

**MEMORANDUM**

**TO:** MAYOR AND CITY COMMISSION  
**FROM:** CITY ATTORNEY'S OFFICE  
**DATE:** October 21, 2024  
**RE:** **Community Housing Development Organization Agreement with M.L.J. Land Trust, Inc.**

Attached for your consideration is an agreement between the City and M.L.J. Land Trust, Inc. governing the terms and conditions of eligible Community Housing Development Organization (CHDO) projects related to the development of affordable housing in the City of Lakeland.

Federal regulations require the City to set aside at least 15 percent of its annual HOME entitlement for CHDOs to support affordable housing development. For the program years 2020-2023, the City Commission allocated these funds annually. This was done through the adoption of a One Year Action Plan for each year. This Agreement awards \$450,000 in CHDO funding to M.L.J. Land Trust Inc. as a loan to construct two single-family homes for sale to low-income households. The homes will be constructed on two city-owned lots, located at 1039 Roselle Avenue and 2140 W. Lanier Street, which were awarded to M.L.J. Land Trust, Inc. through the infill land bank program. The initial term of the Agreement is effective upon approval by the City Commission and shall continue through eighteen (18) months from closing of loan.

M.L.J. Land Trust Inc. is a 501(C)(3) non-profit corporation established in 2020. It is certified by the City of Lakeland Housing Division as a CHDO and an affordable housing developer. The principals of M.L.J. Land Trust, Inc. have over 18 years of affordable housing development experience throughout Florida and the Southeast United States.

It is recommended that City Commission approve this agreement and authorize the appropriate City officials to execute the attached Agreement with M.L.J. Land Trust, Inc.

Attachment

**COMMUNITY HOUSING DEVELOPMENT  
ORGANIZATION (CHDO) AGREEMENT  
Program Years 2020-2021, 2021-2022, 2022-2023**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_ by and between the CITY OF LAKELAND, a Florida municipal corporation located at 228 South Massachusetts Avenue, Lakeland, Florida 33801 (hereinafter "CITY") and M.L.J. Land Trust Inc., a nonprofit Florida corporation located at 255 Temple Trail, Winter Park, FL 32789 (hereinafter "AWARDEE").

**WITNESSETH**

**WHEREAS**, the CITY is the recipient of funds as part of the HOME Investment Partnership Program (HOME) authorized under Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended and promulgated in 24 CFR Part 92; and

**WHEREAS**, among the purposes of the HOME Program are to promote partnerships between units of general local government and nonprofit organizations and to expand nonprofit organizations' capacity to develop and manage decent and affordable housing; and

**WHEREAS**, to assist in achieving those purposes, participating jurisdictions (PJs) under the HOME Program must reserve not less than 15 percent (15%) of their HOME allocations for investment in housing to be developed, sponsored, or owned by Community Housing Development Organizations (CHDOs); and

**WHEREAS**, the AWARDEE has been certified by the CITY as a CHDO, and has submitted a proposal for use of CHDO funds for CHDO-eligible projects consistent with HOME regulations.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**SECTION I – DEFINITIONS**

**A. CITY** – is hereby defined as the Housing Division, the HOME Program administering department of Lakeland City Government. For the purpose of this Agreement and all administration of HOME funds, the Housing Division shall act on behalf of the CITY in the execution and fiscal and programmatic control of this Agreement. The term "Approval by the CITY" or like term used in this Agreement shall in no way relieve the AWARDEE from any duties or responsibilities under the terms of this Agreement, or from any obligation contained in State or local law or regulation.

**B. FEE** – is hereby defined as the amount of money the CITY agrees to pay and the AWARDEE agrees to accept as payment in full for all the professional, technical and construction services rendered pursuant to this Agreement to complete the WORK as further defined in Section IV - SCOPE OF PROFESSIONAL SERVICES, hereof.

**C. HOME** – is hereby defined as the HOME Investment Partnerships Program as described in 24 CFR Part 92, under the authority of 42 U.S.C. 3535 (d) and 12701 - 12839.

**D. MANAGER** – is hereby defined as the Housing Programs Manager of the CITY.

**E. PROJECT** – is defined in Section IV below.

**F. WORK** – is hereby defined as all the professional, technical and construction services to be rendered or provided by the AWARDEE as described here.

