

MEMORANDUM

TO: MAYOR AND CITY COMMISSION
FROM: CITY ATTORNEY'S OFFICE
DATE: January 6, 2025
RE: **HOME-ARP Loan Agreement for Gospel Village**

Attached for your consideration is a funding agreement in the amount of \$685,000.00 between the City of Lakeland and Gospel, Inc. for the construction of additional permanent supportive housing at Gospel Village, located at 111 East Main Street.

The American Rescue Plan Act (ARPA) of 2021 appropriated \$5 billion nationwide to provide housing, services and shelter to individuals experiencing homelessness and other vulnerable populations, to be allocated to jurisdictions who qualified for HOME Investment Partnership Program allocations in FY 2021. The City of Lakeland was allocated HOME ARPA funds in the amount of \$1,401,459.00 and, on March 7, 2022, the City Commission unanimously approved an amendment to the City's One Year Action Plan (PY 2020-2021) to use the funds for the development of affordable rental housing and associated administration costs.

On January 20, 2023, the City of Lakeland issued a Request for Proposals (RFP NO. 3041), offering gap financing to qualified developers/sponsors for the development of affordable rental units, with a focus on the prevention of homelessness. The Housing Division received two applications: one for Griffin Lofts, a partnership between Carrfour Supportive Housing, Inc. and Allegre Point, LLC, and one for Gospel Village, being developed by Gospel Inc.

On March 21, 2023, the applications were presented to the Affordable Housing Review Committee, consisting of representatives from the Community and Economic Development Department, Lakeland Electric, Water Utilities, and members from the Affordable Housing Review Committee. After reviewing the applications, the Committee determined that both developers submitted qualified projects meeting the strict HOME-ARP requirements for providing housing for those at risk of facing homelessness. The Committee further recommended an equal allocation of \$685,000.00 to each project, with the remaining \$31,459.00 (2% of the HOME-ARPA funds) to be used for administrative costs.

Griffin Lofts funding agreement was approved by the City Commission on September 18, 2023 and that project is currently under construction, with an estimated completion date in the first quarter of 2025. Griffin Lofts will consist of 60 units in a single four-story building comprised of thirty-eight (38) one bedroom/one-bathroom apartment units and twenty-two (22) two bedroom/two-bathroom apartment units. Twenty percent

(20%) of the units will be available for individuals or households at or below 40% of Area Median Income (AMI), and the balance will be available for those at or below 60% AMI.

Gospel Village is developing a second phase to its existing 35-unit mobile home community serving those experiencing chronic homelessness. This second phase will consist of three two-story buildings, with twenty-four (24) one-bedroom units in each, for a total of 72 units. However, the funding requested to be awarded is for 48 units only, with an initial 40 units serving those at or below 30% AMI. Gospel Village is now ready to close on their allocation of HOME-ARP funding and recently broke ground, with an estimated completion within twelve to eighteen months of commencement.

Funding under the attached Agreement will take the form of a deferred loan that will be subordinate to primary financing sources. The units constructed by Gospel, Inc. must be utilized for affordable housing for a minimum period of twenty (20) years. In the event this requirement is met and Gospel, Inc. otherwise meets the requirements of the Agreement, the loan will be forgiven at the end of the twenty (20) year affordability period.

It is recommended that the City Commission approve the attached HOME-ARP Loan Agreement for Gospel Village and authorize the appropriate City officials to execute the Agreement and all associated documents necessary to finalize the transaction.

Attachments

HOME-ARP LOAN AGREEMENT FOR
GOSPEL VILLAGE

This HOME Investment Partnerships American Rescue Plan Program Loan Agreement (this “Agreement”) for Gospel Village is dated as of this ____ day of _____, 2025, by and between the **City of Lakeland**, a political subdivision of the State of Florida, (hereinafter “Lender”), and, **Gospel, Inc.**, a Florida not for profit corporation, (hereinafter the “Project Sponsor” or “Borrower”).

FUNDING SOURCE:	HOME-ARP Program
AMOUNT:	\$685,000.00 in HOME Partnerships American Rescue Plan Program (“ <u>HOME-ARP</u> ”) Funds
COMMISSION APPROVAL:	The City of Lakeland (“ <u>City</u> ”) approval on [_____]
PROJECT NAME:	Gospel Village
PROJECT TYPE:	New Construction of a Rental Project
PROJECT SPONSOR:	Gospel, Inc., a Florida not for profit corporation
LEASEHOLD OWNER:	Project Sponsor
AFFORDABILITY PERIOD:	Twenty (20) years commencing on the Close-Out of the Project.
ASSISTED UNITS:	Six (6) of the residential units shall be Assisted Units for eligible individuals; six (6) of the Assisted Units shall be occupied by Very Low-Income to Low-Income Households during the Affordability Period.
PROPERTY ADDRESS:	111 East Main Street

EXHIBITS ATTACHED HERETO AND INCORPORATED HEREIN:

Exhibit “A”	Legal Description
Exhibit “B”	Scope of Work/Project Schedule
Exhibit “C”	Budget
Exhibit “D”	Form of Disbursement Agreement
Exhibit “E”	Form of Mortgage and Security Agreement

RECITALS

WHEREAS, the Project Sponsor is the owner of a long-term leasehold estate of the real property (“Property”) described in **Exhibit “A”**. The Project Sponsor is constructing a residential affordable housing project consisting of two (2) garden style two-story buildings known as Gospel Village (the “Project”), that will increase the supply of rental housing units for Very Low and Low-Income Households (50% and 80% of AMI, respectively), by providing additional affordable rental units.

WHEREAS, on January 6, 2025, the City of Lakeland approved a loan of HOME-ARP Program funds in the amount of \$685,000.00 for the hard and soft construction costs of the Project; and

WHEREAS, the Lender and the Project Sponsor intend and agree that the HOME-ARP Funds be subject to the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto understand and agree as follows:

ARTICLE I **DEFINITIONS**

The Lender and the Project Sponsor hereby agree that the capitalized terms used herein shall have the meanings set forth below unless the context requires otherwise:

1.1	<u>Affordability Period:</u>	The period of time that the Assisted Units must remain Affordable, in compliance with 24 CFR §92.252 and the Rent Regulatory Agreement. The Affordability Period for this Project is twenty (20) years, commencing on the Close-Out of the Project.
1.2	<u>Affordable:</u>	A project or unit that satisfies the requirements set forth in 24 CFR Part 92.
1.3	<u>Assisted Units:</u>	Of the Project’s total forty-eight (48) units, there will be six (6) Assisted Units or Affordable units for households/individuals. Six (6) of the Affordable units shall be allocated for Very Low-Income to Low-Income Households. The payable rents on the Assisted Units are subject to the Rent Regulatory Agreement. Further restrictions apply to the Assisted Units as provided in and this Agreement, the other Loan Documents and the Legal Requirements, as applicable. The Assisted Units shall remain Affordable throughout the Affordability Period.
1.4	<u>City:</u>	The City of Lakeland, Florida, a municipal corporation.

1.5	<u>City Note:</u>	That certain Promissory Note (HOME-ARP Funds) for Griffin Lofts of even date herewith evidencing the Loan, executed by the Lender in favor of the City.
1.6	<u>Close-Out of the Project:</u>	The date on which the Project has obtained all of the required Certificate(s) of Occupancy and all Assisted Units have been leased to eligible HOME-ARP tenants.
1.7	<u>Contract Records:</u>	Any and all books, records, documents, information, data, papers, letters, materials, electronic storage data and media, whether written, printed, computerized, electronic or electrical, however collected or preserved which are or were produced, developed, maintained, completed, received or compiled by or at the direction of the Project Sponsor or any Project contractor or subcontractor relating to the use of the HOME-ARP Funds in carrying out the duties and obligations required by the terms of this Agreement, including, but not limited to, financial books and records, ledgers, drawings, maps, pamphlets, designs, electronic tapes, computer drives and diskettes or surveys.
1.8	<u>Effective Date:</u>	The date on which the Agreement has been signed by the Lender.
1.9	<u>HOME-ARP Funds, or, the Loan:</u>	The loan in the amount of \$685,000.00 from the Lender to the Project Sponsor for Project construction.
1.10	<u>HOME-ARP Program:</u>	The program created by the National Affordable Housing Act of 1990 to strengthen public/private partnerships to provide more Affordable housing to qualified persons.
1.11	<u>HOME-ARP Requirements:</u>	The requirements contained in this Agreement, 24 CFR Part 92 and any other requirements imposed by the City.
1.12	<u>HUD:</u>	The United States Department of Housing and Urban Development.
1.13	<u>Investor Member:</u>	[_____]
1.14	<u>Legal Requirements:</u>	All federal, state and local laws, regulations and requirements relating or pertaining to the Loan and/or the Project, and any requirements imposed by the City.

