completed, approved, and inspected for which the Agency is seeking payment from the County. The letter must include a date, dollar amount, and a brief description of what is being requested.
- C. Upon receipt of a timely, complete, and accurate request for payment from the Agency, the County will review the request and, if approved, will pay the Agency for an amount not to exceed the Project Budget. The Housing Division Manager shall pay the Agency with Project Funds in accordance with the terms of this Agreement.
- D. The Agency shall maintain and submit a tracking spreadsheet with each payment request that shows its total expenditures and remaining balance.
- E. The Agency shall provide a completed Payment Invoice ("**Invoice**") for each request for payment, a copy of which is attached to this Agreement and incorporated by this reference as "**Exhibit D.**" All Invoices and supporting documentation, as more specifically described in this Section, shall be submitted to the Housing Division Manager.

F. The Agency shall submit the following supporting documentation required for processing Invoices:

1. Completed and approved AIA form.
2. Any additional documentation requested by the County.

G. Each Invoice must be completed in its entirety. Any Invoice that is incomplete or that fails to include the required supporting documentation will be deemed incomplete and may be rejected by the County.

H. Invoices submitted in accordance with this Agreement must include only those allowable expenses and costs acceptable under the Project, unless the Housing Division Manager has approved a cost or expense in writing pursuant to Section 8(B) above that is not explicitly described in the *Scope of Project* or *Project Budget*.

I. Completed Invoices and supporting documentation shall be submitted to the Housing and Community Development Division Manager, 525 East South Street, Orlando, Florida 32801.

Section 10. Payment Methods.

A. **Local Government Prompt Payment Act.** Unless otherwise stated in this Agreement, the County shall make payments to the Agency for work performed, or services provided, pursuant to this Agreement, in accordance with the Local Government Prompt Payment Act, Section 218.70 et. seq, Florida Statutes.

B. Upon review and approval of the Agency's Invoice, payment request, and supporting documentation, the Housing Division Manager shall submit the Agency's request for payment to the Fiscal and Operational Support Division for review and payment by the Orange County Comptroller's Office ("**Comptroller**").

C. Invoices that are deemed to be incomplete, untimely, or that are not accompanied by the necessary supporting documentation may result in the delay or possible denial of payment. All checks disbursed shall be made payable to the Agency in accordance with the Notices section of this Agreement.

D. The County reserves the right to withhold or deny payment of Project Funds to the Agency relating to the Project or this Agreement that are deemed by the County to be unsatisfactory, insufficiently documented, or a result of the Agency's failure to comply with the terms and conditions of the Project or this Agreement. In such case, the Housing Division Manager shall provide written notice to the Agency specifying the corrective action to be taken, if any, and a reasonable date for compliance with such action.

E. The Agency shall repay the County any Project Funds paid in error to the Agency under the terms of this Agreement. The County reserves the right to reduce future payments due to the

Agency by the amount owed to the County that is not repaid within ninety (90) days after the County's request for repayment.

F. Without approval by the Housing Division Manager as provided pursuant to the "**Budget Amendments; Eligible Uses**" subsection above, the County shall not make payments for, or in any way be responsible for, payment to the Agency for any goods or services provided that do not fall within the terms and conditions of this Agreement.

G. The Agency shall not obligate, encumber, spend, or otherwise utilize funds provided pursuant to this Agreement for any activity or expense that occurs outside the term of this Agreement or for any purpose not included in, or in conformance with, the *Scope of Project*.

H. The Agency may not accept duplicate funding for any cost, position, service, or deliverable funded with Project Funds. Duplicative funding is defined as more than one hundred-percent (100%) payment from all funding sources for any cost, position, service, or deliverable. If duplicate funding is discovered, this Agreement may be suspended while the extent of the overpayment is determined, or may be terminated. Such suspension or termination may be initiated at the sole discretion of the County.

I. Any costs or expenses incurred by the Agency that exceed the overall Project Budget amount set forth in this Agreement, or which are incurred outside of the term of this Agreement, shall be the sole responsibility of the Agency.

Section 11. Term and Termination.

A. **Term.** This Agreement shall take effect upon execution by all parties and approval by the BCC ("**Effective Date**"). To ensure that the Property is used for the construction of Housing Units, this Agreement shall remain in effect for 60 months until the Agency's sale of all Housing Units to Qualified Homebuyers at which time this Agreement shall terminate.

B. **Termination for Cause.** The County may terminate the whole or any part of this Agreement for cause, as a result of the Agency's default, twenty-four (24) hours after providing written notice to the Agency of the County's intent to terminate, if:

1. The Agency fails to comply with the terms and conditions of this Agreement; or
2. The Agency is unable to perform under this Agreement for any reason including unavailability of funds to finance all or part of the project; or
3. The Agency materially breaches any term of this Agreement as determined at the sole discretion of the County; or
4. The Agency fails to sell the Housing Units to very low, low, or moderate-income persons or households; or

5. The Agency makes any material representation in any certification or communication submitted to the County or Housing Division Manager in an effort to induce the use of Project Funds or the administration of Project Funds and the Agency's certification or communication is determined by the County to be false, misleading, or incorrect in a material manner; or
6. The Agency does not disclose to the County, upon demand, the name of all persons with whom the Agency has contracted, or intends to contract, with to perform the construction activities associated with the Project; or
7. The Agency defaults or fails to promptly pay amounts owed to contractors or sub-contractors for work performed in the Project; or
8. The Agency voluntarily files for bankruptcy, reorganization, or any other insolvency proceedings, or if a receiver is appointed for the Project, or if the Project becomes subject to the bankruptcy court, or if there is an attachment, execution, or other judicial seizure of the Agency assets; or
9. The Agency assigns, transfers, conveys, or sells its interest in this Project or the associated Property or any interest in this Agreement to any entity other than a Qualified Homebuyer or in contradiction to the terms of this Agreement.