**SECTION II – TERM**

The AWARDEE expressly agrees to complete all work required by this Agreement in accordance with the timetable set forth.

<b>PROJECT</b>	
<i><b>Milestone</b></i>	<i><b>Deadline</b></i>
Acquisition of Land	Concurrent with loan
Project Start Date	Upon Closing
Start of construction	4 months from closing
50% construction completion	6 months from start
Construction completion (certificate of occupancy)	12 months from start
Project Completion Date	18 months from closing

In addition, these projects are subject to ongoing compliance requirements of HOME from the date of initial occupancy. During this compliance period, the AWARDEE will assure continued compliance with HOME requirements including monitoring units for principal residency and recapture of funds at time of resale.

Timely completion of the work specified in this Agreement is an integral and essential part of performance. The expenditure of HOME funds is subject to Federal deadlines and could result in the loss of the Federal funds. Therefore, the HOME funds invested must be committed within four (4) months of the signing of the agreement and the AWARDEE has until \_\_\_\_\_, \_\_\_\_\_ to expend the funds. By the acceptance and execution of this Agreement, it is understood and agreed by the AWARDEE that the PROJECT will be completed as expeditiously as possible and that the AWARDEE will make every effort to ensure that the projects will proceed and will not be delayed. Failure to meet these deadlines can result in cancellation of this Agreement and the revocation of HOME funds.

Since it is mutually agreed that time is of the essence as regards this Agreement, the AWARDEE shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this Agreement, in order to ensure that the PROJECT will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the CITY and enforceable by the CITY against the AWARDEE and its successors and assigns to the project or any part thereof or any interest therein.

In the event the AWARDEE is unable to meet the above schedule or complete the above services because of delays resulting from Force Majeure events, untimely review/approval by the CITY and other governmental authorities having jurisdiction over the PROJECT, or other delays that are not caused by the AWARDEE, the CITY shall grant a reasonable extension of time for completion of the WORK. It shall be the responsibility of the AWARDEE to notify the CITY promptly in writing whenever a delay is anticipated or experienced, and to inform the CITY of all facts and details related to the delay.

**SECTION III – SCOPE OF WORK**

The AWARDEE, in close coordination with the CITY, shall perform all professional services (the “WORK”) necessary to complete the development and occupancy of the following projects in full compliance with the terms of this Agreement:

1. CITY shall provide to AWARDEE FY 2020/2021, 2021/2022, and 2022/2023 HOME project funds up to the maximum amount of \$450,000.00 USD to the Borrower, in periodic advances made pursuant to the attached Draw Schedules as provided in Exhibit B, to assist with the construction of two (2) single family home(s) within the city limits of Lakeland for resale to low-income homebuyers. The Borrower promises to repay this principal amount to the Lender, together with interest, as set forth in section 2 below. Lender may condition any advances upon the receipt of waivers of lien from any parties who have served notice to Lender.
2. The AWARDEE is and shall remain a duly licensed general contractor, and the purpose of this Loan is to finance the construction of the below identified homes (each, a "Home"), located at 1039 Roselle Avenue, Lakeland, Florida and 2140 W. Lanier St. Lakeland, Florida, and the amounts advanced for the construction of each such Home under this Loan will be repaid in full upon sale at closing of that Home. However, regardless of the status of the sale of the Homes, the Loan will be paid in full on or before 18 months from closing. The construction of the Homes shall be in full compliance with all applicable building codes and applicable authority and shall be made pursuant to the plans ("Plans") approved by the CITY.

Provided no uncured event of default then exists, the Lender agrees to release a Home from the lien of the mortgage upon payment of all indebtedness advanced by the CITY in connection with the Home to be released.

3. Upon repayment of all indebtedness advanced by the CITY, the AWARDEE may apply for funding to be applied to another qualifying project at which time the AWARDEE and the CITY may engage in a new funding agreement.