1.15	<u>Lender Note:</u>	That certain Promissory Note (HOME-ARP Funds) for Gospel Village of even date herewith evidencing the Loan, executed by the Project Sponsor in favor of the Lender.
1.16	<u>Loan Documents:</u>	This Agreement and all other documents that may now or hereafter evidence or secure the HOME-ARP Funds together with other documents executed in connection therewith or presented by the Project Sponsor to the Lender in connection therewith or herewith, including but not limited to <u>Exhibits D, F, H</u> , and the Note, and all amendments, extensions and renewals to any of the foregoing.
1.17	<u>Low-Income Household:</u>	Annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments and certain exceptions as provided in 24 CFR Part 92.
1.18	<u>Mortgage:</u>	The Mortgage and Security Agreement for Gospel Village collateralizing the Loan, executed by the Project Sponsor, a copy of which is attached hereto and incorporated herein as <u>Exhibit “F.”</u>
1.19	<u>Notes:</u>	The City Note and the Lender Note, collectively.
1.20	<u>Permitted Senior Financing:</u>	See Section 5.17 and 2.3(B).
1.21	<u>Project:</u>	Gospel Village is new construction consisting of two (2) garden style two-story buildings located in the City of Lakeland, Florida. The project will have a total of forty-eight (48) units and shall be comprised of <u>forty-eight (48)</u> one bedroom/one-bathroom apartment units and () two bedroom/two-bathroom apartment units. The six (6) Assisted Units shall be occupied by eligible tenants, as described herein. The Project shall be constructed in accordance with the Scope of Work/Project Schedule and the plans and specifications (attached hereto and incorporated herein as <u>Exhibit “B”</u>), that will provide affordable housing opportunities in accordance with HUD income guidelines.
1.22	<u>Property:</u>	The real property located in Polk County, Florida, on which the Project is being constructed, as legally described in <u>Exhibit “A,”</u> attached hereto and incorporated herein.

1.23	<u>Special Investor Member:</u>	[_____]
1.24	<u>Term:</u>	The period commencing on the Effective Date hereof and ending at the expiration of the Affordability Period, unless this Agreement is terminated sooner as provided for herein.
1.25	<u>Very Low-Income Household:</u>	Annual income does not exceed fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments and certain exceptions as provided in 24 CFR Part 92.

ARTICLE II **HOME-ARP FUNDS**

Upon satisfaction of all conditions set forth herein, the Lender shall disburse the HOME-ARP Funds to the Project Sponsor for the purposes herein set forth.

2.1 **Use of Funds.** Gospel Village is new construction consisting of two (2) two-story buildings located in the City of Lakeland, Florida. The Project consists of a total of Forty-eight (48) units. Six (6) of the Project units will be Assisted Units for Very Low and Low-Income Households for a period of twenty (20) years, commencing at the Close-Out of the Project.

The six (6) Assisted Units shall be occupied by for eligible individuals; the HOME-ARP Funds shall be used for certain development costs and for construction hard costs of the Project, in accordance with the Scope of Work/Project Schedule attached hereto and incorporated herein as **Exhibit “B”** and the Budget attached hereto and incorporated herein as **Exhibit “C.”**

2.2 **Disbursement.** The HOME-ARP Funds shall be disbursed in accordance with the Budget attached hereto and incorporated herein as **Exhibit “C”** and in the manner set forth in that certain Disbursement Agreement, of even date herewith, to be entered into by the Lender and the Project Sponsor (the “Disbursement Agreement”) a copy of which is attached hereto as **Exhibit “D”**. The Project Sponsor shall not request disbursement of such HOME-ARP Funds until such HOME-ARP Funds are needed for payment of eligible costs. The amount of each request for disbursement must be limited to the amount needed for the payment of eligible costs. The Project Sponsor agrees and affirms that any expenditure of the HOME-ARP Funds will be in compliance with the requirements of 24 CFR §92.206.

2.3 **Repayment of HOME-ARP Funds.** Repayment by the Project Sponsor of principal, accrued interest, and other costs and charges set forth in the Loan Documents shall be deferred to the end of the Affordability Period, at which time the accrued interest and principal shall be due and payable. Upon the expiration of the Affordability Period, the Loan will be repaid as follows:

A. The Loan shall bear zero percent (0%) during the construction of the project. Upon the Close-Out of the Project, the Loan will be converted to a 20-year permanent loan that shall bear interest at the rate of zero percent (0%) per annum thereon. The principal and any accrued interest will be deferred to the end of the twenty (20) year Affordability Period, at which time the principal and all accrued interest shall be forgiven.

B. The Project Sponsor shall not agree to any transaction or agreement that will create additional mandatory superior payments without the Lender's prior written approval other than as set forth on Schedule "A" attached hereto and made a part hereof.

C. Notwithstanding any provision herein to the contrary, in the event that the Project Sponsor shall:

(i) Meet all of its obligations hereunder and under all of the Loan Documents executed in connection herewith;

(ii) Commence construction of the Project within six (6) months from the Effective Date of this Agreement;

(iii) Obtain all required certificates of occupancy for the Project, within twenty-four (24) months from the Effective Date;

(iv) Rent all Assisted Units to Very Low and Low-Income Households in accordance with the requirements of this Agreement, within twelve (12) months after the issuance of certificates of occupancy for the Project, but in no event later than thirty (30) months from the Effective Date; and

(v) Throughout the Affordability Period, rent the Assisted Units to Very Low and Low-Income Households in accordance with the requirements of this Agreement, the Rent Regulatory Agreement and the other Loan Documents;

(vi) Throughout the Affordability Period, comply with all applicable HOME-ARP Requirements and all applicable requirements hereof and in the other Loan Documents, after which, the City shall cancel the City Note (and deliver, or cause to be delivered, the cancelled original City Note to the Lender), and assign the City's interest in the Mortgage to the Lender.

D. Notwithstanding any provision herein to the contrary, the amount of the HOME-ARP Funds disbursed hereunder, together with all interest accrued thereon, shall become due and payable upon the occurrence of an Event of Default as described in Article VII below and the continuance of such Event of Default beyond the applicable cure period, if any.

ARTICLE III **DISBURSEMENT REQUIREMENTS**

3.1 CONDITIONS OF DISBURSEMENT OF HOME-ARP FUNDS.

The Lender shall not be obligated to disburse the HOME-ARP Funds unless and until the Lender has received the following:

3.1.1 Title Insurance. A title insurance commitment issued by a title insurance company acceptable to the Lender identifying the Lender's insurable interest, the Project Sponsor's leasehold estate in the Property, together with copies of all instruments which appear as exceptions therein. The title commitment and policy shall be issued without exceptions, except for those exceptions permitted by the Lender, and shall include such affirmative coverage as the Lender shall require.

3.1.2 Survey. An original current survey of the Property made by a registered surveyor satisfactory to the Lender and the title company and containing such certifications as the Lender and the title company may require.

3.1.3 Zoning. Evidence that the Property and the proposed improvements comply with all applicable zoning ordinances.

3.1.4 HOME-ARP Program. Evidence of the Project Sponsor's satisfactory compliance with all of the applicable requirements of the HOME-ARP Program, pursuant to 24 CFR Part 92, as hereinafter detailed.

3.1.5 Corporate Documents.

(a) The operating agreement, or its equivalent, and a good standing certificate for the Project Sponsor and its Manager, certified by the appropriate governmental authority.

(b) Resolutions, and incumbency certificates, or, in the case of a partnership, their equivalent, for the Project Sponsor and its Manager certified by the Corporate Secretary or other authorized signer, authorizing the consummation of the transactions contemplated hereby, all satisfactory to the Lender.

(c) Evidence satisfactory to the Lender that Project Sponsor and any partner of such entity, is qualified to receive funds under the HOME-ARP Program in accordance with the HOME-ARP Requirements.

3.1.6 Insurance Policies. The Project Sponsor shall obtain and furnish evidence of insurance coverage as the Lender may require in connection with the Project, which may include, but is not limited to, the following:

(a) Commercial General Liability with limits of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate, protecting against property damage, advertising injury claims, personal injury and bodily injury, including death. The insurance policy shall be written on a primary and non-contributory basis and shall further list the Lender as an additional insured.

(b) Business Auto Liability affording coverage on all owned autos, including hired and non-owned auto exposures with limits of \$1,000,000 per accident. The Lender shall be listed as an additional insured.

(c) Workers' Compensation and Employer's liability coverage subject to the statutory limits as required by the laws of the State of Florida ("State").

The Project Sponsor shall be required to obtain and maintain at all times the insurance coverage outlined under this Section, and shall further furnish evidence to the Lender of such. In addition, the Project Sponsor shall require its contractors to furnish certificates of insurance in accordance to **Exhibit “J.”** To the extent available from the applicable insurance company, all such policies shall provide the Lender with a written notice of cancellation or material change from the insurer not less than thirty (30) days prior to any such cancellation or material change, and all such policies shall be written by insurance companies satisfactory to the Lender.

Failure of the Project Sponsor to submit all required evidence of the specified insurance coverage fourteen (14) calendar days prior to the start of Project shall delay the disbursement of the HOME-ARP Funds.

3.1.7 **Operative Documents.** This Agreement, the Notes, the Mortgage, the Rent Regulatory Agreement, the Disbursement Agreement, the Loan Documents, shall be duly and lawfully executed by the Project Sponsor and in recordable form, where appropriate.

3.1.8 **Appraisal.** A current appraisal of the Property made by a member of the American Institute of Real Estate Appraisers.

3.1.9 **List of Contractors and Subcontractors.** A list of all of the Project Sponsor’s subcontractors and contractors as of the date of execution of this Agreement, and copies of all contracts in excess of \$10,000 for the performance of services or the supply of materials in connection with the Project to be funded pursuant to this Agreement.

3.1.10 **Compliance with HOME-ARP Requirements.** All other documents required by the HOME-ARP Program evidencing compliance with HOME-ARP Requirements.

3.1.11 **Firm Commitments for Construction Financing.** Evidence of firm commitments for a construction/permanent loan(s) as provided for in the Budget, attached hereto as **Exhibit “C”** and made a part hereof.