C. **Opportunity to Cure.** The County may, at its sole discretion, provide the Agency with a Notice to Cure a default or breach of this Agreement. If the Agency fails to cure the default or breach to the County's satisfaction within the time provided in the Notice to Cure, the County may terminate this Agreement for cause. The Agency shall cure the breach within thirty (30) days of receiving notice of such breach. In the event that the Agency is unable to cure the breach within the allotted thirty (30) days, the Developer shall request an extension of time not to exceed ninety (90) days. Any such request for extension shall be made in writing and shall be submitted to the County within the first thirty (30) days time period. In such instances where the Agency is unable to correct the breach within the allotted thirty (30) day time period, the Agency shall commence such correction(s) within the ninety (90) days, and thereafter diligently pursue the same to completion within such period. In the event that the Agency fails to comply with the requirements of this Section, the Agency shall repay to the County any amount that was distributed up to the principal amount of One Million Five Hundred Thousand Dollars (\$1,500,000).

D. **In the Event of Termination.** After receipt of a notice of termination, except as otherwise directed, the Agency shall:

1. Stop working under this Agreement on the date of receipt and to the extent specified in the notice of termination, and continue the performance of this Agreement to the extent not terminated under the provisions of the Termination section of this Agreement; and

2. Place no further orders of subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under this Agreement that is not terminated; and
3. Incur no further costs to the extent that such costs relate to the terminated provisions of this Agreement; and
4. Prepare all necessary reports and documents required under the terms of this Agreement up to the date of termination without payment for services rendered in completing said reports beyond the termination date; and

E. The County shall have the right to terminate all approvals, obligations and acceptances granted by this Agreement in the event the Agency fails to comply with any of the terms and conditions of this Agreement.

F. In addition to any of the remedies contained in this Agreement, in the event of a default or breach of a covenant or a condition of this Agreement, the County may avail itself of any remedy available at law or in equity.

G. Waiver by the County of default or breach by the Agency of any provisions of this Agreement shall not be deemed to be a waiver of any other provisions or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

Section 12. Indemnification, Sovereign Immunity, Liability, Independent Contractor, and Services to Third Parties.

A. Indemnification.

1. The Agency will assume all liabilities, risks and losses for damage to the Property, any structures or improvements made to or installed on the Property, and for injuries to persons on the Property resulting from the acts or omissions the Agency, its officers, employees, agents, contractors or subcontractors.
2. To the fullest extent permitted by law, the Agency shall release, indemnify, defend and hold harmless the County, its officials, agents, and employees from and against any and all claims, damages, losses, and expenses, demands, suits or other actions, liabilities, costs and expenses (including reasonable attorney's fees), of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the Agency, its contractors or subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. Nothing in this Agreement shall be construed as a waiver of the County's right to sovereign immunity beyond the limits set forth in s. 768.28, Florida Statutes.

3. The Agency shall require each of its contractors, subcontractors, laborers, suppliers, agents or other individuals or entities to indemnify and hold County harmless from any and all claims, losses, damages, lawsuits or threat of lawsuit made against the County for personal injury or property damage that may arise at any time from, or related to their acts, errors or omissions in connection with or arising out of the development of construction of the Project.

B. Environmental Indemnification. The Agency shall defend, indemnify and hold harmless the County, its officials, agents, and employees from any claim arising from or in any way related to, the environmental condition of the property to be used for the Project, including, but not limited to, the cost of investigating, defending, or negotiating to a satisfactory conclusion claims made by environmental regulatory agencies, as well as all cleanup and property maintenance requirements imposed by any agency with lawful jurisdiction over the Project and associated property. This indemnification shall run from the time of initial discovery of any such adverse environmental condition and is not to be construed to commence only upon realization by the County of an actual pecuniary loss as a result of such adverse environmental condition. The existence of this indemnification shall not be construed as an indicative of ownership, management, or control of the Project by the County, and the County hereby recognizes and acknowledges that the County is not an owner or manager of the Project and does not exert any control thereupon. Notwithstanding anything in this Agreement to the contrary, this indemnification provision shall survive the termination of this Agreement.

C. No Waiver of Sovereign Immunity. Nothing contained in any provision of this Agreement shall constitute or be construed or interpreted as a waiver by the County, or any state agency or subdivision as defined in Section 768.28(2), of its sovereign immunity or the protections and provisions of Section 768.28, Florida Statutes.

D. Liability. The County shall not be liable to the Agency for any special, consequential, incidental, punitive, or indirect damages arising from or relating to any breach or termination of this Agreement, regardless of any notice of the possibility of such damages.

E. Independent Contractor. The parties agree that the relationship between the County and the Agency that is established by this Agreement is that of independent contractors. Nothing in this Agreement shall be construed to create any employment relationship between the County or any of its employees and the Agency or any of its employees. Neither party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

F. Services to Third Parties. The parties agree that the services provided pursuant to this Agreement are to be provided to third parties and not directly to the County itself. The County and Agency hereby agree that the Agency is not a "Contractor" as defined in Section 448.095, Florida Statutes. Notwithstanding the foregoing, by executing this Agreement, the Agency hereby certifies that – to the extent applicable to the Agency – the Agency complies with the terms and provisions of Section 448.095, Florida Statutes, as they apply to Private Employers.

Section 13. Safety Requirements.

A. The Agency shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance under this Agreement. The Agency shall take all reasonable precautions for the safety and protection of:

1. All employees and all persons whom the Agency suffers to be on the premises and other persons who may be affected thereby; and
2. All property, materials, and equipment on the premises under the care and custody of the Agency; and
3. Other property at or surrounding the premises including trees, shrubs, lawns, walkways, pavements, and roadways.