It is understood that the AWARDEE will provide a specific working budget and realistic timetable as relates to: acquisition, construction/rehabilitation, soft costs, development fees and other allowable costs/activities prior to any fund usage. Said budget shall identify all sources and uses of funds, and allocate HOME and non-HOME funds to activities or line items as provided in Exhibit A, which is attached hereto and incorporated herein by reference.

The aforementioned Work tasks will be performed in essentially the manner proposed in the AWARDEE's proposal as received by the CITY. The aforementioned document will be considered to be a part and portion of this Agreement for reference.

**A.** The CITY shall pay the AWARDEE, as maximum compensation or FEE for the developer services required pursuant to the Scope of Work thereof, an amount not to exceed 8% of the development cost of each project. Progress payments of FEES (if applicable) will not exceed the following cumulative maximum percentages of total developer fee at the following stages of project completion:

If multiple projects or buildings are involved, the developer fee may be pro-rated to each building or project, and the applicable percentage may be applied to each.

**B.** The CITY reserves the right to inspect records and project sites to determine that reimbursement and compensation requests are reasonable. The CITY also reserves the right to hold payment until adequate documentation has been provided and reviewed.

**C.** The AWARDEE may submit a final invoice upon completion. Final payment shall be made after the CITY has determined that all services have been rendered, files and documentation delivered, and units have been placed in service in full compliance with HOME regulations, including submission of a completion report and documentation of eligible occupancy, property standards and long-term use restrictions.

**D.** The CITY shall have the right to review and audit all records of the AWARDEE pertaining to any payment by the CITY. Said records shall be maintained for a period of five years after completion.

## **SECTION V – PROJECT REQUIREMENTS**

The AWARDEE agrees to comply with all requirements of the HOME Program as stated in 24 CFR Part 92, including but not limited to the following.

**A.** No HOME project costs can be incurred until the CITY has conducted an environmental review of the proposed project site as required under 24 CFR Part 58. The environmental review may result in a decision to proceed with, modify or cancel the project.

Notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the CITY of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58.

Further, the AWARDEE will not undertake or commit any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the Agreement.

**B.** The AWARDEE will ensure that any expenditure of HOME funds will be in compliance with the requirements of 24 CFR 92.206, and acknowledges that HOME funds will only be provided as reimbursement for eligible costs incurred, including actual expenditures or invoices for work completed.

**C.** The AWARDEE will ensure that all HOME assisted units will be in compliance with 24 CFR 92.254, including documenting that the property is eligible under 24 CFR 92.254(a)(1) – (2), and will maintain compliance during the minimum compliance period.

**D.** The designated HOME-assisted units of this PROJECT will meet the affordability requirements as found in 24 CFR 92.254 (owner-occupied) as applicable. The AWARDEE shall collect and maintain PROJECT beneficiary information pertaining to household size, income levels, racial characteristics, and the presence of Female Headed Households in order to determine low and moderate-income benefit in a cumulative and individual manner. Income documentation shall be in accordance with Part 5, Section 8 of the HOME requirements as stated in the HUD *Technical Guide for Determining Income and Allowances Under the HOME Program*.

**E.** In the selection of occupants for PROJECT units, the AWARDEE shall comply with all nondiscrimination requirements of 24 CFR 92.350. If the project consists of 5 or more units, the AWARDEE will implement affirmative marketing procedures as required by 24 CFR 92.351. Such procedures are subject to approval of the CITY.

**F.** If the PROJECT is occupied at the time of this commitment, the AWARDEE will comply with the relocation requirements of 24 CFR 92.353.

**G.** The AWARDEE shall assure compliance with 24 CFR 92.251 as relates to Property Standards and Housing Quality Standards (HQS), Accessibility Standards under 24 CFR 92.251(a)(3) as applicable, and Lead Based Paint Requirements as found in 24 CFR 92.355 and 24 CFR Part 35.

H. The CITY will be responsible for the ongoing monitoring of each unit for principal residency (under 24 CFR 92.254(a)(3)) and resale/recapture (under 24 CFR 92.254 (a)(4) – (5)).

I. The AWARDEE will provide any documentation required by the CITY regarding match as may be required to document match for purposes of the HOME program.