3.1.12 **Evaluation of Project Costs.** The evaluation of the Project’s costs as prepared by an independent engineer/general contractor, engaged by the Project Sponsor, that supports the total projected construction costs of the Project.

3.1.13 **First Source Hiring Agreement.** If applicable, an executed First Source Hiring Agreement between the Project Sponsor and the City.

3.1.14 **Historic Preservation Review.** All applicable requirements of the State of Florida Historic Preservation Department shall have been met prior to the disbursement of any funds hereunder.

3.1.15 **Environmental Report.** The Project Sponsor shall submit all information requested by the Lender with respect to the Project including, but not limited to, Phase I and Phase II Environmental Assessment Reports, as applicable.

3.1.16 **Audit Report.** The Project Sponsor shall submit audit reports, as are required herein, to the Lender.

3.1.17 Personnel Policies and Administrative Procedure Manuals. The Project Sponsor shall submit detailed documents describing the Project Sponsor's internal organizational structure, property management and procurement policies and procedures, personnel management, accounting policies and procedures, etc. Such information shall be submitted to the Lender within thirty (30) days of the execution of this Agreement and prior to the disbursement of any funds hereunder.

3.1.18 Certificate Regarding Lobbying. Such Certificate Regarding Lobbying as may be requested by the City.

3.1.19 Certificate Regarding Debarment, Suspension, and Other Responsibility Matters. Such Certificate Regarding Debarment, Suspension and Other Responsibility Matters as may be requested by the City.

3.1.20 Public Entity Crime Affidavit. Such Public Entity Crime Affidavit as may be required by the City.

3.1.21 Environmental Clearance. Project construction must not commence, nor will any HOME-ARP Funds be advanced, nor are any costs to be incurred, until satisfactory completion of an environmental review and receipt by the City of a release of funds from HUD under 24 CFR Part 58. HOME-ARP Funds will not be disbursed until the Removal of Grant Condition is received by the City from HUD.

3.1.22 Other Documents. All other documents required by the Lender.

3.1.23 Project Sponsor Compliance. The Project Sponsor shall be in full compliance with the requirements of previously funded City projects that are either under construction or in their affordability periods.

ARTICLE IV

HOME-ARP PROGRAM REQUIREMENTS

The Project Sponsor shall comply with all applicable requirements of the HOME-ARP Program as provided in 24 CFR Part 92 including, but not limited to, the following HOME-ARP Requirements:

4.1 GENERAL.

4.1.1 The Project Sponsor shall maintain current documentation that its activities qualify under the HOME-ARP Requirements.

4.1.2 The Project Sponsor shall ensure that any expenditure of the HOME-ARP Funds will be in compliance with the requirements of 24 CFR §92.206.

4.1.3 The Project Sponsor shall comply with all the non-discrimination requirements of 24 CFR §92.350.

4.1.4 The Project Sponsor shall comply with the affirmative marketing requirements specified in **Exhibit “E”** attached hereto and incorporated herein; further the Project Sponsor shall annually report to the City on all actions taken to comply with said requirements as same are specified in **Exhibit “E”**.

4.1.5 The Project Sponsor shall comply with all applicable provisions of 24 CFR Part 92, including, but not limited to: (i) the displacement, relocation and acquisition requirements of 24 CFR §92.353; (ii) the labor requirements of 24 CFR §92.354; (iii) the conflict of interest provisions prescribed in 24 CFR §92.356(f), in addition to the conflict of interest provisions specified under Section 6.7 of this Agreement; and (iv) shall carry out each Project activity in compliance with all other applicable Federal laws and regulations.

4.1.6 The Project Sponsor shall ensure that, upon completion of the Project and throughout the Affordability Period, the Project meets the property standards contained in 24 CFR §92.251 and the lead-based paint requirements of 24 CFR §92.355 and 24 CFR Part 35, subparts A, B, J, K, M and R.

4.1.7 Throughout the Affordability Period the Project Sponsor shall comply with all Project housing quality standards imposed by the City.

4.1.8 The Project Sponsor agrees that throughout the Affordability Period, Rents and tenant incomes for the Assisted Units shall be monitored by the City.

4.1.9 The Project Sponsor shall comply with the project requirements of 24 CFR Part 92, subpart F, as applicable in accordance with the type of project assisted.

4.1.10 Attendance at citizen participation committees/meetings, provided the Project Sponsor is provided reasonable notice of such committees/meetings.

4.1.11 The Project Sponsor shall, to the greatest extent possible, give Very Low and Low-Income residents of the service community opportunities for training and employment.

4.1.12 The Project Sponsor shall ensure and maintain documentation that conclusively demonstrates that each activity assisted in whole or in part with HOME-ARP Funds is an activity that benefits Very Low and Low-Income Households.

4.2 **REAL PROPERTY.**

4.2.1 Any real property that was acquired or improved in whole or in part with HOME-ARP Funds received from the City shall be either:

(a) Used to complete one of the HOME-ARP eligible activities as required by and defined in 24 CFR Part 92 for such period of time as determined by the City based on the eligible activity.

(b) Disposed of in a manner that results in the City being reimbursed for the amount of the current fair market value of the Property as may be determined by the City in its

sole and absolute discretion, less any proportionate portion of the value attributable to expenditures of non-HOME-ARP Funds for the acquisition, or improvement, of the Property.

(c) If not used in accordance with paragraph (a) above, then that shall constitute an Event of Default and Project Sponsor shall pay to the City an amount equal to the amount of HOME-ARP Funds disbursed at the time of default plus accrued interest.

4.2.2 All real property purchased in whole or in part with funds for this Agreement with the Lender, or transferred to the Project Sponsor after being purchased in whole or in part with funds from the Lender, shall be listed in the property records of the Project Sponsor and shall include: a legal description; size; address and location; owner's name if different from the Project Sponsor; information on the transfer or disposition of the property; and a map indicating whether property is in parcels, lots, or blocks and showing adjacent streets and roads. The property records shall describe the programmatic purpose for which the property was acquired and identify the HOME-ARP activity that will be completed. If the property was improved, the records shall describe the programmatic purpose for which the improvements were made and identify the HOME-ARP activity that will be completed.

4.3 **PERSONAL PROPERTY.**

4.3.1 Definitions.

(a) Personal Property. Personal Property of any kind except real property:

- 1) Tangible. All personal property having physical existence.
- 2) Intangible. All personal property having no physical existence such as patents, inventions and copyrights.

(b) Non-expendable Personal Property. Tangible personal property of a non-consumable nature, with a value of \$500.00 or more per item, with a normal expected life of one or more years, not fixed in place, and not an integral part of a structure, facility, or another piece of equipment.

(c) Expendable Personal Property. All tangible personal property other than non-expendable property.

4.3.2 Requirements. The Project Sponsor shall comply with the non-expendable personal property requirements stated below:

(a) All non-expendable personal property purchased in whole or in part with funds from this and previous contracts with the Lender shall be listed in the property records of the Project Sponsor and shall include: a description of the property; location; model number; manufacturer's serial number; date of acquisition; funding source; unit cost; property inventory number; information on its condition; and information on the transfer, replacement, or disposition of the property.

(b) All non-expendable personal property purchased in whole or in part with funds from this and previous contracts with the Lender shall be inventoried annually by the Project Sponsor and an inventory report submitted to the Lender when and as requested by the Lender. The inventory report shall include the elements listed in Paragraph 4.3.2(a), above.

(c) Ownership of all non-expendable personal property purchased in whole or in part with funds given to the Project Sponsor pursuant to the terms of this Agreement shall vest in the Lender.

4.4 **DISPOSITION.** The Project Sponsor shall obtain the prior written approval of the Lender for the disposition of real property, expendable personal property and non-expendable personal property purchased in whole or in part with funds given to the Project Sponsor or its subcontractors pursuant to the terms of this Agreement, and shall dispose of all such property in accordance with instructions from the Lender. Those instructions may require the return of all such property to the Lender.

4.5 **SUBCONTRACTS AND ASSIGNMENTS.**

4.5.1 The Project Sponsor shall ensure that all subcontracts and assignments funded with HOME-ARP Funds hereunder:

- (a) Identify the full, correct, and legal name of all parties;
- (b) Describe the activities to be performed;
- (c) Present a complete and accurate breakdown of its price component;
- (d) Incorporate a provision requiring compliance with all applicable regulatory and other requirements of this Agreement, including but not limited to the City's Minority Procurement Ordinance, and with any other conditions and/or approvals that the City may deem necessary. The requirements of this subparagraph apply to subcontracts and assignments in which parties are engaged to carry out any eligible substantive programmatic service, as may be defined by the City, set forth in this Agreement. The City shall in its sole and absolute discretion determine when services are eligible substantive programmatic services and subject to the audit and record-keeping requirements described in this Agreement; and
- (e) Incorporate the language of the Certificate Regarding Lobbying executed in connection herewith.

4.5.2 The Project Sponsor shall incorporate in all consultant and other subcontracts funded with HOME-ARP Funds hereunder the following provision:

"[The Project Sponsor] is not responsible for any insurance or other fringe benefits, e.g., social security, income tax withholding, retirement or leave benefits, for [the Consultant] or employees of [the Consultant], that are normally available to direct employees of [the Project Sponsor]. [The Consultant] assumes full responsibility for the provision of all insurance and fringe benefits for

himself/herself/itself and employees retained by [the Consultant] in carrying out the Scope of Services provided in this subcontract.”