B. The Agency shall comply with, and shall ensure that its employees, contractors, and sub-contractors comply with, all applicable safety laws or ordinances, rules, regulations, standards, and lawful orders from an authority bearing on the safety of persons or property for their protection from damage, injury, or loss. This shall include, but not be limited to, the following:

1. Occupational Safety & Health Act (OSHA);
2. National Institute for Occupational Safety & Health (NIOSH);
3. National Fire Protection Association (NFPA).

C. The Agency must also comply with the guidelines set forth in the Orange County Safety & Health Manual. The manual can be accessed online at the address below:

<http://www.orangecountyfl.net/VendorServices/OrangeCountySafetyandHealthManual.aspx>

D. In any emergency affecting the safety of persons or property, the Agency shall act with reasonable care and discretion to prevent any threatened damage, injury, or loss.

Section 14. Insurance.

A. Without limiting the Agency's indemnification, the Agency shall maintain on a primary basis and at its sole expense, at all times throughout the duration of this Agreement, all appropriate policies of insurance coverage concerning its operations with limits on forms (including endorsements) as described in this Agreement. Certificates with valid and authorized endorsements, evidencing the maintenance and renewal of such insurance coverage shall be delivered to the County thirty (30) days prior to the commencement of construction. The County shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. The County, its officers, and employees shall be named as additional insureds on all policies of liability insurance. These requirements, as well as the County's review and acceptance of insurance by the Agency is not intended to and shall not in

any manner limit or qualify the liabilities or obligations assumed by the Agency under this Agreement.

B. Required Coverage:

1. **Commercial General Liability** – The Agency shall maintain coverage issued on the most recent version of the ISO form, as filed for use in Florida, or its equivalent with a limit of liability of not less than five hundred thousand dollars (\$500,000) per occurrence. The Agency further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insured. The General Aggregate limit shall either apply separately to this Agreement or shall be at least twice the required occurrence limit.
2. **All-risk Property Coverage** – The Agency shall provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to other property owned by the Agency.
3. **Flood Insurance** – The Agency agrees that if any portion of the Project is located in a special flood hazard area as identified by the Federal Emergency Management Agency, flood insurance will be purchased either through the National Flood Insurance Program or other commercially available insurance to cover all assets acquired or improved with Project Funds.

C. Insurance carriers providing coverage required under this Agreement must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A-, Class VIII or better. In addition, such policy shall provide that the coverage shall be primary for losses arising out of the Agency's performance of the Agreement. Neither the County nor their insurers shall be required to contribute to any such loss. The required certificate shall be furnished by the Agency to the County prior to the execution of this Agreement.

D. At least thirty (30) calendar days prior to the expiration of any of the insurance policies referenced in this Section, the Agency shall provide the County with evidence of the renewal of said insurance policies in a form satisfactory to the County.

E. The Agency shall require and ensure that each of its contractors/sub-contractors providing services under this Agreement procures and maintains, until the completion of their respective services, workers' compensation, general liability, and auto liability coverage in such limits and with such terms and conditions as to protect the Agency and the County's interest in this Project.

Section 15. Recordkeeping.

A. The Agency shall establish and utilize the best accounting practices in the maintenance of all records relating to this Agreement. Such practices shall comply with generally accepted accounting principles and shall fully and accurately reflect, track, and document the Agency's financial activities.

B. The Agency shall establish and maintain separate accounting records for the Agency's activities related to this Agreement and Project with sufficient documentation to identify the associated expenditures (e.g. detailed invoices, cancelled checks, payroll journals, bank statement reconciliations, etc.) and establish that such expenditures are allowable, necessary, and reasonable under this Agreement.

Section 16. Record Management and Reporting.

A. **Record Management.** The Agency acknowledges that the Agency, and any and all of its subcontractors providing services, or otherwise performing, pursuant to this Agreement, shall abide by the requirements of this "**Record Management**" provision.

1. **Maintenance.** In the performance of this Agreement, the Agency shall establish and maintain separate books, records, and accounts of all activities related to this Agreement, in compliance with generally accepted accounting and record maintenance procedures.
2. **Retention.** Books, records, and accounts related to the performance of this Agreement must be retained by the Agency for a period of five (5) years after termination of this Agreement, unless this Agreement is the subject of litigation, claim, or audit findings, at which point the Agency must retain such books, records, and accounts record for a period of five (5) years after the conclusion of any such litigation, claim, or audit finding.
3. **Access.** Books, records, and accounts related to the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the State or County.
4. **Public Records.** All books, records, and accounts related to the performance of this Agreement shall be subject to the applicable public records provisions of Chapter 119, Florida Statutes. As such, all books, records, and accounts created by the Agency, or provided to the Agency pursuant to this Agreement, are public records and the Agency agrees to assist the County in compliance with any request for such public records made in accordance with Chapter 119, Florida Statutes.

B. **Project Report.** The Agency shall submit to the Housing Division Manager a completed *Project Report* attached to this Agreement and incorporated by this reference as "**Exhibit E.**" The Project Report shall be submitted within thirty (30) calendar days of the expiration or termination of this Agreement and shall provide a summary of the Project including the total number of Housing Units built and the total number of persons or families benefitted by the Project. The Agency shall provide to the Housing Division Manager any additional information deemed necessary by the Housing Division Manager, in their sole discretion.

Section 17. Public Records Compliance. Pursuant to Section 119.071, Florida Statutes, the Agency must:

- A. Keep and maintain public records required by the County to perform the services contemplated in this Agreement.
- B. Upon request from the County, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the amount set by the County.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of this Agreement if the Agency does not transfer the records back to the County.
- D. Upon completion or termination of this Agreement, transfer, at no cost, to the County all public records in possession of the Agency or keep and maintain public records required by the Agency to perform the services in accordance with Florida law.
- E. If the Agency transfers all public records to the County upon completion of the Agreement, the Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Agency keeps and maintains public records upon completion of this Agreement, the Agency shall meet all applicable requirements for retaining public records in accordance with applicable federal and Florida law.
- F. All records stored electronically must be provided to the County, upon request from the County, in a format that is compatible with the information technology systems of the County.