J. If any project under this Agreement involves the construction or rehabilitation of 12 or more HOME-assisted units, the AWARDEE shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 276 a to a - 7) as supplemented by Agency of Labor regulations (29 CFR, Part 5), as amended.

K. If the property is sold through a lease-purchase agreement, the AWARDEE will ensure compliance with 24 CFR 92.254(a)(7), as modified by the 1999 Appropriations Act, Section 599B.

L. The AWARDEE will be monitored by the CITY for compliance with the regulations of 24 CFR 92 for the compliance period specified above. The AWARDEE will provide reports and access to project files as requested by the CITY during the PROJECT and for Five (5) years after completion and closeout of the Agreement.

#### **SECTION VI – REPAYMENT OF LOAN**

A. All HOME funds are subject to repayment in the event the PROJECT does not meet the Project Requirements as outlined above.

B. It is understood that upon the completion of the PROJECT, any HOME funds reserved but not expended under this Agreement will revert to the CITY.

C. The CITY shall provide HOME funds to the individual buyers of the PROJECT in the form of a Homebuyer Deferred Lien in an amount sufficient to make the purchase affordable. The individual buyers will be approved for down payment and/or closing cost assistance under the Home Buyers Down Payment Assistance Program.

D. The CITY shall provide HOME funds to reduce the sale price of the home up to \$50,000 in order to make the home more affordable, if the AWARDEE is unable to find a qualified buyer within 3 months of receiving certificate of occupancy. The amount of repayment from the AWARDEE to the CITY upon sale and closing shall be reduced by the same amount of said sales price reduction not to exceed a reduction of \$50,000.

1) All net sales proceeds from the sale of units are considered to be either:

    X     Program Income must be returned to the CITY as repayment of the HOME loan; or

         CHDO proceeds that may be retained by the AWARDEE and used in conformance with 24 CFR 92.300(a)(2), as stated in a corresponding agreement.

#### **SECTION VII – CHDO PROVISIONS**

It is understood that the AWARDEE has certified that it is and will maintain CHDO (Community Housing Development Organization) status for the term of the PROJECT/AGREEMENT in accordance with 24 CFR 92. AWARDEE agrees to provide information as may be requested by the CITY to document its continued compliance, including but not limited to an annual board roster and certification of continued compliance.

Any funds advanced as CHDO pre-development funds must be in compliance with 24 CFR 92.301, and are forgivable only under the terms in 24 CFR 92.301.

Any funds advanced to the CHDO as CHDO Operating Expenses must be expended in compliance with 24 CFR 92.208.

Any funds that the CHDO is permitted to retain as CHDO proceeds from this project shall be used in compliance with 24 CFR 92.300(a)(2) or as specified in this Agreement.

### **SECTION VIII – PROCUREMENT STANDARDS**

The AWARDEE shall establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner.

In addition, it is understood that any AWARDEE considered a religious organization shall abide by all portions of 24 CFR 92.257.

### **SECTION IX – CONFLICT OF INTEREST PROVISIONS**

The AWARDEE warrants and covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which could conflict in any manner or degree with the performance of its services hereunder. The AWARDEE further warrants and covenants that in the performance of this contract, no person having such interest shall be employed.

HOME conflict of interest provisions, as stated in 24 CFR 92.356, apply to the award of any contracts under the agreement and the selection of tenant households to occupy HOME-assisted units.

No employee, agent, consultant, elected official, or appointed official of the AWARDEE may obtain a financial interest or unit benefits from a HOME-assisted activity, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. This prohibition includes the following:

- Any interest in any contract, subcontract or agreement with respect to a HOME-assisted project or program administered by the AWARDEE, or the proceeds thereunder; or
- Any unit benefits or financial assistance associated with HOME projects or programs administered by the AWARDEE, including:
  - Occupancy of a rental housing unit in a HOME-assisted rental project;
  - Receipt of HOME tenant-based rental assistance;
  - Purchase or occupancy of a homebuyer unit in a HOME-assisted project;
  - Receipt of HOME homebuyer acquisition assistance; or
  - Receipt of HOME owner-occupied rehabilitation assistance

This prohibition does not apply to an employee or agent of the AWARDEE who occupies a HOME-assisted unit as the on-site project manager or maintenance worker.