4.5.3 The Project Sponsor shall be responsible for monitoring the contractual performance of all subcontracts.

4.5.4 The Project Sponsor shall submit to the City for its review and confirmation any subcontract engaging any party who agrees to carry out any substantive programmatic activities, to ensure its compliance with the requirements of this Agreement. The City’s review and confirmation shall be obtained prior to the release of any funds for the Project Sponsor’s subcontractor(s).

4.5.5 The Project Sponsor shall receive written approval from the City prior to either assigning or transferring any obligations or responsibility set forth in this Agreement.

4.5.6 Approval by the City of any subcontract or assignment shall not under any circumstances be deemed to be the City’s agreement to incur any obligations in excess of the total dollar amount agreed upon in this Agreement.

4.5.7 The Project Sponsor and its subcontractors shall comply with the Davis-Bacon Act, if applicable, the Copeland Anti-Kick Back Act, the Contract Work Hours and Safety-Standards Act, the Lead-Based Paint Poisoning Prevention Act, the Residential Lead Based Paint Hazard Reduction Act of 1992 (and implementing regulations at 24 C.F.R. Part 35) and any other applicable laws, ordinances and regulations.

4.5.8 If the City requests it, the Project Sponsor shall submit to the City, for written prior approval, all proposed Solicitation Notices, Invitations for Bids, and Requests for Proposals.

4.6 **REPORTING OBLIGATIONS.**

4.6.1 The Project Sponsor shall submit the following as required by the City:

4.6.1.1 Progress Reports. The Project Sponsor shall submit status reports and projected completion dates to describe the progress made by the Project Sponsor in achieving each of the objectives identified in **Exhibit “B”** attached hereto. The Project Sponsor shall also submit an Earned Income Report in such form as may be required by the City. Both the Progress Report and the Earned Income Report shall be provided to the City on a quarterly basis.

4.6.1.2 Inventory Report. The Project Sponsor shall furnish such reports on the Project real property as may be reasonably requested by the City.

4.6.1.3 Affirmative Action Plan. The Project Sponsor shall report to the City such information relative to the equality of Project employment opportunities whenever requested by the City.

4.6.1.4 Assurance of Compliance with Section 504 of the Rehabilitation Act. The Project Sponsor shall report on its compliance with Section 504 of the Rehabilitation Act, whenever requested by the City.

4.6.1.5 Affirmative Marketing Plan and Report. The Project Sponsor shall report to the City, annually, on all actions taken to comply with the affirmative marketing requirements provided in **Exhibit “E”** attached hereto.

4.6.1.6 List of Subcontractors. The Project Sponsor shall provide a list of all Project contractors and subcontractors, and copies of all contracts in excess of \$10,000 for the performance of services or the supply of materials in connection with the Project and to be funded with HOME-ARP Funds.

4.6.1.7 Previously Funded City Projects. The Project Sponsor shall comply with (i) all applicable reporting requirements relating to the Project Sponsor’s previously funded City projects which are under construction or in the Affordability Period; and (ii) all applicable insurance requirements relating to such other previously funded projects of the Project Sponsor.

4.6.1.8 Audits, Other Information and Records.

(i) The Project Sponsor shall submit to the City an audit conducted by an independent certified public accountant or firm of independent certified public accountants in accordance with generally accepted auditing standards, including audited financial statements and a report on compliance with laws and regulations based on the audit of financial statements. Two copies of each such audit must be delivered to the City no later than six (6) months following the end of each Project Sponsor fiscal year.

Each such audited financial statement is to be for the 12 months ending December 31 and shall include:

- a. Comparative Balance Sheet with prior year and current year balances;
- b. Statement of revenue and expenses;
- c. Statement of changes in fund balances or equity;
- d. Statement of cash flows; and
- e. Notes

The financial statements shall be accompanied by a certification of the Project Sponsor as to the accuracy of such financial statements.

A late fee of \$500.00 will be assessed by the City for failure to submit any of the required audited financial statements or the certification each year as required.

At the request of the City, the Project Sponsor shall also furnish to the City unaudited financial statements of the Project Sponsor, certified by the Project Sponsor's principal financial or accounting officer, covering such financial matters as the City may request, including without limitation, monthly statements with respect to the Project.

(ii) The Project Sponsor shall maintain all Contract Records in accordance with generally accepted accounting principles, procedures, and practices, which records shall sufficiently and properly reflect all revenues and expenditures of funds provided directly or indirectly by the City pursuant to the terms of this Agreement.

(iii) The Project Sponsor shall ensure that the Contract Records shall be at all times subject to and available for full access and review, inspection or audit by the City and federal personnel and any other personnel duly authorized by the City.

(iv) The Project Sponsor shall include in all Project subcontracts, each of the record keeping and audit requirements detailed in this Agreement. The City shall in its sole discretion determine when services are subject to the audit and recordkeeping requirements described above.

The Project Sponsor shall submit to the City all reports described in this Section 4.6, and all other reports that the City may reasonably require, in such form, manner and frequency as the City may require to monitor the progress of the Project and the Project Sponsor's performance and compliance with this Agreement, the Rent Regulatory Agreement, the other HOME-ARP Loan Documents and all Legal Requirements.

4.6.2 Federal, State and County Laws and Regulations.

4.6.2.1 The Project Sponsor shall comply with all applicable provisions of federal, state, county and City laws, regulations, rules and administrative requirements, which are incorporated herein by reference, as they may be revised from time to time.

4.6.2.2 The Project Sponsor shall comply with all applicable federal laws and regulations such as: 24 CFR Part 92; 24 CFR Part 85, Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color, or national origin; the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; Title VIII of the Civil Rights Act of 1968, as amended, and Executive Order 11063 which prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin; Executive Order 11246 which requires equal employment opportunity; and with the Energy Policy and Conservation Act (Pub. L. 94-163) which requires mandatory standards and policies relating to energy efficiency.

4.6.2.3 If the amount payable to the Project Sponsor pursuant to the terms of this Agreement is in excess of \$100,000.00, the Project Sponsor shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 7401 et. seq.), as amended; the Federal Water Pollution Control Act (33 U.S.C. 1251), as amended; Section 508 of the Clean Water Act (33 U.S.C. 1368); Environmental Protection Agency regulations (40 CFR Part 15); and Executive Order 11738.

4.7 **ADDITIONAL HOME-ARP FUNDING.** The Project Sponsor acknowledges that under the HOME-ARP Program, additional HOME-ARP Funds may be committed to the Project up to one (1) year after “Project Completion”, but the amount of HOME-ARP Funds in the Project may not exceed the per-unit subsidy amount established in 24 CFR Part 92. The Lender may, in its sole discretion, de-obligate the HOME-ARP Funds from the Project, if by no later than six (6) months from the date of approval of the HOME-ARP Funds, the Borrower has failed to obtain all funding commitments represented to City.

ARTICLE V **REPRESENTATIONS AND WARRANTIES OF THE PROJECT SPONSOR**

The Project Sponsor represents and warrants to the City as follows:

5.1 **Organization and Existence.** The Project Sponsor is a Florida not-for-profit corporation, duly organized, validly existing and in good standing under the laws of the State of Florida, and has full power and authority to conduct its business as presently conducted, to receive the HOME-ARP Funds, and to own, operate and develop the Project.

The Project shall comply with all applicable HOME-ARP Requirements. The Project Sponsor has full power and authority to perform the provisions hereof and of its agreements and undertakings with the City and to perform the transactions contemplated hereby, and such execution and performance have been duly authorized by all necessary corporate or other approvals and actions.

5.2 **Correctness of Documents.** The cost estimates, Budget, schedules, and all other documents furnished to the City in accordance with the HOME-ARP Program, this Agreement, and/or the other HOME-ARP Loan Documents, are true and correct in all material respects and accurately set forth the facts contained therein and neither misstate any material fact nor, separately or in the aggregate, fail to state any material fact necessary to make the statements made therein not misleading.

5.3 **Absence of Proceedings, Actions and Judgments.** There are no conditions, circumstances, events, agreements, documents, instruments, restrictions, actions, suits or proceedings pending or threatened against or affecting the Project Sponsor, the Project or the Property which could adversely affect the Project Sponsor’s ability to comply with the HOME-ARP Program, complete or operate the Project or to perform its obligations hereunder or which would constitute an Event of Default hereunder or under the other HOME-ARP Loan Documents regardless of the giving of notice or the passage of time or both. There are no outstanding or unpaid judgments or arbitration awards against the Project Sponsor.

5.4 **Non-Default.** The Project Sponsor is not in default or violation with respect to any Legal Requirement, nor is it in default under or in material breach of any instrument or agreement to which it is a party or by which it otherwise may be bound. The execution and delivery of this Agreement and the other Loan Documents, the consummation of the other transactions contemplated hereby, and the ownership and development of the Project as contemplated hereby and by the other Loan Documents: (i) do not and will not conflict with or result in violation of any Legal Requirement or in the breach or default under any indenture, contract, agreement or

other instrument to which the Project Sponsor is a party or by which it may be bound; and (ii) have been duly authorized by all necessary actions and approvals, whether corporate or otherwise.

5.5 **Valid Obligations.** This Agreement and all of the other HOME-ARP Loan Documents, when executed and delivered, shall constitute the duly authorized, legal, valid and binding obligations of the Project Sponsor and will be enforceable in accordance with their respective terms.