IF THE AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, SHALL CONTACT THE PUBLIC RECORDS COORDINATOR AT PROCUREMENT PUBLIC RECORDS LIAISON; 400 E. SOUTH STREET, 2nd FLOOR, ORLANDO, FL 32801; PROCUREMENTRECORDS@OCFL.NET; (407) 836-5897.

Section 18. Personal Information Protection.

- A. In accordance with Section 501.171, Florida Statutes, the Agency shall take reasonable measures to protect and secure data in electronic form containing any personal information retained in the performance of the services relating to this Agreement. Personal Information shall mean an individual's first name or first initial and last name in combination with any of the following:
 - 1. A social security number; or
 - 2. A driver's license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity; or

3. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual's financial account; or
4. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a professional; or
5. An individual's health insurance policy number or subscriber identification number and a unique identifier used by a health insurer to identify the individual.

B. Personal information shall include a user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.

C. The Agency shall take reasonable measures to protect and secure data in electronic form containing the personal information, identified in this Section (collectively hereinafter referred to as "**Personal Information**"), that the Agency has been contracted to maintain, store, or process on behalf of the County or Housing Division Manager, in accordance with the requirements of this Section.

D. The Agency shall provide notice to the County as expeditiously as possible, but no later than forty-eight (48) hours, following the determination of a breach, or reasonable suspicion of a breach, of any system containing data in the electronic form that the Agency has been contracted to maintain, store, or process on behalf of the County. Breach shall mean any unauthorized access of data in electronic form containing Personal Information regardless of its source.

E. Notice of such breach to the County shall include the following:

1. A synopsis of the events surrounding the breach including the date(s) or date range of the breach of security; and
2. The number of individuals who were or potentially have been affected by the breach; and
3. A description of the Personal Information that was accessed or reasonably believed to have been accessed as part of the breach of security; and
4. The name, address, telephone number, and e-mail address of the employee, agent, or contractor from whom additional information may be obtained concerning the breach; and
5. Any additional information requested by the Housing Division Manager.

Section 19. Right to Audit. The County, the Comptroller, or their authorized designees, shall have the right to audit all of the Agency's records created pursuant to, or in any way related to, this Agreement. This includes, but is in no way limited to, the right to audit the Agency's use of Project Funds disbursed under this Agreement to ensure compliance with the

terms, conditions, and obligations set forth in this Agreement. The Agency shall provide full access to all records, documents, and information, whether paper or electronic data, necessary for the County or the Comptroller to perform such audit.

Section 20. Monitoring and Non-Compliance.

A. The Agency shall ensure and certify that all Qualified Homebuyers that purchase the Housing Units developed on the Property identified in “**Exhibit A**” meet the income eligibility requirements specified in this Agreement.

B. The Agency shall systematically and expeditiously furnish to the Housing Division Manager any and all data needed for the purpose of Project monitoring and evaluation. This data shall include information on the services provided and any other data that may be required by the Housing Division Manager.

C. If the Housing Division Manager discovers any Project or Agreement violations or non-compliance by the Agency, the Housing Division Manager will issue a written Letter of Findings to the Agency detailing the Monitoring Findings. The Agency shall respond to any Monitoring Findings made by the Housing Division Manager with a Corrective Action Plan and Implementation Schedule, as instructed by the Housing Division Manager, within thirty (30) days of the date of the Letter of Findings. A Corrective Action Plan must specifically describe how the Agency intends to rectify the Monitoring Findings. An Implementation Schedule must specifically describe when each Monitoring Finding will be corrected and provide a timeline for when each component of the Corrective Action Plan will be implemented.

D. The Agency agrees to reimburse the County any and all monies identified as over-payment or ineligible as a result of Monitoring Findings.

E. The County shall have all legal and equitable remedies available to it including, but not limited to, injunctive relief, the right to termination of contribution payments, and restitution for any use by the Agency of Project Funds determined to not be in compliance with the terms and conditions of this Agreement. This provision shall survive the termination of this Agreement.

Section 22. Equal Opportunity and Fair Housing.

A. **Equal Opportunity and Nondiscrimination Policy.** Pursuant to Section 17-288, Orange County Code, the County shall not extend public funds or resources in a manner that would encourage, perpetuate or foster discrimination. As such, any and all person(s) doing business with the County shall recognize and comply with the County’s “Equal Opportunity and Nondiscrimination Policy,” which is intended to assure equal opportunities to every person in securing or holding employment in a field of work or labor for which that person is qualified, regardless of race, religion, sex, color, age, disability or national origin. This policy is enforced by Section 17-314, Orange County Code, and the County’s relevant Administrative Regulations. Section 17-290, Orange County Code, memorializes the County’s commitment to its Equal Opportunity and Nondiscrimination Policy by requiring the following provisions in all County contracts:

1. The Agency represents that the Agency has adopted and shall maintain a policy of nondiscrimination as defined by applicable County ordinance through the term of this Agreement.
2. The Agency agrees that, on written request, the Agency shall permit reasonable access to all business records or employment, employment advertisement, application forms, and other pertinent data and records, by the county, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this Agreement; provided, that the Agency shall not be required to produce for inspection records covering periods of time more than one year prior to the date of this Agreement.
3. The Agency agrees that, if any of the obligations of this Agreement are to be performed by subcontractor(s), the provisions of subsections (1) and (2) of this section shall be incorporated into and become a part of the subcontract.

