

**HOME PROGRAM
AGREEMENT BETWEEN
CITY OF ORLANDO
AND
WEST LAKES PHASE II, LP
AND
LIFT ORLANDO, INC.**

This **HOME Program Agreement** (hereinafter referred to as the "Agreement") is entered into on _____, 2018, by and between the **City of Orlando**, a Florida municipal corporation with a principal address of 400 South Orange Avenue, Orlando, Florida 32801 (hereinafter referred to as "City" or "Lender") and **West Lakes Phase II, LP**, a Florida limited partnership, (hereinafter referred to as "West Lakes" or "Borrower") with a principal address of 1718 Peachtree St. NW, Suite 684, South Tower, Atlanta, GA 30309 and **Lift Orlando, Inc.**, a Florida not-for-profit corporation, the sole general partner of West Lakes Phase II, LP (hereinafter referred to as "LIFT") with a principal address of 2043 Jacobs Place, Orlando, FL 32805.

WITNESSETH:

WHEREAS, pursuant to Title II of the Cranston Gonzalez National Affordable Housing Act of 1990, as amended, the United States Department of Housing and Urban Development ("HUD") has designated the City as a participating jurisdiction under the HOME Investment Partnerships Program (hereinafter referred to as "HOME") and has allocated HOME funds to the City in furtherance of its goal of encouraging the production of decent, safe, sanitary, and affordable housing for all of the citizens of Orlando; and

WHEREAS, West Lakes is the owner of the Property;

WHEREAS, West Lakes is a Florida limited partnership and LIFT is a private non-profit corporation and the sole general partner of West Lakes;

WHEREAS, Pendana at West Lakes Senior Residences is a proposed new one hundred twenty (120) unit apartment complex in the City of Orlando and West Lakes has submitted a proposal to the City for HOME funds in the amount of ***One Million Fifty Thousand Dollars and 00/100 (\$1,050,000.00)*** to construct one-hundred twenty (120) apartments, seven (7) of which units will be HOME-assisted units. Pendana at West Lakes Senior Residences is generally located at 2205 Orange Center Blvd., Orlando, FL, 32805, and more particularly described in the legal description on the attached **Exhibit "A"** (hereinafter referred to as the "Property");

WHEREAS, the new construction of an apartment complex for rent to the elderly (aged 62 and over) who are Low-Income and Very Low-Income families at Affordable rents is an eligible activity under the HOME Program; and

WHEREAS, the parties desire to enter into this Agreement in order to ensure compliance with the requirements of the HOME Program and to secure other covenants and promises from West Lakes

regarding the use of funds to benefit Very Low-Income families, as defined under the standards of eligibility established by HUD and adjusted annually, a copy of which eligibility income levels for the current year is attached hereto as **Exhibit “B”** and is incorporated herein by this reference.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the sufficiency and receipt whereof being hereby acknowledged, the City and West Lakes agree as follows:

SECTION 1. DEFINITIONS

As used herein, the following words and terms, whether capitalized or not, shall have the following meanings, unless the context of the HOME regulations demands otherwise:

1. Affordable - means meeting the income requirements, maximum LOW HOME rents to be charged for the units as determined by HUD, and other requirements as set forth in Section 3 of this Agreement and in compliance with all HOME regulations.
2. Affordability Period - means that the HOME-assisted units shall remain Affordable for twenty (20) years commencing from Project Completion.
3. Annual Income - means the projected annual income for a household, or more specifically, the gross amount of wages, income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD, as defined in 24 CFR§ 92.203 and 24 CFR §5.609.
4. Displaced Homemaker - means an individual who:
 - (a) is an adult;
 - (b) has not worked full-time or for a full year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and
 - (c) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.
5. Displaced Person - means a person (family or individual, business, nonprofit organization or farm) that moves from real property, or moves personal property from real property permanently, as a direct result of acquisition, rehabilitation or demolition for a project assisted with HOME funds, and as further defined by 24 CFR Part 92.
6. Elderly – 62 years of age or older as defined by HUD and the Fair Housing Act.
7. Eligible Person or Eligible Household - means one or more natural persons or a family who is Elderly and determined by the City to be the following: Very Low-Income (50% or below of median income within the Orlando MSA) for all seven (7) units which are 1-bedroom/1 bath. Rental of all the HOME-assisted units are to be in the manner as described herein and the Budget and all according to the income limits published annually by HUD based upon the Annual Income of the household.

8. HUD - means the United States Department of Housing and Urban Development, its successors or assigns.
9. Loan Documents - means this HOME Agreement, the Note, the Mortgage, Declaration of Restrictive Covenant and all agreements, exhibits, or attachments to each of the foregoing, referenced therein or executed or delivered pursuant hereto or in connection with or arising under the loan contemplated hereby.
10. Low Income - means one or more natural persons or a family who has a total Annual Income that does not exceed eighty percent (80%) of the median income within the Orlando metropolitan statistical area, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.
11. Note - means that certain promissory note executed by West Lakes in favor of the City evidencing the loan contemplated by this Agreement.
12. Project - seven (7) of the one-hundred twenty (120) units on the Property that will be constructed with HOME funds and then rented and occupied by Eligible Persons at Affordable rents for the duration of the Affordability Period as follows: rental of seven (7) HOME-assisted units to families that are Very Low-Income (50% or below of median income within the Orlando MSA) all of which are 1-bedroom/1bath all as from time to time defined by HUD, or any successor entity, at such minimum and LOW HOME maximum rental rates determined by HUD and approved by the City of Orlando's Housing and Community Development Department ("HCD") and all in the manner as described herein and the Budget and all according to the income limits published annually by HUD based upon the Annual Income of the household.
13. Project Completion - means that all necessary title transfer requirements and construction work has been completed; the Project meets all HOME Program regulations and the requirements of 24 CFR Part 92; the Project passes the required property standards under §92.251; the final drawdown of HOME funds has been disbursed for the Project; and project completion information has been entered in the Integrated Disbursement and Information System established by HUD, except that with respect to rental housing project completion, for the purposes of §92.502(d) project completion occurs upon completion of construction and before occupancy.
14. Sixty Percent Income – means one or more natural persons or a family who has a total Annual Income for the household that does not exceed sixty percent (60%) of the median family income within the Orlando MSA, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a sixty-percent low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