In addition, no member of Congress of the United States, official or employee of HUD, or official or employee of the CITY shall be permitted to receive or share any financial or unit benefits arising from the HOME-assisted project or program.

Prior to the implementation of the HOME-assisted activity, exceptions to these provisions may be requested by the AWARDEE in writing to the CITY. The AWARDEE must demonstrate and certify that the policies and procedures adopted for the activity will ensure fair treatment of all parties, and that the covered persons referenced in this policy will have no inside information or undue influence regarding the award of contracts or benefits of the HOME assistance. The CITY may grant exceptions or forward the requests to HUD as permitted by 24 CFR 92.356, 85.36 and 84.42, as they apply.

## **SECTION X – CITY RESPONSIBILITIES**

The CITY shall furnish the AWARDEE with the following services and information from existing CITY records and CITY files:

- A.** The CITY shall provide to the AWARDEE information regarding its requirements for the PROJECT.
- B.** The CITY will provide the AWARDEE with any changes in HOME regulations or program limits that affect the project, including but not limited to income limits, property value limits and rent limits.
- C.** The CITY will conduct progress inspections of work completed to protect its interests as lender and regulatory authority for the project, and will provide information to the AWARDEE regarding any progress inspections or monitoring to assist it in ensuring compliance.

The CITY's review and approval of the WORK will relate only to overall compliance with the general requirements of this Agreement and HOME regulations, and all CITY regulations and ordinances.

Nothing contained herein shall relieve the AWARDEE of any responsibility as provided under this Agreement.

## **SECTION XI – EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the AWARDEE agrees as follows:

- A.** The AWARDEE will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin(s). The AWARDEE will take affirmative action to ensure the applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin(s). Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The AWARDEE agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer of the CITY setting forth the provisions of this nondiscrimination clause.
- B.** The AWARDEE will, in all solicitations or advertisements for employees placed by or on behalf of the AWARDEE, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C.** The AWARDEE will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the CITY's contracting officer, advising the labor union or worker's representative of the AWARDEE's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D.** The AWARDEE will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E.** The AWARDEE will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the CITY and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and order.
- F.** In the event the AWARDEE is found to be in noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and



the AWARDEE may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule, regulations, or order of the Secretary of Labor or as otherwise provided by law.

**G.** The AWARDEE will include the provisions of paragraphs (a) through (g) of this Agreement in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The AWARDEE will take such action with respect to any subcontract or purchase order as the CITY may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the AWARDEE becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the CITY, the AWARDEE may request the United States to enter into such litigation to protect the interest of the United States.

## **SECTION XII – LABOR, TRAINING & BUSINESS OPPORTUNITY**

The AWARDEE agrees to comply with the federal regulations governing training, employment and business opportunities as follows:

**A.** It is agreed that the WORK to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the US Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701 u, as well as any and all applicable amendments thereto. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given low and moderate income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the project area.

**B.** The AWARDEE shall comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 Code of Federal Regulations and all applicable rules and orders of the Agency of Housing and Urban Development issued thereunder as well as any and all applicable amendments thereto prior to the execution of this contract as well as during the term of this contract. The AWARDEE certifies and agrees that it is under no contractual or other disability, which would prevent it from complying with these requirements as well as any and all applicable amendments thereto.

**C.** The AWARDEE will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the CITY, take appropriate action pursuant to the subcontractor upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, in 24 Code of Federal Regulations. The AWARDEE will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 Code of Federal Regulations and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with these requirements as well as with any and all applicable amendments thereto.

**D.** Compliance with the provisions of Section 3, the regulations set forth in 24 Code of Federal Regulations and all applicable rules and orders of the Agency of Housing and Urban Development issued thereunder prior to the execution of the contract shall be a condition precedent to federal financial assistance being provided to the PROJECT as well as a continuing condition, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the AWARDEE or recipient, its contractors and subcontractors, its successors, and assigns to those sanctions specified by 24 Code of Federal Regulations as well as with any and all applicable amendments thereto.