B. Fair Housing. The Agency shall comply with Affirmative Marketing and Minority Outreach as set forth in Human Rights Ordinance Chapter 22, Article IV Fair Housing of the Orange County Code and abide by the following:

1. The Agency shall provide rental information and attract eligible persons in the housing market area without regard to race, color, national origin, religion, sex, sexual orientation or disability; and
2. The Agency shall employ the Equal Housing Opportunity slogan, logo or statement in all solicitations for tenants, and posters with the logo will be prominently displayed at the Project.
3. The Agency shall maintain records of its affirmative marketing efforts and keep them available for review by Housing Division staff.
4. The Agency shall assess the success of its affirmative action efforts and, when applicable, undertake all necessary corrective actions as mandated by the County, when affirmative marketing requirements are not met.

Section 23. Scrutinized Companies.

A. By executing this Agreement, the Agency certifies that pursuant to Section 287.135, Florida Statutes, it is eligible to contract with the County for goods and services because: (1) it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes, and (2) it is not engaged in a boycott of Israel.

B. The County reserves the right to terminate this Agreement immediately should the Agency be found to: (a) have falsified this certification of eligibility to contract with the County for goods and services pursuant to Section 287.135, Florida Statutes; or (b) have become ineligible to

contract with the County for goods or services pursuant to Section 287.135, Florida Statutes, subsequent to receiving Order(s) pursuant to this Agreement.

C. Should this Agreement be terminated pursuant to this provision's subparagraph 2(b) above, the Agency shall be paid only for the goods and services received and accepted by the County prior to such termination. No other damages, fees, or costs may be assessed against the County for its termination of Order(s) pursuant to this provision and the County reserves the right to pursue any and all applicable and available legal remedies against the Agency for a violation of Section 287.135, Florida Statutes.

Section 24. Notices. Any notice required or permitted under this Agreement must be delivered by hand delivery, express courier, or certified mail, return receipt requested, and shall be effective upon receipt of the same. Notices must be delivered to each of the parties at the following addresses or such other addresses as specified by written notice in compliance with the terms of this paragraph.

As to County: Orange County Housing and Community Development Division
Attn: Manager
525 East South Street
Orlando, Florida 32801

AND

Orange County Administrator
201 South Rosalind Avenue
Orlando, Florida 32801

As to Agency: Hannibal Square Community Land Trust, Inc.
Attn: President and CEO
2265 Lee Road, Ste 117
Winter Park, FL 32789-1858

AND

Andre T. Young
The Young Law Firm of Florida, LLC
815 N. Magnolia Avenue, Suite 200
Orlando, FL 32803

Section 25. Amendments to Agreement. Amendments to this Agreement that do not require approval by the Board shall be submitted on the Agency letterhead to the Housing Division Manager in writing for approval, and shall provide an explanation as to why an amendment is being requested. Unless otherwise contemplated in this Agreement, any such proposed amendment or modification to this Agreement shall only become effective upon proper execution by both parties to this Agreement. No modification of this Agreement shall be binding upon any

party to this Agreement unless reduced to writing and signed by a duly authorized representative of each party to this Agreement.

Section 26. General Terms and Conditions.

A. **Cost Principles and Audit Requirements.** The Agency shall adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred. The County shall not, for any reason, be responsible or liable for the Agency’s failure to comply with the requirements of this Section or any obligation imposed upon the Agency in this Agreement.

B. **Religious and Political Activities.** The Agency is prohibited from using Project Funds provided in this Agreement or personnel employed in the administration of the Project for sectarian or religious activities, lobbying, or political patronage activities.

C. **Handicapped Accessibility Requirements.** The Agency shall design and construct the Project so that it is accessible to and usable by individuals with handicaps, in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. §12131, et seq.), and the implementing regulations in 24 CFR Part 8, and all state and local laws requiring physical and program accessibility to people with disabilities. Any contracts entered into by the Agency shall include a provision for compliance with these regulations. The Agency shall keep records demonstrating compliance with these regulations.

D. **Conflict of Interest.** No officer or employee of the Agency or its designees or agents or consultants, no member of the Board, and no other public official who exercises or has exercised any functions or responsibilities with respect to activities associated with Project Funds or who is in the position to participate in decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit from an activity related to the Project or Project Funds, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one (1) year thereafter. The Agency shall keep records supporting its requests for waivers of conflicts.

E. **Gifts.** The Agency shall reject gifts that may create a conflict of interest or may create an appearance of a conflict of interest.

F. **Force Majeure.** Neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond its control and without the fault or negligence of the delayed or non-performing party. The affected party will notify the other party in writing within fourteen (14) calendar days from the date the other party receives notice under this paragraph, the non-affected party will have the right, without any liability to the other party, to terminate this Agreement. Notwithstanding the foregoing, the Agency cannot claim *Force Majeure* under this provision for any emergency, exigency, or “Act of God” that any way existed at the time this Agreement was executed.

G. **Assignments and Successors.** The Agency shall not assign, transfer, convey, or sell its interest in the Project during the Agreement term without prior written consent from the County. In the event the Agency assigns, transfers, conveys or sells its interest in the Project without the required written consent of the County, the Agency may be declared in default under this Agreement by the County and the County may avail itself of all remedies provided for in this Agreement or otherwise legally available. The County shall have the right to assign or transfer this Agreement in whole or in part to any properly authorized commission, authority or other public agency empowered by law to serve the unincorporated area of Orange County. Each party binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. The parties deem the services to be rendered pursuant to this Agreement to be personal in nature.

H. **Contingency Fees.** The Agency warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Agency to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Agency, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

I. **Availability of Funds.** The County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Board of County Commissioners or other specified funding source for this Agreement.

J. **Waiver.** No delay or failure on the part of any party hereto to exercise any right or remedy accruing to such party upon the occurrence of an event of violation shall affect any such right or remedy, be held to an abandonment thereof, or preclude such party from the exercise thereof at any time during the continuance of any event of violation. No waiver of a single event of violation shall be deemed to be a waiver of any subsequent event of violation.