15. Very Low-Income – means one or more natural persons or a family who has a total Annual Income that does not exceed fifty percent (50%) of the median family income within the Orlando MSA, as determined by HUD, with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes. An individual does not qualify as a very low-income family if the individual is a student who is not eligible to receive Section 8 assistance under 24 CFR §5.612.

Other terms herein which have not been defined shall have the definition, meaning and intent given them in the HOME regulations or 24 CFR Part 92, or as cross-referenced therein, or their ordinary dictionary meaning as the context so requires.

SECTION 2. USE OF HOME FUNDS AND LOAN AMOUNT

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.
2. **Use of HOME Funds.** Under the terms and conditions of this Agreement and the other documents executed in connection with this Agreement, the City agrees to loan West Lakes HOME funds in the amount of One Million Fifty Thousand Dollars and 00/100 (\$1,050,000.00) towards the construction of the Property.

West Lakes shall have a building permit and begin construction within six (6) months of the Effective Date. West Lakes shall be fifty percent (50%) complete with the construction within one year from the Effective Date. West Lakes shall have finished 100% of the construction and a certificate of completion issued for the Project by December 31, 2020. The Project shall be 100% constructed and all seven (7) of the HOME-assisted units rented to and occupied by Eligible Persons at Affordable rents within fifteen months from Project Completion. If the HOME-assisted units are not occupied by Eligible Persons within three months following Project Completion, West Lakes shall submit marketing information and an enhanced marketing plan to HCD, subject to review and approval by HCD. West Lakes understands and acknowledges that these time frames are critical as HOME requires full payment of the HOME funds if the HOME-assisted units aren't rented to Eligible Persons 18 months after Project Completion.

A list of tasks to be performed and a schedule for completing these tasks and a complete budget for the use of these HOME funds and other funds in the project is described on **Exhibit "C"**, which is attached hereto and made a part hereof by this reference (as amended in accordance with the terms hereof, the "Budget"). West Lakes shall expend the HOME funds only for those items as set forth in the Budget and as permitted under the HOME regulations as set forth in 24 CFR §92.206. HCD may require a more detailed budget breakdown than the Budget attached hereto, and West Lakes shall provide such supplementary budget information in a timely fashion and in the form and content as may be prescribed by HCD. HCD may also require changes in line items, or approve other budgetary changes within the total award amount. Except for de minimis change orders not required to be approved by the first mortgage construction lender, any supplementary budget information or budget changes must be approved in writing by the HCD Director or designee; provided however, any changes to the line items

being funded with HOME funds will require HCD's written approval. Expenditures shall be directly attributable to the Project. West Lakes shall not use any HOME funds for prohibited purposes as set forth in 24 CFR §92.214 or other HOME regulations. West Lakes acknowledges and agrees that any HOME funds not used in accordance with this Agreement and permitted HOME regulations must be repaid to the City. West Lakes also acknowledges and agrees that if this Project is terminated before completion, not rented to Eligible Persons within the time frames described herein, or if West Lakes fails to rent the HOME-assisted units to Eligible Persons for the duration of the Affordability Period for any reason, either voluntarily or otherwise, West Lakes must repay all HOME funds awarded to West Lakes to the City. These payments to the City must be made within 10 days of the HCD Director's written request.

3. **Deferred Loan - Execution of Note, Mortgage and Restrictive Covenant.** The loan of these HOME funds to West Lakes shall be in the form of a deferred loan that may be forgivable in the Lender's sole discretion, on the terms set forth in this Agreement. West Lakes shall execute a promissory note, mortgage, declaration of covenants and restrictions, and other loan documents (the "Loan Documents") as required by the City. Accordingly, West Lakes shall execute a promissory note in favor of the City substantially in the form attached hereto as **Exhibit "D"** (the "Note") and incorporated herein by reference in the amount of the award. The Note shall be secured by a mortgage (the "Mortgage") on the Property substantially in the form attached hereto and incorporated herein, by reference, as **Exhibit "E"**. West Lakes shall also execute a declaration of covenants and restrictions ("Declaration of Covenants and Restrictions") for the Project which sets forth various income and rent covenants restricting the income of the tenants and the affordability of the HOME-assisted units in the Project and that these covenants will continue for twenty (20) years from Project Completion (the "Affordability Period"). West Lakes shall execute the Declaration of Covenants and Restrictions substantially in the form as **Exhibit "F"** attached hereto. The City will subordinate the loan to the SunTrust construction loan and the Valley National Bank permanent loan.