### **SECTION XIII – COMPLIANCE WITH FEDERAL, STATE & LOCAL LAWS**

The AWARDEE covenants and warrants that it will comply with all applicable laws, ordinances, codes, rules and regulations of the state, local and federal governments, and all amendments thereto, including, but not limited to; Title 8 of the Civil Rights Act of 1968 PL.90-284; Executive Order 11063 on Equal Opportunity and Housing Section 3 of the Housing and Urban Development Act of 1968; Housing and Community Development Act of 1974, as well as all requirements set forth in 24 CFR 92 of the HOME INVESTMENT PARTNERSHIPS PROGRAM. The AWARDEE covenants and warrants that it will indemnify and hold the CITY forever free and harmless with respect to any and all damages whether directly or indirectly arising out of the provisions and maintenance of this contract.

The AWARDEE agrees to comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

The AWARDEE further warrants and agrees to include or cause to be included the criteria and requirements of this section in every non-exempt subcontract in excess of \$100,000. The AWARDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.

### **SECTION XIV – SUSPENSION & TERMINATION**

In accordance with 24 CFR 85.43, suspension or termination may occur if the AWARDEE materially fails to comply with any term of the award, and that the award may be terminated for convenience in accordance with 24 CFR 85.44.

If, through any cause, the AWARDEE shall fail to fulfill in timely and proper manner its obligations under this contract, or if the AWARDEE shall violate any of the covenants, agreements, or stipulations of this contract, the CITY shall thereupon have the right to terminate this contract by giving written notice to the AWARDEE of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, the AWARDEE shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder to the date of said termination. Notwithstanding the above, the AWARDEE shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the contract by the AWARDEE and the CITY may withhold any payments to the AWARDEE for the purpose of setoff until such time as the exact amount of damages due the CITY from the AWARDEE is determined whether by court of competent jurisdiction or otherwise.

### **SECTION XV – TERMINATION FOR CONVENIENCE OF THE CITY**

The CITY may terminate this Agreement for its convenience at any time by giving at least thirty (30) days notice in writing to the AWARDEE. If the Agreement is terminated by the CITY, as provided herein, the CITY will reimburse for any actual and approved expenses incurred, including those costs involved in terminating the contracts and shutting down the work as of the date of notice, and the AWARDEE will be paid as a FEE an amount which bears the same ratio to the total compensation as the services actually performed bear to the total service of the AWARDEE covered by this Agreement, less payments of compensation previously made. Claims and disputes between the parties will be submitted to the American Arbitration Association for resolution. Award or judgment may be entered in any court having jurisdiction thereof.

### **SECTION XVI – DEFAULT-LOSS OF GRANT FUNDS**

If the AWARDEE fails in any manner to fully perform and carry out any of the terms, covenants, and conditions of the Agreement, and more particularly if the AWARDEE refuses or fails to proceed with the work with such diligence as will insure its completion within the time fixed by the schedule set forth in "Section II – Term" of this Agreement, the AWARDEE shall be in default and notice in writing shall be given to the AWARDEE of such default by the CITY or an agent of the CITY.

If the AWARDEE fails to cure such default within such time as may be required by such notice, the CITY may at its option terminate and cancel the contract.

In the event of such termination, all grant funds awarded to the AWARDEE pursuant to this Agreement shall be immediately revoked and any approvals related to the PROJECT shall immediately be deemed revoked and canceled. In such event, the AWARDEE will no longer be entitled to receive any compensation for work undertaken after the date of the termination of this Agreement, as the grant funds will no longer be available for this project.

Such termination shall not effect or terminate any of the rights of the CITY as against the AWARDEE then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the CITY under the law and the note and mortgage (if in effect), including but not limited to compelling the AWARDEE to complete the project in accordance with the terms of this Agreement, in a court of equity.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition hereof.

### **SECTION XVII – REPORTING RESPONSIBILITIES**

The AWARDEE agrees to submit to the City an annual report required by HUD or the CITY, due October 30th, for the ending of the program year, September 30<sup>th</sup>.

The CITY will send the AWARDEE one reminder notice if the annual report has not been received fourteen (14) days after the due date. If the AWARDEE has not submitted a report fourteen (14) days after the date on the reminder notice, the CITY will have the option to terminate the contract as described in this Agreement. In addition, the AWARDEE agrees to provide the CITY information as required to determine program eligibility, in meeting national objectives, and financial records pertinent to the project.