K. **Use of County Logo.** The Agency is prohibited from the use of any and all County emblems, logos, or identifiers without written permission from the County as per Section 2-3, Orange County Code.

L. **Governing Law.** This Agreement, and any and all actions directly or indirectly associated with this Agreement, will be governed by and construed in accordance with the internal laws of the State of Florida, without reference to any conflicts of law provisions.

M. **Venue.** For any legal proceeding arising out of or relating to this Agreement, each party hereby submits to the exclusive jurisdiction of, and waives any venue or other objection against, the Ninth Circuit Court in and for Orange County, Florida. Should any federal claims arise for which the courts of the State of Florida lack jurisdiction, venue for those actions will be in the Orlando Division of the U.S. Middle District of Florida.

N. **Jury Waiver.** Each party to this Agreement hereby irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement.

O. **Attorneys' Fees and Costs.** The parties shall each bear their own costs, expert fees, attorneys' fees, and other fees incurred in connection with this Agreement and any litigation that arises directly, or indirectly.

P. **Severability.** The provisions of this Agreement are declared by the parties to be severable. However, the material provisions of this Agreement are dependent upon one another, and such interdependence is a material inducement for the parties to enter into this Agreement. Therefore, should any material term, provision, covenant, or condition of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, the party protected or benefitted by such term, provision, covenant, or condition may demand that the parties negotiate such reasonable alternate contract language or provisions as may be necessary either to restore the protected or benefitted party to its previous position or otherwise mitigate the loss of protection or benefit resulting from holding.

Q. **Survivorship.** Those provisions which by their nature are intended to survive the expiration, cancellation, or termination of this Agreement, including, by way of example only, the indemnification, remedies, and public records provisions, shall survive the expiration, cancellation, or termination of this Agreement.

R. **No Representations and Construction.** The parties hereby agree that they have reviewed this Agreement, have consulted with legal counsel of their choice, have participated in the drafting of this Agreement, and that this Agreement is not to be construed against any party as if it were the drafter of this Agreement. Additionally, each party represents that they have had the opportunity to consult with an attorney, and have carefully read and understand the scope and effect of the provisions of this Agreement.

S. **Headings.** The headings or captions of articles, sections, or subsections used in this Agreement are for convenience of reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.

T. **Remedies.** No remedy in this Agreement conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy under this Agreement or now or after termination of this Agreement existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any rights, powers, or remedies under this Agreement shall preclude any other or further exercise of any rights powers or remedies.

U. **Authority of Signatory.** Each signatory below represents and warrants that he or she has the full power and is duly authorized by their respective party to enter into and perform under this Agreement. Such signatory also represents that he or she has fully reviewed and understands the above conditions and intends to fully abide by the conditions and terms of this Agreement as stated.

V. **Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to or shall confer upon any person other than the parties, their respective successors and permitted assigns, any legal or equitable right, benefit or remedy of any nature under or by reason of this Agreement.

W. **Compliance with Laws.** It shall be the Agency's responsibility to be aware of federal, state, and local laws relevant to this Agreement. The Agency shall abide by all applicable federal and state laws, rules and regulations dealing with the Project, whether presently existing or hereafter enacted or promulgated. The Agency shall comply with all applicable federal, state and local statutes, ordinances, rules and regulations including, but not limited to, all applicable provisions of the Orange County Code. The Agency shall not take any action in violation of any applicable legal requirement that could result in liability being imposed on the County. The Agency further agrees to utilize the Project Funds under this Agreement to supplement rather than supplant funds otherwise available.

X. **Recordation of the Agreement.** The parties hereto agree that the County has the right to record an executed original of this Agreement in the Public Records of Orange County, Florida.

Y. **Licenses and Permits.** The Agency shall obtain all necessary licenses and permits for the intended improvements or activities relating to the Project. The Agency, by this Agreement, represents and warrants that it has and will continue to maintain all licenses, permits, and approvals that are required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses, permits, and approvals shall be submitted to the County upon request.

Z. **Land Use Approvals.** This Agreement shall not be construed as granting or assuring or indicating any approval of any necessary applications or approval or acquiescence to the alteration of existing land use or approval for any other regulatory permit relating to the Project, or creating any vested right with respect to any land use regulations, and the County shall not be construed by virtue of entering into this Agreement to have made any such endorsement, finding, or recommendation or to have waived any right of the BCC or to have estopped the BCC from asserting any rights or responsibilities it may have in such regard to the Property or Housing Units. The Agency shall comply with all County requirements relating to approval of construction plans and building permits.

AA. **Counterparts and Facsimile Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement. Any counterpart may be delivered by any party by transmission of signature pages to the other parties at the addresses set forth herein, and delivery shall be effective and complete upon completion of such transmission; manually signed copies of signature pages shall nonetheless be delivered promptly after any such facsimile delivery.

Section 28. Entire Agreement. This Agreement, and any documents incorporated herein, sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements,

negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether written or oral, of any party to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: OCT 1 1 2022

ATTEST: Phil Diamond, CPA, Orange County Comptroller
As Clerk of the Board of County Commissioners

BY: *Phil Diamond*
Deputy Clerk

Date: OCT 1 1 2022

[REMAINING SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

HANNIBAL SQUARE COMMUNITY LAND TRUST, INC.