No payment shall be due to the City prior to maturity as long as West Lakes does not breach this Agreement or there does not exist an Event of Default. However, as referenced in Section 10, upon the occurrence or existence of an Event of Default, and such Event of Default remains uncured beyond any applicable cure period, HCD is free to exercise all remedies including those contained in this Agreement, which includes having all amounts disbursed to West Lakes repaid to the City and accelerating the loan to maturity, whereupon the outstanding principal balance of the loan shall become immediately due and payable.

4. **Disbursement of the Funds.** HCD shall reimburse payment to West Lakes for HOME eligible costs throughout the construction period in accordance with the Budget. For construction or rehabilitation related projects, HCD shall reimburse West Lakes the HOME loan proceeds only after receipt of appropriate invoices and documentation, and specific itemization of expenses incurred. Reimbursement of HOME proceeds will be made to West Lakes only after approval by HCD, in its sole discretion, of invoices submitted for reasonable costs, payroll records, copies of paid bills, cancelled checks, and verification of work completed in accordance with this Agreement and applicable HOME regulations. If applicable to meet Davis Bacon requirements, all certified payrolls must be submitted to HCD in LCPTracker on a weekly basis. All progress reports must also be submitted with any request for payment. West Lakes may not request disbursement of HOME funds under this Agreement until the funds are needed for payment of eligible HOME costs and the amount of each disbursement request shall be limited

to only the amount needed. Costs may be incurred by West Lakes and reimbursed, provided the required environmental review was done before West Lakes incurred the cost. Advance disbursements of HOME funds are not allowed under this Agreement. Requests for partial payment shall be made on a form substantially similar to **Exhibit “G”**, attached hereto and incorporated herein by reference. West Lakes shall submit a Contractor’s Invoice on a form substantially similar to **Exhibit “H”**, attached hereto and incorporated herein by reference.

West Lakes agrees that HCD shall retain ten percent (10%) of each reimbursement request for a total of ten percent (10%) of the loan funds until 50% construction completion and 5% thereafter (the “Retainage”) until West Lakes provides HCD with releases of liens from all contractors, subcontractors and suppliers and otherwise demonstrates that it has fully complied with Part 1, Construction Liens, Chapter 713, Florida Statutes, and all of the terms of this Agreement, including correction of all work and materials found to be deficient by HCD and the full provision of other funds into the project as described in the Budget. Also, HCD will not release the Retainage until completion of all punch-list items, issuance of a certificate of occupancy or certificate of completion and completion of a final inspection from both the City’s Building Inspectors and HCD to verify that the Project is completed in accordance with this Agreement, all approved plans, local codes and property standards. Along with each request for payment, West Lakes shall submit the corresponding partial or final release of lien. Requests for final payment and the Retainage shall be made on a form substantially similar to **Exhibit “I”**, attached hereto and incorporated herein by reference. Line item amendments in the Budget may be made by West Lakes (except for increases in profit) with prior written approval from the HCD Director.

Notwithstanding anything to the contrary in this Agreement, HCD also reserves the right to request and approve documentation supporting any requests for reimbursement to verify the reasonableness and validity of such costs and such Budget may be modified by HCD accordingly.

SECTION 3. AFFORDABILITY

1. **Units to be Assisted.** West Lakes has designated seven (7) units on the Property to be assisted with HOME funds and all are fixed “HOME-assisted units” and such HOME-assisted units will be designated as listed on the attached **Exhibit “J”**. The specific street addresses and apartment numbers of each initially identified HOME-assisted unit must be provided to HCD no later than initial occupancy of each such unit.
2. **HOME Program Rental Requirements.** Every HOME-assisted unit is subject to rent controls designed to make sure that rents are Affordable to Very Low-Income families, as applicable and specified herein. The HOME-assisted units in the Project must be rented and occupied as follows: seven (7) [1-bedroom/1 bath] units shall be rented and occupied by Very Low-Income (50% median income or less within the Orlando MSA) families at Affordable rents (LOW HOME rents), all as from time to time defined by HUD, or any successor entity, at such minimum and maximum rental rates determined by HUD and approved by HCD and all in the manner as described herein and the Budget and all according to the income limits published annually by HUD based upon the Annual Income of the household. (Generally, at initial occupancy, 90% of the HOME-assisted units must be rented to families with annual incomes that do not exceed Sixty Percent Income (60% or below the median income within the Orlando

MSA; however, in this Project all 7 of the HOME-assisted units will be rented and occupied by Very Low-Income (50% or below the median income within the Orlando MSA) families at the LOW HOME rents). West Lakes must not charge more than the LOW HOME rents set forth by HUD and must meet these affordability requirements for not less than the applicable period as described in 24 CFR §92.252(e), which is twenty (20) years. West Lakes shall comply with all income determinations, rent, and affordability requirements of the HOME Program as set forth in 24 CFR §92.203 and 24 CFR §92.252, as applicable.

3. **Income Qualification.** West Lakes shall undertake the initial review of income eligibility of prospective tenants for all the HOME-assisted units. West Lakes shall comply with all income determinations and affordability requirements of the HOME program as set forth in 24 CFR § 92.203 and 24 CFR §92.252, as applicable. In determining income eligibility, West Lakes must examine source documents evidencing the prospective tenant's Annual Income, in accordance with 24 CFR §92.203(a)(1)(i). In conducting such review, West Lakes shall determine if each family is income eligible by determining the family's Annual Income in accordance with 24 CFR § 5.609 which is an allowable methodology under 24 CFR§ 92.203.