5.6 **Marketable Title.** The Project Sponsor has good and marketable leasehold title to the Property, subject only to: (a) the exceptions and other matters set forth in that certain Title Insurance Commitment (Order Number Order Number _____) issued by _____ Insurance Company, effective as of _____, at 8:00 am, as endorsed. (collectively, the “Title Commitment and Exceptions”); and (b) from time to time, the granting of utility and similar easements on a non-material portion of the Property to utility and similar service providers for the installation and maintenance of utility and similar service equipment and components.

5.7 **Compliance.** The completion and use of the Project in accordance with the Scope of Work will comply fully with all Legal Requirements, and with all limitations on the use of the Project, or any other condition, grant, easement, covenant, or restriction, whether recorded or not. All necessary approvals, permits and licenses for the construction, operation, and use of the Project have been unconditionally obtained and are in full force and effect, or if the present state of construction of the Project does not allow such issuance, then such approvals, permits and licenses will be issued when the Project is completed.

5.8 **Encroachments.** When completed in accordance with the Scope of Work, the Project will not encroach upon any building line, setback line, side yard line or other recorded or visible easements or other easements of which the Project Sponsor is aware which exists (or which the Project Sponsor has reason to believe may exist) with respect to the Project other than set forth in the Title Commitment and Exceptions.

5.9 **Scope of Work.** The Scope of Work is complete in all respects, and contains all details requisite for the Project which, when built and equipped in accordance therewith, shall be ready for the intended use and occupancy thereof.

5.10 **Leases.** There are no leases, tenancies, licenses or agreements for use of any part of the Property other than as specifically disclosed to and approved by the City, which, for avoidance of doubt (and which the City hereby acknowledges and agrees), are limited to the leases for the rental of each Assisted Unit each which may be entered into from time to time.

5.11 **Pending Assessments.** The Project Sponsor has no knowledge of any pending or proposed governmental action that would impair the operation or value of the Project or result in a special assessment against the Project.

5.12 **Waste.** The Project Sponsor shall not commit or suffer waste or negligence on the Project.

5.13 **Fraud.** No fraud by the Project Sponsor has occurred in the qualification of the Project, the Project Sponsor and/or the Property under the HOME-ARP Program, the negotiation of this Agreement and the other Loan Documents, nor in the transactions contemplated hereby.

5.14 **No Casualty.** No part of the Property and/or the Project has been damaged or has been subjected to condemnation or other proceedings, and, to the best of the Project Sponsor's knowledge and belief, no such proceedings have been threatened.

5.15 **No Changes.** There have been no material adverse changes in projected costs and expenses of or from the Project or in the occupancy of the Property or any other features of the transactions contemplated hereby as submitted to the City.

5.16 **Compliance with Laws and Regulations.** The Project Sponsor will comply at all times with all Legal Requirements. The Project Sponsor will comply at all times with the HOME-ARP Requirements affecting the ownership, use, construction, lease and operation of the Project.

5.17 **Other Project Financing.** The Project Sponsor has not applied for nor received, and does not otherwise have available, in connection with the Project any other financing/funding, except for those funds, loans and/or loan commitment previously identified in writing to, and approved by, the City as set forth on the attached Schedule A the ("Permitted Senior Financing").

5.18 **Reaffirmation.** Each of the representations and warranties set forth in this Article shall be true at all times and the acceptance of the HOME-ARP Funds hereunder by the Project Sponsor shall be deemed to be a reaffirmation of each of the representations and warranties given in this Agreement.

ARTICLE VI **PROJECT SPONSOR'S AND OWNER'S OBLIGATIONS**

6.1 **Scope of Work.** The Project Sponsor shall perform the Scope of Work as set forth herein and on **Exhibit "B"** attached hereto.

Project Sponsor shall: (a) meet all of its obligations hereunder and under all of the HOME-ARP Loan Documents executed in connection herewith, (b) commence construction within six (6) months from the Effective Date of the contract, (c) within twelve (12) months after the issuance of the certificates of occupancy for the Project, but in no event later than thirty (30) months from the Effective Date, rent all six (6) Assisted Units to Very Low and Low-Income Households in accordance with the requirements of this Agreement, (d) throughout the Affordability Period, rent the Assisted Units to Very Low and Low-Income Households in accordance with the requirements of this Agreement, the Rent Regulatory Agreement, and the other HOME-ARP Loan Documents; and (e) throughout the Affordability Period, comply with all applicable HOME-ARP Requirements and all applicable requirements hereof and in the other HOME-ARP Loan Documents with regard to the Assisted Units.

The tenant's portion of rents charged for Assisted Units shall be limited as set forth in the Rent Regulatory Agreement executed in connection herewith.

6.2 **Reporting Obligations.** The Project Sponsor shall submit to the City all reports as described in Section 4.6 hereof, and all other reports that the City may reasonably require, in such form, manner, and frequency as the City may reasonably require to monitor the progress of the Project and the Project Sponsor's performance and compliance with this Agreement and all Legal Requirements.

6.3 **Retention of Records.** The Project Sponsor shall retain all Contract Records for five (5) years after the expiration of the Affordability Period (hereinafter referred to as the "Retention Period") subject to the limitations set forth below:

(a) If the City or the Project Sponsor has received or given notice of any kind indicating any threatened or pending litigation, claim or audit arising out of the activities relating to the Project or the Scope of Work or under the terms of this Agreement, the Retention Period shall be extended until such time as the threatened or pending litigation, claim or audit is, in the sole and absolute discretion of the City, fully, completely and finally resolved.

(b) The Project Sponsor shall allow the City or any person authorized by the City full access to and the right to examine any of the Contract Records during the required Retention Period.

(c) The Project Sponsor shall notify the City in writing, both during the pendency of this Agreement and after its expiration of the address where all Contract Records will be retained.

6.4 **Provision of Records.** All of the Contract Records are subject to the provisions of Chapter 119, Florida Statutes, commonly referred to as the "Public Records Law". The Project Sponsor shall provide to the City, upon request, all Contract Records. The requested Contract Records shall become the property of the City without restriction, reservation, or limitation on their use and shall be made available by the Project Sponsor at any time upon request by the City. The City shall have the unlimited right to all books, articles, or other copyrightable materials developed in the performance of this Agreement, including, but not limited to, the right of royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the Contract Records for public purposes. Should Project Sponsor determine to dispute any public access provision required by Florida Statutes, then Project Sponsor shall do so at its own expense and at no cost to the City.

IF PROJECT SPONSOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROJECT SPONSOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT AS A PUBLIC CONTRACT, PLEASE CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT TELEPHONE NUMBER 863-834-6264, EMAIL: kevin.cook@lakelandgov.net, AND MAILING ADDRESS: PUBLIC RECORDS C/O OFFICE OF THE CITY ATTORNEY, 228 S. MASSACHUSETTS AVENUE, LAKE LAND, FLORIDA 33801 .

If the Project Sponsor receives funds from, or is under regulatory control of, other governmental agencies and those agencies issue monitoring reports, regulatory examinations, or other similar reports, the Project Sponsor shall provide a copy of each such report and any follow-

up communications and reports to the City immediately upon such issuance unless such disclosure is a violation of those agencies' rules.

6.5 **Prior Approval.** Except for encumbering the Property as required to obtain the permitted financing as set forth in Section 5.17 of this Agreement and Schedule A attached, the Project Sponsor shall obtain the City's prior written approval prior to undertaking any of the following with respect to the Project and/or the Property:

(a) the sale, assignment, pledge, transfer, hypothecation or other encumbrance or disposition of any proprietary or beneficial interest in the Project Sponsor, the Project or the Project Sponsor's estate in the Property, or any change in the operating control of the Project Sponsor, which shall require the prior approval of the City, as appropriate

(b) Except in the case of repair or replacement caused by normal wear and tear, and otherwise due to casualty or condemnation in accordance with the terms of this Agreement, the disposition of any real property or any expendable personal property or non-expendable personal property as defined in Paragraph 4.3.1.

(c) Any proposed Solicitation Notice, Invitation for Bids or Request for Proposals.

(d) The disposal of any Contract Records during the Retention Period.

6.5.1 Housing Programs Manager of Community Economic Development at the City shall have the discretion to approve and authorize, by way of Memorandum to the City manager, the execution of necessary documents to further the Close-Out of the Project, provided, however, that no material terms are affected.

6.6 **Monitoring.** The Project Sponsor shall permit the City and other persons duly authorized by the City to inspect all Contract Records, facilities, goods, and activities of the Project Sponsor that are in any way connected to the activities undertaken pursuant to the terms of this Agreement, and/or to interview any clients, employees, subcontractors, or assignees of the Project Sponsor. Following such inspection or interviews, the City will deliver to the Project Sponsor a report of its findings. The Project Sponsor will rectify all deficiencies cited by the City within the period of time specified in the report, or provide the City with a reasonable justification for not correcting the deficiencies. The City will determine, in its sole and absolute discretion, whether or not the Project Sponsor's justification is acceptable.

6.7 **Intentionally Deleted.**

6.8 **Related Parties.** The Project Sponsor shall report to the City the name, purpose for and any other relevant information in connection with any related-party transaction. The term "related party transaction" includes, but is not limited to, a transaction or relationship between the Project Sponsor and a for-profit or nonprofit subsidiary or affiliate organization, an organization with an overlapping board of directors, and an organization for which the Project Sponsor is responsible for appointing memberships. The Project Sponsor shall report this information to the City upon forming the relationship, or if already formed, shall report such relationship prior to or

simultaneously with the execution of this Agreement. Any supplemental information shall be promptly reported to the City no later than in the next required Progress Report, as described above.