BY: *Juan Hollingsworth*

PRINT: JUAN HOLLINGSWORTH

TITLE: PRESIDENT

Date: 9/21/2022

NOTARY:

STATE OF: Florida)
COUNTY OF: Orange)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization on this 21st day of September 2022 by Juan Hollingsworth, President of Hannibal Square Community Land Trust, Inc., a Florida not-for-profit corporation, on behalf of the company who is:

Personally Known

Produced Identification. ID Type: N/A

Kristanna Alexis Williams
Signature Notary Public
Print, Type/Stamp Name of Notary

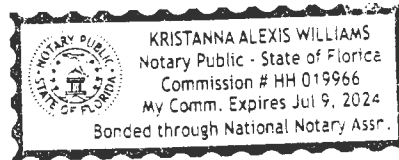


EXHIBIT A
LEGAL DESCRIPTION

Physical Street Address: 350 E 6th Street, Apopka, FL 32703

PARCEL 1:

Lots 1 through 8, 13 through 24, Less the North 62.25 feet of Lots 15 and 16, H. B. LINDLEY'S ADDITION TO APOPKA, according to the plat thereof, as recorded in Plat Book B, Page 22, together with vacated alley as set forth in Ordinance No. 281 recorded in Official Records Book 3453, Page 2525, Public Records of Orange County, Florida.

LESS: Phases 1, 2, 3, 4 and 5 (legal descriptions of said Phases described in Official Records Book 3521, on Page 754, of said Condominium) in the Declaration of Condominium of Orangewood Villas, a Condominium, according to the Declaration of Condominium in Official Records Book 3521, Page 729, as recorded in the Public Records of Orange County, Florida.

ALSO LESS: Legal in Warranty Deed Official Records Book 7816, Page 2651, described as follows:

BUILDING C:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 89 degrees 43 minutes 49 seconds West, along the South right of way line of 6th Street, a distance of 154.52 feet; thence South 00 degrees 16 minutes 11 seconds East, a distance of 134.93 feet for a POINT OF BEGINNING; thence continue South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71 feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

ALSO LESS: Legal in Warranty Deed Official Records Book 7816, Page 2361, described as follows:

BUILDING A:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 89 degrees 43 minutes 49 seconds West, along the South right of way line of 6th Street, a distance of 153.92 feet; thence South 00 degrees 15 minutes 11 seconds East, a distance of 25.00 feet for a POINT OF BEGINNING; thence continue South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71 feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

ALSO LESS: Legal in Warranty Deed Official Records Book 7816, Page 2884, described as follows:

BUILDING F:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 00 degrees 05 minutes 44 seconds West, along the East line of said Lot 1, a distance of 309.35 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 148.34 feet for a POINT OF BEGINNING; thence South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71 feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

PARCEL 2:

BUILDING C:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 89 degrees 43 minutes 49 seconds West, along the South right of way line of 6th Street, a distance of 154.52 feet; thence South 00 degrees 16 minutes 11 seconds East, a distance of 134.93 feet for a POINT OF BEGINNING; thence continue South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71

feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

PARCEL 3:

BUILDING A:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 89 degrees 43 minutes 49 seconds West, along the South right of way line of 6th Street, a distance of 153.92 feet; thence South 00 degrees 15 minutes 11 seconds East, a distance of 25.00 feet for a POINT OF BEGINNING; thence continue South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71 feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

PARCEL 4:

BUILDING F:

Commence at the Northeast corner of Lot 1, LINDLEY'S ADDITION TO APOPKA, Plat Book B, Page 22, as recorded in the Public Records of Orange County, Florida; thence South 00 degrees 05 minutes 44 seconds West, along the East line of said Lot 1, a distance of 309.35 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 148.34 feet for a POINT OF BEGINNING; thence South 00 degrees 16 minutes 11 seconds East, a distance of 48.93 feet; thence South 89 degrees 43 minutes 49 seconds West, a distance of 87.71 feet; thence North 00 degrees 16 minutes 11 seconds West, a distance of 48.93 feet; thence North 89 degrees 43 minutes 49 seconds East, a distance of 87.71 feet to the POINT OF BEGINNING.

PARCELS 1, 2, 3 AND 4 ABOVE ARE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A portion of Lots 1, 2, 3, 4, 5, 6, 18, 19, 20, 21, 22, 23 and 24, and a portion of the vacated Alley per Official Records Book 3453, Page 2525, H. B. Lindley's Addition to Apopka, according to

the plat thereof recorded in Plat Book B, Page 22, Public Records of Orange County, Florida, being more particularly described as follows:

A portion of the Southeast 1/4 of the Southwest 1/4 of Section 10, Township 21 South, Range 28 East, lying in Orange County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Section 10, Township 21 South, Range 28 East, lying in Orange County, Florida; thence run South 89 degrees 28 minutes 18 seconds East, a distance of 1683.23 feet along the South line of the Southwest 1/4 of said Section 10; thence departing said South line run North 01 degrees 02 minutes 38 seconds East, a distance of 25.00 feet to the North right of way line of the East Seventh Street, a 55.00 foot right of way, per H. B. Lindley's Addition to Apopka, according to the plat thereof as recorded in Plat Book B, Page 22, of the Public Records of Orange County, Florida, and the Point of Beginning; thence departing said North right of way line the following four (4) courses and distances, North 01 degrees 02 minutes 38 seconds East, a distance of 25.00 feet; thence North 74 degrees 25 minutes 43 seconds East, a distance of 67.99 feet; thence North 06 degrees 59 minutes 53 seconds West, a distance of 67.26 feet; thence North 00 degrees 30 minutes 42 seconds East, a distance of 295.44 feet to the South right of way line of East Six Street of said H. B. Lindley's Addition to Apopka; thence North 89 degrees 46 minutes 37 seconds East, a distance of 266.11 feet along said right of way line; thence departing said South right of way line run South 00 degrees 21 minutes 54 seconds West, a distance of 409.47 feet to the aforesaid North right of way line of East Seventh Street; thence North 89 degrees 28 minutes 18 seconds West, a distance of 323.91 feet along said North right of way line to the Point of Beginning.