In determining the Annual Income for the family, West Lakes must include the income of all persons in the household. Annual Income of the family must be calculated by projecting the prevailing rate of income of the family at the time of the determination that the family is income eligible. Income determinations under the HOME program must be dated no earlier than 6 months prior to receipt of assistance. West Lakes is not required to re-examine the family's income at the time HOME assistance is provided unless more than six (6) months have elapsed since West Lakes determined that the family qualified as income eligible. West Lakes must follow the requirements in 24 CFR §5.617 when meeting subsequent income determinations of persons with disabilities who are tenants in HOME-assisted housing. Income qualification and all documentation must comply with the requirements stated in the HUD "Technical Guide for Determining Income and Allowances for the HOME Program", Third Edition, January 2005 or as updated by HCD. West Lakes must obtain from each tenant and each tenant shall submit the information contained in the Tenant Qualification Package attached hereto as **Exhibit "K"** and the Income Certification Form attached hereto as **Exhibit "L"**. West Lakes must keep documentation and records verifying the income eligibility of tenants.

4. **Maximum Tenant Income.** During the Affordability Period and at the time of each initial lease, the maximum income for households residing in the HOME-assisted units are as follows: seven (7) units [1-bedroom/1 bath] shall be rented and occupied by Very Low-Income (50% median income or less within the Orlando Metropolitan Statistical Area) families at Affordable rents (LOW Home rents), all as from time to time defined by HUD, or any successor entity, at such minimum and LOW HOME maximum rental rates determined by HUD and approved by HCD. HUD updates the income limits annually and HCD will provide this information to West Lakes as it is published annually.
5. **Period of Affordability.** All HOME-assisted units must meet the affordability requirements of 24 CFR §92.252. All HOME-assisted units shall continue to be rented to Eligible Persons at Affordable rents as prescribed by HUD and maintained as Affordable housing units for the twenty (20) year Affordability Period. In order to ensure compliance with the twenty (20) year Affordability Period, West Lakes shall execute the Declaration of Covenants and Restrictions, attached hereto as **Exhibit "F"** which shall be recorded in the public records of Orange County.

The Affordability requirements apply without regard to the term of any loan or mortgage, repayment of HOME funds, or the transfer of ownership. West Lakes acknowledges that failure to meet the Affordability requirements stated herein is a breach of this Agreement and a default under the Note and Mortgage which requires repayment of the HOME funds if not cured within applicable cure periods.

6. **Rent Limitations - Maximum Gross Rents and Initial rent schedule and Utility Allowances.** The HOME regulations in 24 CFR §92.252 set forth the maximum rents West Lakes can charge for the HOME-assisted units. The rent limits apply to rent plus the utilities or utility allowance. The maximum gross rent for each HOME-assisted unit, as applicable, (including applicable utility allowances computed in accordance with Section 42 of the Internal Revenue Code and applicable HOME regulations) shall not exceed the maximum LOW HOME Rents as published annually by HUD. In projects with five (5) or more HOME-assisted units, such as this one, at least 20% of the HOME-assisted units must be occupied by Very Low-Income families and meet the rent requirements of §92.252(b) which sets forth the LOW HOME rents. In this Project, all seven (7) of the HOME-assisted units must meet these requirements. The maximum gross rent for the units rented and occupied by Very Low-Income families must have rents that are no greater than the LOW HOME rents as published by HUD. The Very Low-Income tenants must occupy the LOW HOME rent units. Actual rents for HOME-assisted units may be less than, but never more than, these maximum rental amounts set forth by HUD. HCD acknowledges that the LOW HOME rent amounts do not take into account any HUD housing assistance payments.

If the tenant pays for utilities, the rent must be reduced by the utility allowance (as shown below). HCD will establish the maximum monthly allowance for utilities and services (excluding telephone) and update the allowances annually. HCD will base its utility calculation on the HUD Utility Schedule Model or determine the utility allowance based on the type of utilities used at this project. In calculating allowable rents, West Lakes shall subtract the utility allowance when adjusting rents for tenant paid utilities. A current copy of the utility allowance is attached hereto as **Exhibit “M”**. HCD shall provide West Lakes with a copy of the utility allowance as it is updated annually. West Lakes acknowledges that HCD must review and approve all rents and utility charges as proposed by West Lakes to ensure compliance with HOME regulations. HUD updates rent limits every year. The HCD will provide West Lakes with information on updated HOME rent limits, as they are made available by HUD. Additionally, HUD prohibits owners from charging fees that are not customarily charged in rental housing, such as laundry room access fees and other fees. Accordingly, no fees or surcharges can be charged without the express written approval of the HCD Director.

The initial rents and maximum monthly rent for the HOME-assisted units less utilities are as follows:

LOW HOME RENTS

1 bedroom units at \$	600.00
Less utilities	<u>127.00</u>
	\$ 473.00

7. **Over-Income tenants (Increases in Tenant Income After Initial Lease-up).** As required by applicable regulations under the HOME Program, during the Affordability Period, if an existing

tenant's adjusted income increases after the initial lease-up to the extent that it exceeds eighty percent (80%) of the median income for the Orlando MSA, as defined annually by HUD, said tenant's rent shall be increased to an amount equal to thirty percent (30%) of the family's adjusted monthly income. However, tenants of HOME-assisted units that have been allocated low income housing tax credits by a housing credit agency pursuant to Section 42 of the Internal Revenue Code of 1986 must pay the rent governed by the LIHTC program in accordance with Section 42.