6.9 **Publicity and Advertisements.** The Project Sponsor shall ensure that all publicity and advertisements prepared and released by the Project Sponsor, such as pamphlets and news releases, related to activities funded by this Agreement, and all events carried out to publicize the accomplishments of any activities funded by this Agreement, recognize the City as one of its funding sources.

6.10 **Procurement.** The Project Sponsor shall make a positive effort to procure supplies, equipment, construction, or services to fulfill this Agreement from minority and women owned businesses, and to provide these sources the maximum feasible opportunity to compete for subcontracts to be performed pursuant to this Agreement. To the maximum extent feasible, these businesses shall be located in or owned by residents of the community development areas designated by the City.

6.11 **Additional Funding.** The Project Sponsor shall not procure any other financing in connection with the Project or the Property without the prior written consent of the City, other than those financings disclosed to the City in writing as of the date hereof, which, for avoidance of doubt, are provided for in Section 5.17 of this Agreement.

6.12 **Reversion of Assets.** The Project Sponsor shall return to the City upon the expiration or termination of this Agreement any HOME-ARP Funds on hand, any funds or accounts receivable attributable to the HOME-ARP Funds, and any overpayments due to unearned funds or costs disallowed pursuant to the terms of this Agreement that were disbursed to the Project Sponsor by the City. Any funds not earned by the Project Sponsor prior to the expiration or termination of this Agreement shall be retained by the City.

6.13 **Repayment of Funds Procedures.** If, after notice and the expiration of any applicable cure period, for any reason during the Affordability Period any Assisted Unit fails to comply with the Affordable requirements of 24 CFR Part 92, the Project Sponsor shall repay to the City all funds received by the Project Sponsor pursuant to this Agreement, and interest thereon as provided in the City Note.

6.14 **Affirmative Marketing.** The Project Sponsor shall comply with the affirmative marketing requirements and procedures provided on **Exhibit "E"** attached hereto and made a part hereof.

6.15 **Section 3 Clause.** The Project Sponsor shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u):

(A) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3.) The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed to Very Low and Low-Income Households, particularly persons who are recipients of HUD assistance for housing.

(B) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

(C) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or worker's representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(D) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

(E) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filed to circumvent the contractor's obligations under 24 CFR Part 75.

(F) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

(G) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

6.16 **Signage, Acknowledgement, Publicity.** During the Term of this Agreement and if requested by the City, the Project Sponsor shall furnish signage identifying the Project and shall acknowledge the contribution of the City by incorporating the seal of the City and the names of the City commissioners and officials in all documents, literature, pamphlets, advertisements, and signage, permanent or otherwise in accordance with Section 6.9 hereof. All such

acknowledgments shall be in a form acceptable to the City, as provided on **Exhibit “I”** attached hereto and made a part hereof.

All publicity and advertisements prepared and released by the Project Sponsor related to the Project, such as pamphlets and news releases, and all events carried out to publicize the Project, shall recognize the City as one of the Project’s funding sources.

6.17 **Costs Incurred By the City.** Notwithstanding any other provision of this Agreement, the Project Sponsor understands and agrees that \$[_____] of the HOME-ARP Funds were awarded to the Project for, and were used by the City to cover, costs incurred by the City on behalf of the Project. Such costs may include, but are not limited to, environmental advertising costs, recording fees, and project delivery.

6.18 **Affirmative Action.** The Project Sponsor shall not discriminate on the basis of race, color, national origin, sex, religion, age, sexual orientation, marital or family status or handicap/disability in connection with its performance under this Agreement or in connection with the occupancy of any Assisted Unit. Age discrimination and discrimination against minor dependents are also not permitted.

6.19 **Previously Funded City Projects.** The Project Sponsor shall comply with: (1) all applicable reporting requirements relating to previously funded City projects which are under construction or in the Affordability Period and (2) all applicable insurance requirements relating to such projects.

6.20 **Compliance with Safety Precautions.** The Project Sponsor shall allow City inspectors, agents or representatives the ability to monitor its compliance with safety precautions as required by federal, state or local laws, rules, regulations and ordinances. By performing these inspections the City, its agents, or representatives are not assuming any liability by virtue of such laws, rules, regulations and ordinances. The Project Sponsor shall have no recourse against the City, its agents, or representatives for the occurrence, non-occurrence or result of such inspection(s), and shall obtain the affirmative acknowledgment of the Project Sponsor, for the benefit of the City, that the Project Sponsor shall have no recourse against the City, its agents, or representatives for the occurrence, non-occurrence or result of such inspection(s).

Simultaneously with the submission of the first draw request to the City, the Project Sponsor shall contact the City’s Risk Management Department Safety Unit in writing to coordinate such inspection(s).

The Project Sponsor shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (“ADA”) in the course of providing any work, labor or services funded by the City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable regulations, guidelines and standards. Additionally, the Project Sponsor shall take affirmative steps to ensure nondiscrimination in the employment of disabled persons.

6.21 **Draw Requests.** Each Request for Disbursement of hard costs must be signed by the Project Sponsor, the architect for the Project and the contractor, and each Request for Disbursement of soft costs must be signed by the Project Sponsor, as more fully set forth in the

Disbursement Agreement. The City shall not fund any draw request in an amount that exceeds the City's initial contribution percentage of the entire development cost of the project. Five percent (5%) of each draw request will be retained until the City has received as part of the Close-out of the Project, at the Project Sponsor's sole cost, a Final Cost Certification prepared by an independent certified public accountant, which must be acceptable to the City in both form and substance.

6.22 **Insurance Proceeds.** Notwithstanding anything to the contrary contained herein or in the other Loan Documents, the Project Sponsor may make insurance proceeds available for the restoration and repair of the Property and the Project if all of the following conditions are met: (i) the Project Sponsor is not in breach or default of any provision of the Mortgage or any other loan document between the Project Sponsor and Lender; (ii) the Project Sponsor determines that there will be sufficient funds, through insurance proceeds and contributions by the Project Sponsor, to (a) restore and repair the Property and the Project to a condition as close as reasonably possible to what previously existed, and (b) meet all operating costs and other expenses, payments for reserves and loan repayment obligations relating to the Property and the Project until completion of the restoration and repair of the Property and/or the Project to a condition as close as reasonably possible to what previously existed; (iii) the Project Sponsor determines that the rental income of the Project, after restoration and repair to a condition as close as reasonably possible to what previously existed, will be sufficient to meet all operating costs and other expenses, payments for reserves and loan repayment obligations relating to the Project, and (iv) the Project Sponsor has received the City's written concurrence with such determination.

6.23 **Condemnation Proceeds.** Notwithstanding anything to the contrary contained herein or in the other Loan Documents, the Project Sponsor may make proceeds of condemnation available for the restoration and repair of the Property and the Project if all of the following conditions are met: (i) the Project Sponsor is not in breach or default of any provision of the Mortgage or any other Loan Document; (ii) the Project Sponsor determines that there will be sufficient funds, through condemnation proceeds and contributions by the Project Sponsor, to (a) restore and repair the Property and the Project to a condition as close as reasonably possible to what previously existed, due consideration given to the portion of the Property and the Project taken, and, (b) meet all operating costs and other expenses, payments for reserves and loan repayment obligations relating to the Project until completion of the restoration and repair of the Property and the Project to a condition as close as reasonably possible to what previously existed, due consideration given to the portion of the Property and the Project taken; and (iii) the Project Sponsor determines that the rental income of the Project, after restoration and repair of the Property and the Project to a condition as close as reasonably possible to what previously existed, due consideration given to the portion of the Property and the Project taken, will be sufficient to meet all operating costs and other expenses, payments for reserves and loan repayment obligations relating to the Project, and (iv) the Project Sponsor has received the City's written concurrence with such determination.

ARTICLE VII **DEFAULT**

7.1 **Event of Default.** The happening of any one or more of the following events shall constitute an Event of Default:

(a) Failure of any of the Assisted Units to remain Affordable at any time during the Affordability Period.

(b) If any term, condition or representation contained in this Agreement or any of the other Loan Documents is materially untrue, substantially inaccurate or incomplete when made, or, if there is a material misrepresentation of fact or fraud contained in any document(s) submitted in support of this Agreement.

(c) The substantial discontinuance of the construction of the Project for a period of fourteen (14) days which discontinuance is, in the sole determination of the Lender, without satisfactory cause.

(d) Except as set forth in each of Sections 5.6, 5.17, and 6.5 of this Agreement, the sale, assignment, pledge, transfer, hypothecation or other encumbrance or disposition (except due to repair or replacement for normal wear and tear, and as a result of casualty or condemnation in accordance with this Agreement) of any proprietary or beneficial interest in the Project Sponsor's estate in the Property, or any change in operating control of the Project Sponsor, without the prior approval of the Lender, as appropriate.

(e) In the event that the Lender reasonably determines that the Project is not being constructed in a good and workmanlike manner in accordance with the Scope of Work, or that the Project Sponsor is failing to comply promptly with any requirement or notice of violation of law issued by or filed by the City or any department of any governmental authority having jurisdiction over the Project Sponsor or the Property.

(f) Failure by the Project Sponsor to comply with any material term, covenant, obligation, or provision of this Agreement or any of the Loan Documents, or the occurrence of an event of default under any of the other Loan Documents.

(g) Any change in zoning requirements or zoning classification of the Property initiated by the Project Sponsor, which in the City's sole discretion would materially interfere with the completion of construction of the Project or the ultimate operation of the Project as contemplated herein.