### **SECTION XVIII – INSPECTION, MONITORING & ACCESS TO RECORDS**

The CITY reserves the right to inspect, monitor, and observe work and services performed by the AWARDEE at any and all reasonable times.

The CITY reserves the right to audit the records of the AWARDEE any time during the performance of this Agreement and for a period of five years after final payment is made under this Agreement.

If required, the AWARDEE will provide the CITY with a certified audit of the AWARDEE's records representing the Fiscal Year during which the PROJECT becomes complete whenever the amount listed in SECTION VII is at or exceeds \$300,000, pursuant to the requirements of OMB Circular A-133.

Access shall be immediately granted to the CITY, HUD, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the AWARDEE or its contractors which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

### **SECTION XIX – GENERAL CONDITIONS**

**A.** All notices or other communication which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

**If mailed to AWARDEE:** **M.L.J. Land Trust Inc.**  
255 Temple Trail  
Winter Park, FL 32789

**If by hand delivery:** Same as above

**If mailed to CITY:** CITY OF LAKE LAND | HOUSING DIVISION  
ATTN: Michael B Smith  
1104 MARTIN L. KING, JR. AVE  
LAKE LAND, FL 33805

**If by hand delivery:** Same as above

- B.** Title and paragraph headings are for convenient reference and are not a part of this Agreement.
- C.** In the event of conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall rule.
- D.** No waiver or breach of any provision of this Agreement shall constitute a waiver of a subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.
- E.** The parties hereto agree that this Agreement shall be construed and enforced according to the laws of the State of Florida.
- F.** Should any provisions, paragraphs, sentences, words or phrases contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the CITY of Lakeland, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.
- G.** The AWARDEE shall comply with the provisions of the Copeland Anti-Kick-Back Act (18 U.S.C. 874) as supplemented in the Agency of Labor Regulations (29 CFR Part 3), as amended.
- H.** The AWARDEE shall comply with the provisions of sections 103 and 107 of the Contract Work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by Agency of Labor regulations (29 CFR, Part 5), as amended.
- I.** The AWARDEE further warrants and agrees to include or cause to be included the criteria and requirements of paragraphs (G) through (H) of this section in every nonexempt subcontract. The AWARDEE also agrees to take such action as the federal, state or local government may direct to enforce aforesaid provisions.
- J.** The obligations undertaken by AWARDEE pursuant to this Agreement shall not be delegated or assigned to any other person or agency unless CITY shall first consent to the performance or assignment of such service or any part thereof by another person or agency.
- K.** This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representative, successors and assigns.
- L.** AWARDEE shall indemnify and save CITY harmless from and against any negligent claims, liabilities, losses and causes of action which may arise out of AWARDEE's activities under this Agreement, including all other acts or omissions to act

on the part of AWARDEE, including any person acting for or on its behalf, and, from and against any orders, judgments, or decrees which may be entered, and from and against all costs, attorneys fees, expenses and liabilities incurred in the defense of any such claims, or in the investigation thereof.

**M.** AWARDEE and its employees and agents shall be deemed to be independent contractors, and not agents or employees of the CITY, and shall not attain any rights or benefits under the civil service or pension ordinances of the CITY, or any rights generally afforded classified or unclassified employee; further they shall not be deemed entitled to state Compensation benefits as an employee of the CITY.

**N.** Funding for this Agreement is contingent on the availability of funds and continued authorization for program activities and is subject to amendment or termination due to lack of funds, or authorization, reduction of funds, and/or change in regulations.

**O.** The CITY or AWARDEE may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, executed in writing, signed by a duly representative of both parties and approved by the CITY's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the CITY or AWARDEE from its obligations under this Agreement.

The CITY, in its discretion, may amend this Agreement to conform with federal, state or local government laws, regulations, guidelines, policies, available funding or for any other reason requiring legal compliance. If any such amendment results in a change of funding, the scope of services or schedule of activities undertaken pursuant to this Agreement shall be incorporated herein by written amendment signed by CITY and AWARDEE.