8. **Subsequent Rents During Affordability Period.** The maximum HOME rent limits are recalculated on a periodic basis after HUD determines fair market rents and median incomes. HUD then provides the new maximum rent limits to HCD. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment. In accordance with 24 CFR §92.252(f), HCD will provide West Lakes with information on updated HOME rent limits so that rents may be adjusted (but not to exceed HUD's maximum rent limits). West Lakes must annually provide any rents or proposed increase in rents for HOME-assisted units to HCD for review and approval. Increases in LOW HOME rents published by HUD will be deemed approved. Owners must annually provide HCD with information on rents and occupancy of the HOME-assisted units. HCD must review rents for compliance and approve or disapprove them every year. Any increase in rents is subject to the provisions of outstanding leases and West Lakes must provide tenants of those units not less than thirty (30) days prior written notice before implementing any increase in rents.
9. **Lease Provisions.** All leases for the HOME-assisted units shall be in compliance with all state and local landlord and tenant laws. Additionally, for the HOME-assisted units, West Lakes shall enter into a written lease with each tenant and all leases between West Lakes and its tenants shall be for not less than one (1) year in duration and shall comply with all of the provisions in 24 CFR §92.253. The lease must also incorporate the VAWA lease terms/addendum required under 24 CFR §92.359(e), except as otherwise provided by 24 CFR §92.359(b). West Lakes agrees that certain clauses are prohibited in leases as outlined in 24 CFR §92.253(b). The prohibited clauses include: agreement to be sued, admit guilt, or to a judgment in favor of an owner in a lawsuit brought in connection with the lease; agreements regarding the treatment of tenant's property; agreements excusing West Lakes or its agents from responsibility or failure to act; agreements by the tenant that West Lakes may institute a lawsuit without notice; waiver of eviction legal proceedings; waiver of jury trial; waiver of right to appeal a court decision; agreements to pay legal costs, regardless of outcome; and agreements to accept supportive services that are offered (other than a tenant in transitional housing). West Lakes shall not include any of these prohibited clauses in its leases for HOME-assisted units and shall submit copies of the leases to the HCD to obtain their consent for any lease forms used prior to using such form to enter into a lease with a tenant.

Additionally, West Lakes may not terminate the tenancy or refuse to renew the lease of a tenant, except for serious or repeated violations of the terms and conditions of the lease; violation of applicable federal, state, or local laws; for completion of the tenancy period for transitional housing or failure to follow any required transitional housing supportive services plan; or for other good cause. Good cause does not include an increase in the tenant's income or refusal of the tenant to purchase housing. To terminate or refuse to renew the tenancy, West Lakes must serve written notice upon the tenant specifying the grounds for the action at least thirty (30)

days before the termination of the tenancy.

10. **Tenant Selection.** West Lakes must select its tenants for the HOME-assisted units in accordance with 24 CFR §92.253(d). West Lakes must comply with the affirmative marketing requirements established by the City pursuant to 24 CFR §92.351(a). West Lakes must adopt and follow written tenant selection policies and criteria that: 1) limit the housing to Elderly Very Low-Income for the HOME-assisted units and Low Income families, as applicable; (2) are reasonably related to the applicant's ability to perform the obligations of the lease (i.e. to pay the rent, not to damage the housing; not to interfere with rights and quiet enjoyment of other tenants); (3) do not exclude an applicant with a certificate or voucher under the Section 8 Tenant-Based Assistance: Housing Choice Voucher Program (24 CFR part 982) or an applicant participating in a HOME-tenant based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher or comparable HOME tenant-based assistance document; (4) provide for the selection of tenants from a written waiting list in the chronological order of their application, insofar as practicable; (5) give prompt written notification by email or otherwise to any rejected applicant of the grounds for any rejection; and (6) comply with the VAWA requirements in §92.359. This tenant selection policy must be given to the HCD Director 15 days after the Effective Date for HCD's approval.

Annual Income of the family must be calculated by projecting the prevailing rate of income of the family at the time of determination that the family is income eligible. All documentation including but not necessarily limited to a tenant's application, verifications, proposed rent and lease terms shall be submitted to the HCD for final approval before West Lakes enters into a lease with a prospective tenant for the HOME-assisted units. West Lakes acknowledges that the City and West Lakes must keep documentation verifying the income eligibility of tenants in accordance with applicable law.

11. **Re-verification of Tenants' Income and Rents.** Each year during the Affordability Period, West Lakes shall re-verify and re-examine tenant income eligibility in accordance with 24 CFR §92.203(a)(1)(i) by examining at least 2 months of source documents. West Lakes shall also comply with 24 CFR §5.609 and provide HCD with information on rents and occupancy of HOME-assisted units in order to demonstrate compliance with 24 CFR § 92.252. West Lakes shall submit to HCD within ninety (90) days of its fiscal year end, all information and documentation regarding rents and income records similar to that provided at initial lease-up of all tenants that are or have been occupying HOME-assisted units within the preceding twelve (12) months. This is to verify that all tenants meet the income guidelines at rents set forth above or in the case of existing tenants whose income has increased above such income guideline that West Lakes has complied with applicable HOME regulations in filling vacant units each year during the Affordability Period.
12. **Non-Discrimination Against Rental Assistance Subsidy Holders.** West Lakes cannot refuse to lease HOME-assisted units to a certificate or voucher holder under 24 CFR part 982 – Section 8 Tenant Based Assistance: Unified Rule for Tenant- Based Assistance under the Section 8 Rental Certificate Program and the Section 8 Rental Voucher Program or to the holder of a comparable document evidencing participation in a HOME tenant-based rental assistance program because of the status of the prospective tenant as a holder of such certificate, voucher or comparable HOME tenant-based assistance document.