(h) In the event that the Lender reasonably determines that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any kind or nature whatsoever of the Project Sponsor to the City, direct or contingent, whether now or hereafter due, existing, created or arising.

(i) Project Sponsor declares bankruptcy and/or becomes insolvent, which shall result in immediate acceleration of the Loan's repayment in full.

(j) The Lender and Project Sponsor acknowledge that a senior mortgage default, which constitutes a "Event of Default" under such senior mortgage unless waived by the Senior Lender, constitutes an Event of Default under this Agreement and the other Loan Documents. In such an event, the Lender may pursue any and all of its remedies.

ARTICLE VIII **REMEDIES**

8.1 **Remedies.** Upon the occurrence of any Event of Default, the Lender shall have the absolute right to refuse to disburse any undisbursed portion of the Loan.

The Lender shall provide written notice of the occurrence of an Event of Default to the Project Sponsor, after which the Project Sponsor shall have thirty (30) days to cure said default (except for the events described in Section 7.1 (b) and (d) above for which the aforementioned cure period shall not apply).

In the event a default which is permitted to be cured cannot practicably be cured within thirty (30) days, the Project Sponsor shall have such additional time as may be required to effect a cure, so long as (a) the cure is commenced within thirty (30) days and is diligently prosecuted and

(b) the lack of a cure during such continuing cure period has no material adverse effect on the Project. The Lender agrees to accept a cure of any default committed by the Project Sponsor, which cure is tendered or effected by the Investor Member or Special Investor Member, as if such cure had been tendered or effected by the Project Sponsor.

If an Event of Default shall continue uncured for a period of thirty (30) consecutive days following written notice thereof to the Project Sponsor (except for the events described in Section 7.1 (b) and (d) above for which the aforementioned cure period shall **not** apply and except for cures which are continuing as provided in the preceding paragraph), and subject to the provisions of the last paragraph of this Section, the City shall have the absolute right, at its option and election and in its sole discretion to:

(a) **Specific Performance.** Institute appropriate proceedings to specifically enforce performance of the terms and conditions of this Agreement;

(b) **Recapture of HOME-ARP Funds.** Demand that the Project Sponsor reimburse the City for the HOME-ARP Funds disbursed to the Project Sponsor pursuant to this Agreement. The Project Sponsor shall reimburse the Lender in the amount of the HOME-ARP Funds disbursed to the Project Sponsor pursuant to this Agreement, subject to any limitations contained in the Notes and/or Mortgage concerning Project Sponsor's liability for amounts due under the Loan Documents.

(c) **Other Remedies.** Exercise any other right, privilege or remedy available to the Lender as may be provided by applicable law, or in any of the Loan Documents.

It is understood and agreed that the occurrence of an event of default under Section 7.1(b) or (d) shall immediately entitle the Lender to exercise any of the above described remedies without the need to give the Project Sponsor notice thereof or the opportunity to cure.

The rights and remedies of the Lender hereunder shall be cumulative and not mutually exclusive, and the Lender may resort to any one or more or all of said remedies without exclusion of any other. No party other than the Lender, whether the Project Sponsor or a material man, laborer, subcontractor or supplier, shall have any interest in the HOME-ARP Funds withheld

because of a default hereunder, and shall not have any right to garnish or require or compel that payment thereof be applied toward the discharge or satisfaction of any claim or lien which any of them may have.

Notwithstanding the forgoing, in the event of an Event of Default under Section 7.1(j) above, which default relates to the Permitted Senior Financing, but does not otherwise constitute a default under the Loan Documents, such Event of Default shall be waived by the Lender in the event that the Senior Lender waives such default under the Permitted Senior Financing, but only upon submission to the Lender of such waiver by Senior Lender.

8.2 **Additional Remedies.** In addition to any other remedies provided for herein or in any of the other Loan Documents, upon the occurrence and during the continuation of an Event of Default:

(a) All sums outstanding under the Note shall bear interest at the highest rate allowable by law from the date of disbursement, without notice to the Project Sponsor or any guarantor or endorser of the Note and without any affirmative action or declaration on the part of the Lender;

(b) The Rent Regulatory Agreement shall remain as a restriction on the Property throughout the Affordability Period; and

(c) The Project Sponsor, Project developer, manager of the Project Sponsor, and/or other individuals, principals and/or other entities as determined by the Lender, will be debarred from receiving any City funding for a period of five (5) years.

ARTICLE IX **INDEMNIFICATION**

9.1 **Indemnification.** The Project Sponsor shall indemnify, hold harmless, and defend the Lender, the City, and their officers, agents, directors, and/or employees, from liabilities, damages, claims, suits, losses, judgments, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, negligent act or omission, or intentional wrongful misconduct of Project Sponsor and persons employed or utilized by Project Sponsor in the performance of this Agreement. Project Sponsor shall, further, hold the Lender, the City, and their officials and/or employees, harmless for, and defend the Lender, the City, and their officials and/or employees against, any civil actions, statutory or similar claims, injuries or damages arising or resulting from the permitted work, even if it is alleged that the Lender, the City, and their officials and/or employees were negligent. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against the Lender or the City by reason of any such claim or demand, the Project Sponsor shall, upon written notice from the Lender and/or the City, resist and defend such action or proceeding by counsel satisfactory to the Lender and/or City. The Project Sponsor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Project Sponsor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Lender or City or their officers, employees, agents and instrumentalities as herein provided.

The indemnification provided above shall obligate the Project Sponsor to defend, at its own expense, to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the Lender's or the City's option, any and all claims of liability and all suits and actions of every name and description which may be brought against the Lender or the City whether performed by the Project Sponsor, or persons employed or utilized by Project Sponsor.

This indemnity will survive the cancellation or expiration of the Agreement. This indemnity will be interpreted under the laws of the State of Florida, including without limitation and interpretation, which conforms to the limitations of §725.06 and/or §725.08, Florida Statutes, as applicable.

The Project Sponsor agrees and recognizes that the Lender and the City shall not be held liable or responsible for any claims which may result from any actions or omissions of the Project Sponsor in which the Lender or the City participated either through review or concurrence of the Project Sponsor's actions. In reviewing, approving or rejecting any submissions by the Project Sponsor or other acts of the Project Sponsor, the Lender and City in no way assume or share any responsibility or liability of the Project Sponsor or Sub-contractor under this Agreement.

ARTICLE X **TERMINATION**

The Project Sponsor acknowledges that this Agreement may be terminated if the Project Sponsor materially fails to comply with the terms contained herein.

10.1 **Termination Because of Lack of Funds.** In the event the Lender does not receive from its funding source funds to finance this Agreement, or in the event that the Lender's funding source de-obligates the funds allocated to finance this Agreement, the Lender may terminate this Agreement upon not less than twenty-four (24) hours prior notice in writing to the Project Sponsor. Said notice shall be delivered by certified mail, return receipt requested, or by in person delivery with proof of delivery. The Lender shall determine, in its sole and absolute discretion, whether or not funds are available.

10.2 **Termination for Breach.** The Lender may terminate this Agreement, in whole or in part, in the event the Lender reasonably determines that the Project Sponsor is not making (or causing to be made) sufficient progress with regard to the construction of the Assisted Units (thereby endangering its ultimate performance under this Agreement) or is not complying with any material term or provision of this Agreement, following notice and the expiration of the applicable cure period(s).

The Lender may terminate this Agreement, in whole or in part, in the event that the Lender reasonably determines that there exists an event of default under and pursuant to the terms of any other agreement or obligation of any kind or nature whatsoever of the Project Sponsor to the Lender, direct or contingent, whether now or hereafter due, existing, created or arising, which event of default has continued beyond any applicable cure period.

10.3 **Termination for Default.** Upon the occurrence of an Event of Default and the expiration of any cure period (in those circumstances for which a cure period is otherwise provided in this Agreement), and unless the Project Sponsor's breach is waived by the Lender in writing,

the Lender may, by written notice to the Project Sponsor, terminate this Agreement upon not less than twenty-four (24) hours prior written notice. Said notice shall be delivered by certified mail, return receipt requested, or by in person delivery with proof of delivery. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement. The provisions hereof are not intended to be, and shall not be, construed to limit the Lender's right to legal or equitable remedies.

ARTICLE XI **SUSPENSION**

11.1 **Suspension.** The Lender may, for reasonable cause, suspend the Project Sponsor's authority to obligate funds under this Agreement and/or withhold payments to the Project Sponsor, pending necessary corrective action by the Project Sponsor, and may include:

- (a) Ineffective or improper use of the HOME-ARP Funds by the Project Sponsor;
- (b) Failure of the Project Sponsor to comply with any material term or provision of this Agreement;
- (c) Failure of the Project Sponsor to submit any documents required by this Agreement; or
- (d) The Project Sponsor's submittal of incorrect or substantially incomplete documents.

11.2 **Applicability.** The determinations and actions described in paragraph 11.1 above may be applied to all or any part of the activities funded pursuant to this Agreement.

11.3 **Notice.** The Lender will notify the Project Sponsor in writing of the type of action taken pursuant to this Article, by certified mail, return receipt requested, or by in person delivery with proof of delivery. The notification will include the reason(s) for such action, any conditions relating to the action, and the necessary corrective action(s).

ARTICLE XII **MISCELLANEOUS**

12.1 **Enforcement Methods.** As a means of enforcing compliance with the HOME-ARP Program, the Lender may utilize any enforcement measures it deems necessary.