EXHIBIT B
SCOPE OF PROJECT

The parties shall perform the following functions contained in this *Scope of Project* pursuant to the terms of this Agreement, which shall hereinafter be referred to collectively as the **“Project”**:

A. The Agency shall develop a conceptual site plan, including preliminary and final plans, drawings, and specifications for the development and construction of Housing Units on the real property legally described in the *Property List* attached to this Agreement as **“Exhibit A”** and hereinafter referred to as the **“Property”**. The Agency may use consultants and subcontractors to assist in developing plans and specifications. The plans and specifications must be prepared by architects, engineers, and other professionals or tradespersons that are licensed to practice in the State of Florida. The Agency shall ensure that all construction and development of the Property is done pursuant to plans and specifications that have been approved by the County.

B. The Agency shall be responsible for paying all costs of the Project including, but not limited to, on-site and off-site infrastructure, architectural and design fees, development, platting, engineering, permits, licenses, inspections testing, construction indemnity and surety bonds, insurance premiums, and any other direct or indirect costs of the Project. The Agency may obtain additional development and construction financing from public agencies, private institutions, or private funds to cover the remaining costs of the Project.

C. Upon completing the construction and development of Housing Units on the Property (**“Developed Property”**), the Agency will sell the Developed Property to very low, low, or moderate-income individuals or families whose income does not exceed one-hundred-twenty-percent (120%) of the median annual income adjusted for family size for households within the Orlando MSA as defined by the U.S. Department of Housing and Urban Development (**“Qualified Homebuyer(s)”**). Qualified Homebuyers may apply for Orange County’s Down Payment Assistance Program to assist with the purchase of the Developed Property.

D. **Restrictions on Sales.**

1. The Agency shall ensure that the Developed Property is not sold to investors and is only sold to Qualified Homebuyers as fee simple.
2. The Agency may not sell the Developed Property to Qualified Homebuyers in excess of the Developed Property’s appraised value.

E. **Closing Documents.** The Agency shall submit copies of the following documents to the County’s Housing Division within thirty (30) days after closing of the sale of each Permanent Affordable Housing unit:

1. Fannie Mae Form 1003, Uniform Residential Loan Application or similar mortgage loan application;
2. Verification of earnings (e.g. VOE, SSI award letter, pay-stubs, etc.);

3. Appraisal report;
4. Sales and purchase contract;
5. Good Faith Estimate; and
6. Fully executed closing statement (HUD-1) and closing documents.

F. The Agency will determine a Homebuyer's eligibility to purchase Developed Property under this Agreement by reviewing and verifying the applicant's income, as well as the income for each person residing in the Housing Unit. The Agency shall evaluate the applicant's income in accordance with this Agreement and the Orlando MSA.

G. The Agency shall be responsible for obtaining all necessary and required building permits and shall conduct all inspections of all Project construction and development performed under this Agreement. The Housing Division Manager and County reserve the right to inspect all Project construction and development.

H. Any changes or alterations in the plans, specifications, exhibits, addenda, or other drawings of any part of the Project shall be invalid or otherwise unenforceable unless reduced to writing and signed by the Housing Division Manager and the Agency (hereinafter referred to as "Change Orders").

I. **Financing.** The Agency may seek and obtain financing for the design, development, construction and other Project costs through public agencies, private institutions, or private funds.

J. **Homebuyers Education Course.** The Agency shall ensure that all Qualified Homebuyers complete an approved Fannie Mae or HUD homebuyer's education course prior to closing and receive a certificate of completion. Homebuyers may apply to Orange County Housing and Community Development for down payment assistance.

K. **Home Warranty.** The Agency shall issue a one (1) year home warranty to the Homebuyers that covers "Workmanship and Materials" and commences on the date of the Certification of Completion.

**EXHIBIT C
THE CORNERSTONE AT SIXTH
PROJECT BUDGET**

Construction Hard Costs:

To include labor and material for site preparation, concrete, framing, roofing, flooring, plumbing, electrical, mechanical, fixtures, windows, doors, painting, interior, exterior work, and landscaping.

Construction Soft Costs:

To include environmental site assessment, survey, engineering, architectural, permitting, legal, and recording costs.

Total Budget	\$1,500,000
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The Housing Division Manager may approve additional eligible funding uses that are not explicitly included below pursuant to Section 8 (“Project Budget”) of this Agreement.

**EXHIBIT D
PAYMENT INVOICE**

INVOICE NUMBER _____ MONTH _____

Name of Agency: _____

Project Name: _____

Bill to:

Orange County Manager, Housing and Community Development 525 E. South Street Orlando, FL 32801

DESCRIPTION	AMOUNT BILLED
TOTAL	

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the associated Project Administration Agreement. I am aware that any false, fictitious, or fraudulent information, or omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims or otherwise.

Signature of Preparer: _____ Date: _____

Title: _____

Authorized Signature: _____ Date: _____

Title: _____

**EXHIBIT E
PROJECT REPORT**

Agency: _____ Year Ending: _____

Contact Person: _____ Phone: _____ E-mail: _____

SECTION 1: Total Project Participants served by the Project	<u>Year-to-Date</u> Project Participants (Unduplicated)
Extremely Low Income	
Very Low Income	
Low Income	
Moderate Income	
TOTAL (s/b same as below)	
Female Headed Households	
Homeless	
Orange County Residents	
Total Project Participants with Special Needs	

SECTION 2: Race and Ethnicity of Participants	<u>Year-to-Date</u> Project Participants (Unduplicated)	
	Hispanic or Latino	Not Hispanic or Latino
White		
Black/African American		
Asian		
American Indian/Alaska Native		
Native Hawaiian/other Pacific Islander		
Amer. Indian/Alaska Native and White		
Asian and White		
Black / African American and White		
American Indian/Alaska Native and Black / African American		
Other Multi-Racial		
TOTAL (s/b same as above)		