West Lakes shall not, in the provision of services, or in any other manner, discriminate against any person on the basis of age, race, color, creed, religion, sex, handicap, familial status or national origin. Unwed parents, families with children born out of wedlock, and recipients of public assistance shall not be excluded from the participation in, or be denied the benefits of the Section 8 Existing Housing Program because of such status.

SECTION 4. HOME PROJECT REQUIREMENTS

1. **Applicable Laws.** West Lakes shall comply with all HOME project requirements of 24 CFR Part 92, including subpart F. West Lakes shall comply or shall assist the City in complying with all applicable federal and state laws, rules and regulations dealing with this Project, whether presently existing or hereafter promulgated, including but not limited to 24 CFR 200. West Lakes agrees to comply with all the HOME Program requirements, HUD regulations, 42 U.S.C. §§12701-12839 and 24 CFR Part 92, as amended from time to time, whether set forth herein or not, and agrees to execute or amend documents as necessary to be in compliance therewith. West Lakes also shall comply with all other applicable federal, state and local statutes, ordinances, rules and regulations, including, but not limited to, all applicable provisions of the City's Land Development and Building Codes. If any HOME or federal regulations change during the term of the Affordability Period, HCD will provide notice to West Lakes, and West Lakes shall comply with the new rules, regulations and procedures.
2. **Minimum Amount of Assistance and Maximum Per Unit Subsidy Amount.** The minimum amount of HOME funds that must be invested in a project involving rental housing is \$1000 times the number of HOME-assisted units in the project. Since HUD no longer updates or publishes the Section 221(d)(3)(ii) of the National Housing Act (12 USC §17151 (d)(3)(ii)) limits, the total amount of HOME funds that a participating jurisdiction may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limits established by HUD's alternative.
3. **Underwriting/Subsidy Layering Review.** Pursuant to 24 CFR §92.250, before committing funds to a project, HCD must evaluate the project in accordance with guidelines it has adopted for determining a reasonable level of profit or return on West Lakes' investment in the Project and must not invest any more HOME funds, alone or in combination with other assistance, than is necessary to provide quality affordable housing that is financially viable for the Affordability Period and that will not provide a profit or return on West Lakes' investment that exceeds HCD's standards for the size, type, and complexity of the Project. The initial review of this Project was done taking into consideration the Sources and Uses Statement and Pro-forma along with the funding application submitted by West Lakes and approved by the Housing Review Committee. West Lakes must submit revised Sources and Uses Statements and Pro-forma if any of the original funding sources, amounts, or financial conditions change from the time this application was approved. West Lakes will complete the Certification of Other Financial Assistance attached hereto as **Exhibit "N"**.
4. **Terminated Projects.** West Lakes understands that the HOME regulations have specific requirements for terminated projects. West Lakes acknowledges and agrees that pursuant to 24 CFR §92.205(e) if this Project is terminated before completion, for whatever reason, whether involuntary or voluntary, the City will look to West Lakes to repay all HOME funds to the City. West Lakes also acknowledges and agrees this includes if the Project does not meet the

requirements of Affordable housing for the entire Affordability Period. If West Lakes fails to meet the Affordable housing requirements after applicable notice and cure periods, HUD considers the Project terminated and West Lakes must repay all HOME funds to the City.

SECTION 5. PROPERTY STANDARDS

1. **Property Standards.** West Lakes shall comply with the property standards requirements set forth in 24 CFR §92.251. West Lakes agrees that all housing constructed with HOME funds shall be in conformance with all applicable Florida state and local codes, ordinances, and zoning requirements. HOME-assisted new construction projects must meet state or local residential and building codes, as applicable, upon project completion. In addition to these construction standards, housing constructed with HOME funds must also meet other property standards required under the HOME regulations. This includes West Lakes' compliance at Project Completion with the following:
 - City's - HOME policies and procedures and compliance with 24 CFR §92.251.
 - Accessibility requirements in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) implemented at 28 CFR parts 35 and 36, as applicable. Covered multi-family dwellings, as defined at 24 CFR §100.201 (requires over four (4) dwelling units), must meet the design and construction requirements set forth in 24 CFR §100.205, which implements the Fair Housing Act (42 U.S.C. 3601-3619).
 - Disaster Mitigation – All housing must be constructed to mitigate the impact of potential disasters (e.g. earthquakes, hurricanes, flooding, and wildfires) in accordance with State and local codes, ordinances, or other State and local requirements, or such other requirements as HUD may establish.
 - Broadband infrastructure, as defined in 24 CFR §5.100.
 - State and local codes, ordinances, and zoning ordinances.
2. **Construction Documents and Cost Estimates.** West Lake must provide HCD with all construction documents and construction contracts, which work must be described in sufficient detail to establish the basis for a uniform inspection of the Project to determine compliance with HUD and the City's property standards. HCD must also review and approve written cost estimates for construction and determine that the costs are reasonable.
3. **On-Site Construction Inspections.** The City will also conduct on-site progress inspections and final completion inspections to ensure and determine if the work was done in accordance with the applicable codes, the construction contract, the construction documents, and property standards. HCD must inspect the Project at Project Completion and during the Affordability Period to determine that the project meets the property standards in 24 CFR §92.251. The HOME-assisted units will be inspected based on procedures, checklists, and inspection forms established by HCD. Before completing the Project in the IDIS system, HCD must perform an on-site inspection of each HOME-assisted unit to ensure the contracted work has been completed and that each HOME-assisted unit meets §92.251 property standards.