12.2 **Renegotiation or Modification.** Modification of provisions of this Agreement shall be valid only when in writing and signed by the parties hereto. The parties agree to modify this Agreement if the Lender determines, in its sole and absolute discretion, that federal, state, and/or local governmental revisions of any applicable laws or regulations, or increases or decreases in budget allocations, make changes to this Agreement necessary. The Lender shall be the final authority in determining whether or not funds for this Agreement are available due to federal, state and/or local governmental revisions of any applicable laws or regulations, or increases or decreases in budget allocations.

12.3 **Right to Waive.** The Lender may, for good and sufficient cause, as determined by the Lender in its sole and absolute discretion, waive provisions of this Agreement or seek to obtain such waiver from an appropriate authority. Waiver requests from the Project Sponsor shall be in writing. A waiver shall not be construed to be a modification of this Agreement.

12.4 **Budget and HOME Eligibility Activity Title Revisions.** Revisions to the Budget shall be made in writing, and approved in writing by the Lender; however, such revisions shall not necessitate an amendment hereto unless the amount of the Loan to be granted hereunder is changed, or unless otherwise required by the Lender.

A revision to the HOME-ARP eligibility activity titles under which this Agreement's objectives are classified shall not require an amendment hereto.

12.5 **Disputes.** In the event an unresolved dispute exists between the Project Sponsor and the Lender, the Lender shall refer the issue, including the views of all interested parties and the recommendation of the Lender, TO the City manager, or its designee, or such other official of the City who shall be authorized to exercise the authority of the City manager for determination. The Lender will issue a determination within thirty (30) calendar days of receipt of a written request for resolution of the dispute and so advise the Lender and the Project Sponsor. In the event additional time is necessary, the Lender will notify the interested parties within the thirty (30) day period that additional time is necessary. The Project Sponsor agrees that the Lender determination shall be final and binding on all parties, subject only to judicial review.

12.6 **Headings.** The article and paragraph headings in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

12.7 **Proceedings.** The Agreement shall be construed in accordance with the laws of the State of Florida and any proceedings arising between the parties in any manner pertaining or relating to this Agreement shall, to the extent permitted by law, be held in Polk County, Florida.

12.8 **Notices and Contact.** All notices under this Agreement shall be in writing and addressed as follows:

The City of Lakeland
228 Massachusetts Ave
Lakeland, FL 33801
Attention: City Manager

Gospel, Inc
1109 East Main Street
Lakeland, FL 33801
Attention: Ray Steadman
Email: ray@gospelinc.org

Except as otherwise provided in this Agreement, notice shall be deemed given upon hand delivery or five (5) business days after depositing the same with the U.S. Postal Service. The address or designated representative of the parties may be changed by notice given in accordance with this section.

The Project Sponsor shall at any time and from time to time upon the request of the Lender, at Project Sponsor's sole cost and expense, execute, acknowledge and deliver such further notices and other documents and perform such other acts as may, in the opinion of the Lender, be necessary, desirable or proper to carry out more effectively the purposes of this Agreement and the other Loan Documents.

12.9 **Conflicts with Applicable Laws.** If any provision of this Agreement conflicts with any applicable law or regulation, only the conflicting provision shall be deemed by the parties hereto to be modified, or to be deleted if modification is inappropriate, to cause the provision to be consistent with the law or regulation. However, the obligations under this Agreement, as modified, shall continue and all other provisions of this Agreement shall remain in full force and effect.

12.10 **Entire Agreement.** This Agreement and its Exhibits and Schedules described as follows contain all the terms and conditions of the Agreement between the parties:

Exhibit “A”	Legal Description
Exhibit “B”	Scope of Work /Project Schedule
Exhibit “C”	Budget
Exhibit “D”	Form of Disbursement Agreement
Exhibit “E”	Affirmative Marketing Procedures and Responsibilities
Exhibit “F”	Form of Mortgage and Security Agreement

Exhibit “G”	INTENTIONALLY OMITTED
Exhibit “H”	Form of Rent Regulatory Agreement
Exhibit “I”	Signage Requirements
Exhibit “J”	Additional Insurance Requirements
Schedule A	Permitted Senior Financing

12.11 **WAIVER OF JURY TRIAL.** NEITHER THE PROJECT SPONSOR NOR ITS SUBCONTRACTOR(S), NOR ANY OTHER PERSON LIABLE FOR THE RESPONSIBILITIES, OBLIGATIONS, SERVICES AND REPRESENTATIONS HEREIN, NOR ANY ASSIGNEE, SUCCESSOR, HEIR OR PERSONAL REPRESENTATIVE OF THE PROJECT SPONSOR, THE PROJECT’S SUBCONTRACTORS OR ANY OTHER PERSON OR ENTITY SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS AGREEMENT, OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG SUCH PERSONS OR ENTITIES, OR ANY OF THEM. NEITHER THE PROJECT SPONSOR NOR THE PROJECT’S SUBCONTRACTORS, NOR ANY OTHER PERSON OR ENTITY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY DISCUSSED BY THE PARTIES HERETO, AND THE PROVISIONS HEREOF SHALL BE SUBJECT TO NO EXCEPTIONS. NEITHER PARTY TO THIS AGREEMENT HAS IN ANY MANNER AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

12.12 **City Award Memoranda.** The award memoranda and decisions of the City dated [_____] (“Award Memoranda”) are hereby incorporated by reference. To the extent of any conflict between the Award Memoranda and the Loan Documents and when interpreting the intent of the Loan Documents, whichever provision is strictest will control.

12.13 **Governing Law and Venue.** This Agreement shall be construed and enforced pursuant to the laws of the State of Florida, excluding all principles of choice of laws, conflict of laws and comity. Any action pursuant to a dispute under this Agreement must be brought in Polk County and no other venue. All meetings to resolve said dispute, including voluntary arbitration, mediation, or other alternative dispute resolution mechanism, will take place in this venue. The parties both waive any defense that venue in Polk County is not convenient.

12.14 **Intentionally Deleted.**

12.15 **Increase in Project Costs.** In the event that the Project’s costs increase by ten percent (10%) or more of the Budget that is attached as **Exhibit “C”**, and Project Sponsor is unable to secure the requisite funding to cover the additional expense within 60 days before the Project’s construction commences, then the City is permitted to recommend that the HOME-ARP Funds should be de-obligated for this Project.

12.16 **Intentionally Deleted.**

12.17 **Costs, Including Attorney's Fees.** The Project Sponsor agrees to pay when due for which an invoice is provided, all reasonable costs and expenses in connection with the administration or monitoring of compliance with this Agreement and all related documents and any other documents which may be delivered in connection with this Agreement or the transactions contemplated hereby, including, without limitation, the reasonable fees and out of pocket expenses of the Lender and of counsel and any agents or consultants for the Lender, with respect thereto, in connection with the administration or monitoring of this Agreement and such other documents as may be delivered in connection herewith. In addition, the Project Sponsor shall pay any and all stamps and other taxes and fees payable or determined to be payable in connection with the execution, delivery, filing and recording of this Agreement and such other documents as may be delivered in connection herewith, and agrees to save the Lender harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes and fees.

In the event litigation, arbitration, or mediation, between the parties hereto, arises out of the terms of this Agreement, each party shall be responsible for its own attorney's fees, costs, charges, and expenses through the conclusion of all appellate proceedings, and including any final settlement or judgment.

12.18 **Binding.** The Borrower's obligations pursuant to this Agreement shall be binding upon and inure to the respective heirs, personal and legal representatives, trustees and successors and assigns of the Parties hereto, including each and every such Party's past and present parent, subsidiary, affiliate or predecessor entities, any and all entities by which or under a name by which any Party has been known or has done business, and any and all of his, hers, its and/or their respective past and present officers, commissioners, directors, principals, trustees, administrators, agents, attorneys, accountants, insurers, reinsurers, servants, employees, shareholders, members, managers, partners, heirs, and representatives.

12.19 **Counterparts and Electronic Signatures.** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Agreement upon request.

12.20 **[Non-Recourse.]** The parties hereto agree that the Loan will be non-recourse.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

WITNESSES:

PROJECT SPONSOR:

Gospel, Inc, a Florida not for profit corporation

Print Name:_____

By:_____

Print Name:

Title:

Print Name:_____

ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF POLK)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 202_, by _____, as _____, of Gospel, Inc, a Florida not for profit corporation, who is personally known to me or has produced _____ as identification.

(NOTARY PUBLIC SEAL)

Signature of Person Taking Acknowledgment
(Printed, Typed, or Stamped Name of Notary)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

WITNESSES:

LENDER:

The City of Lakeland

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF POLK)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 202_, by _____, as _____ who is personally known to me or has produced _____ as identification.

(NOTARY PUBLIC SEAL)

Signature of Person Taking Acknowledgment
(Printed, Typed, or Stamped Name of Notary)

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT “B”
SCOPE OF WORK /PROJECT SCHEDULE

EXHIBIT “C”
BUDGET

EXHIBIT “D”
FORM OF DISBURSEMENT AGREEMENT

EXHIBIT “E”
AFFIRMATIVE MARKETING PROCEDURES AND RESPONSIBILITIES

EXHIBIT “F”
FORM OF MORTGAGE

EXHIBIT “G”
INTENTIONALLY OMITTED

EXHIBIT “H”
RENT REGULATORY AGREEMENT

EXHIBIT “T”
SIGNAGE REQUIREMENTS

EXHIBIT “J”
ADDITIONAL INSURANCE REQUIREMENTS

SCHEDULE A
PERMITTED SENIOR FINANCING