**P.** The parties irrevocably consent to jurisdiction and venue of the Courts of Polk County, Florida or the United States District Court in and for the Middle District of Florida, Tampa Division in connection with any action or proceeding arising out of or relating to this Agreement. This Agreement shall be governed by the laws of the State of Florida.

**[THIS SECTION INTENTIONALLY BLANK; SIGNATURES ON FOLLOWING PAGE]**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**WITNESSES:**

**M.L.J.Land Trust Inc.**

Sign Name: \_\_\_\_\_

By: \_\_\_\_\_

**Authorized Agent**

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

**ATTEST:**

**CITY OF LAKELAND, FLORIDA**

By: \_\_\_\_\_

Kelly S. Koos, City Clerk

By: \_\_\_\_\_

**H. William Mutz, Mayor**

Approved as to Form and Correctness:

By: \_\_\_\_\_

Palmer C. Davis, City Attorney

**EXHIBIT A**  
**Page 1 of 2**  
**CITY OF LAKELAND**  
**HOME INVESTMENT PARTNERSHIPS PROGRAM**

**BUDGET**

**Sources:** FY 2020/2021, 2021/2022, 2022/2023 HOME and HOME CHDO Housing Development Funds \$ 225,000

**Uses:** Construction of one single family residence

**TOTAL** \$225,000

**1039 Roselle Ave, Lakeland, FL 33805**

Project	Estimated Cost
Acquisition	\$1500.00
Construction	\$
Soft Costs- Including but not limited to appraisal, insurance, yard maintenance, & utilities	\$
<b>**Total Cost for Project</b>	\$
<b>HOME FUNDS USED</b>	\$
<b>Other funding sources</b>	
1) Recycled HOME Funds	\$
2)	
3)	
4)	
<b>***Total Cost for Project</b>	\$

\*\*\*Same amounts

**Exhibit A**  
**Page 2 of 2**

**Sources:** FY 2020/2020, 2021/2022, 2022/2023 HOME and HOME CHDO Housing Development Funds \$ 225,000

**Uses:** Construction of one single family residence

**TOTAL** \$225,000

**2140 W Lanier St, Lakeland, FL 33815**

Project	Estimated Cost
Acquisition	\$1500.00
Construction	\$
Soft Costs- Including but not limited to appraisal, insurance, yard maintenance, & utilities	\$
<b>**Total Cost for Project</b>	\$
HOME FUNDS USED	\$
Other funding sources	
1) Recycled HOME Funds	\$
2)	
3)	
4)	
<b>***Total Cost for Project</b>	\$

\*\*\*Same amounts

**EXHIBIT B**



## DRAW SCHEDULE

HOMEOWNERS NAME:					
PROJECT ADDRESS:					
CONTRACTOR: M L J Land Trust					
CONTRACT AMOUNT:		<b>\$225,000.00</b>			
				<b>DRAW REQUEST</b>	<b>APPROVED AMOUNT</b>
# 1	25%	Any/all site prep & clearing Completed. Permits Approved(Building, Septic, Etc.). Builders risk policy must be in place and a copy presented at the time of this draw.		\$ 56,250.00	\$ 56,250.00
# 2	20%	When foundation and slab is in place and plumbing rough inspection has been made and approved by local building department.		\$ 45,000.00	\$ 45,000.00
# 3	20%	When the building is dried in, all partition framing is complete, electrical wiring, plumbing and mechanical are roughed in, exterior doors & windows are installed, the roof is complete, and the framing rough has been approved by the City of Lakeland Building Department.		\$ 45,000.00	\$ 45,000.00
# 4	20%	When drywall is finished, all interior doors and trim are installed, cabinets & vanities are installed, ceramic tile work is complete, septic tank is installed and connected (if applicable), interior & exterior walls are painted.		\$ 45,000.00	\$ 45,000.00
# 5	15%	When all construction and all flooring is fully completed pursuant to the contract and all final inspections have been approved by the City of Lakeland Building Department. Certificate of Occupancy		\$ 33,750.00	\$ 33,750.00
# 6					\$ -
<b>TOTAL</b>					<b>\$ 225,000.00</b>