4. **On-going Property Standards and Inspections through the Affordability Period.** During the Affordability Period, all HOME-assisted units must be maintained in compliance with 24 CFR §92.251 and with all applicable State and local health, safety, and other applicable codes, ordinances, and requirements, and the ongoing property standards established by the HCD pursuant to requirements contained in 24 CFR §92.251. These standards ensure that West Lakes maintains the housing as decent, safe and sanitary and in good repair. West Lakes will allow HCD to conduct inspections of the Property to determine compliance with these ongoing property standards. Housing must meet all applicable State and local code requirements and ordinances. Housing must be free of all health and safety defects and life-threatening deficiencies identified by HCD that the owner must correct immediately. Housing must meet the lead-based paint requirements in 24 CFR Part 35. HCD will perform ongoing inspections in accordance with 24 CFR §92.504(d). Deficiencies identified by HCD needing corrective and remedial actions must be addressed by West Lakes in the time frames required by HCD which will be a reasonable time frame based on the exigency of the deficiency. The HOME-assisted units will be inspected on a schedule based on procedures, checklists, and inspection forms established by HCD, utilizing the Uniform Property Condition Standards (UPCS), or other such standard acceptable to HCD.
5. **Ongoing Periodic Inspections.** During the Affordability Period, HCD will perform on-site inspections to determine compliance with the property standards of §92.251 and to verify the information submitted by West Lakes in accordance with the requirements of §92.252. These inspections will be in accordance with HCD's inspection procedures which will occur within 12 months after project completion and at least once every 3 years during the Affordability Period. If there are observed deficiencies for any of the inspectable items in the property standards established by HCD, a follow-up on-site inspection to verify that the deficiencies are corrected must occur within 12 months, unless HCD, in its sole discretion, determines that the deficiency must be corrected earlier. Health and safety deficiencies must be corrected immediately, in accordance with §92.251.

West Lakes must annually certify to HCD that each building and all HOME- assisted units are suitable for occupancy, taking into account State, and local health, safety, and other applicable codes ordinances, and requirements, and the ongoing property standards requirements established by HCD.

West Lakes shall keep records to document compliance with these property standards.

SECTION 6. AFFIRMATIVE MARKETING OF RENTAL OR VACANT UNITS

1. **Affirmative Marketing.** West Lakes shall comply with the provisions of 24 CFR §92.351 and the City's affirmative marketing requirements and procedures for the term of this Agreement (i.e. through the term of the Affordability Period). A copy of the City's affirmative marketing procedures is attached hereto as **Exhibit "O"** and is incorporated herein by this reference. Additionally, West Lakes shall develop and provide the HCD Director with an affirmative marketing plan to rent the HOME-assisted units within fifteen days of the Effective Date. West Lakes shall affirmatively market the HOME program and all of the units available for rent in a manner to attract tenants without regard to race, color, national origin, sex, religion, familial

status or disability in accordance with this plan. West Lakes shall keep records of its efforts to provide information and to attract eligible persons from all racial, ethnic and gender groups.

At a minimum West Lakes shall: (a) indicate in its promotional material that the Project provides fair housing opportunities by using the Equal Housing Opportunity's logotype or slogan in all advertising press releases, and solicitations; (b) display a Fair Housing poster in the rental office; (c) inform and solicit applications from tenants who aren't likely to apply without special outreach (e.g. provide notice of the availability of the units to community groups and non-profit service organizations, such as places of worship, employment centers, fair housing groups, or housing counseling agencies; (d) where appropriate, advertise and use media, including minority outlets, likely to reach persons unlikely to apply for the housing; (e) not refrain from renting to any tenant holding a Section 8 Existing Housing Certificate, except for good cause, such as previous failure to pay rent and/or to maintain a rental unit, or the tenant's violation of other terms and conditions of tenancy; (f) comply with Section 8 Existing Housing Regulations when renting to any Section 8 tenant; (g) exercise affirmative marketing of the units when vacated; and (h) verify all information concerning the applicant or family members. West Lakes shall keep records necessary to comply with 24 CFR §92.351 and 24 CFR §92.508 (a)(7) to show that West Lakes affirmatively marketed the units in accordance with their approved plan and the City's requirements and keep records to assess the results of these actions. HCD will annually assess the success of these affirmative marketing actions and advise of the corrective action to be taken if affirmative marketing requirements are not met. If the City amends its affirmative marketing procedures during the term of this Agreement, West Lakes will be notified and be obligated to comply with the new procedures.

SECTION 7. RECORDS AND REPORTS

1. **Records.** West Lakes shall comply with 24 CFR §92.508 regarding records that must be maintained for this Project for the entire Affordability Period. West Lakes shall maintain leases and income records of all families who rent any HOME-assisted unit. West Lakes shall maintain such records and accounts, including but not limited to: program records including records evidencing that as of the initial lease date for the current occupant of each respective unit, 90% of families Annual Incomes do not exceed Sixty Percent Income for the Orlando MSA; project records including a full description of each project including the name of each tenant, tenants' income, location (address) of each unit, form of assistance and HOME-assisted units; financial records, including source and application of funds and supporting documentation in accordance with 2 CFR §200.302; records to document the eligibility and permissibility of the Project costs - including the documentation of the actual HOME eligible development costs of each HOME-assisted unit (through allocation of costs, if permissible under §92.205 (d)) and if HOME funds are used to assist less than all of the units in a multi-unit project; records reflecting compliance with minimum and maximum subsidy limits and the subsidy layering and underwriting evaluation records; property standards records including records (e.g. inspection reports) demonstrating that each unit meets property standards in 24 CFR §92.251 at project completion and during the Affordability Period; records demonstrating compliance with the property standards and financial reviews and actions pursuant to §92.504(d); records demonstrating that each family meets income eligibility requirements of §92.203; records demonstrating that the Project meets the affordability and income targeting requirements of §92.252 for each family assisted for the entire Affordability Period; records demonstrating that each lease with each family complies with §92.253; records demonstrating

that any pre-award costs meet the requirements of §92.212; records demonstrating that a site and neighborhood standards review was conducted for the Project in accordance with §92.202; program administration records, including records demonstrating compliance with the applicable uniform administrative requirements and records documenting required inspections, monitoring reviews and audits, and the resolution of any findings or concerns; equal opportunity and fair housing records including data on the extent to which each racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in or benefited from any program or activity funded in whole or in part with HOME funds; records demonstrating compliance with 24 CFR 135; records demonstrating affirmatively furthering fair housing, affirmative marketing and MBE/WBE records including records demonstrating compliance with the affirmative marketing procedures and requirements of 24 CFR §92.351; records and documentation and data on the steps taken to implement the City's outreach programs to MBE and WBE businesses including data indicating the racial /ethnic or gender character of each business activity receiving a contract or subcontract of \$25,000 or more paid, or to be paid, with HOME funds, the amount of the contract or subcontract and documentation of the affirmative steps to assure minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services; records demonstrating compliance with the environmental review requirements of §92.352 and 24 CFR part 58 including flood insurance requirements; records demonstrating compliance with all lease and tenant and participant protections of §92.253 for each family; records demonstrating compliance with the requirements of §92.353 regarding displacement, relocation and real property acquisitions, including project occupancy lists identifying the names and address of all persons occupying the real property on the date described in §92.353(c)(2)(i)(A), moving into the property on or after the date described in §92.353(c)(2)(i)(A) and occupying the property on completion of the Project; records demonstrating compliance with the labor requirements of §92.354 including contract provisions and payroll records; records demonstrating compliance with the lead-based paint requirements of §92.355; records supporting exceptions to the conflict of interest prohibition pursuant to §92.356; records demonstrating compliance with debarment and suspension requirements in 2 CFR 2424 including certifications required by 24 CFR parts 24 and 91; records of emergency transfers requested under 24 CFR §5.2005(e) and §92.359 pertaining to victims of domestic violence, dating violence, sexual assault or stalking, including data on the outcomes of those requests; records demonstrating compliance with the written agreements requirement in §92.504 and any other records as are deemed necessary by HCD to assure a proper accounting and monitoring of all HOME funds. In the event HCD determines that such records are not being adequately maintained by West Lakes, then after applicable notice and cure periods, HCD may cancel this Agreement.

2. **Access to Records.** West Lakes shall allow citizens, public agencies, and other interested parties reasonable access to these records, consistent with applicable state and local laws regarding privacy and obligations of confidentiality.

West Lakes shall also provide the City, HUD, and the Comptroller General of the United States and any of their respective representatives access to any and all books, documents, papers or other records and make all such records available during normal business hours to make such audits, inspections, examinations, excerpts, transcripts, and copying as they see fit.

3. **Period of Record Retention.** West Lakes shall maintain all records pertaining to the Project at its principal place of business for the most recent 5 year period after Project Completion, except as provided below:

- (a) For rental housing projects, records shall be retained for five (5) years after the Project Completion date; except that records of individual tenant income verifications, rents and project inspections which must be retained for five (5) years after the Affordability Period terminates.
- (b) Written agreements must be retained for five (5) years after the Affordability Period terminates.
- (c) Records covering displacements and acquisitions must be retained for five (5) years after the date by which all persons displaced from the property and all persons whose property is acquired for the Project have received the final payment to which they are entitled in accordance with 24 CFR §92.353.
- (d) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

HCD reserves the right to request additional record keeping requirements. Once advised of these new requirements, West Lakes agrees to comply with HCD's new requirements. This section shall survive the termination of this Agreement.

4. **Reports.** Until West Lakes completes the construction of the Project and the HOME-assisted units are rented and occupied by Eligible Persons as described herein, West Lakes shall submit to the HCD weekly reports of activities undertaken pursuant to this Agreement on the form substantially similar to **Exhibit "P"**, attached hereto. This weekly report shall be submitted every Friday by noon for that week. Such reports also shall include a narrative summary of progress, including but not limited to, selection of contractors, units under construction, units completed, demographic and income data on the beneficiaries, relocation issues, utilization of MBE/WBE's, Section 3 accomplishments, affirmative marketing and fair housing efforts, and problems encountered and proposed solutions. Failure to submit reports as and when due, after applicable notice and cure periods, shall be a material breach under this Agreement.

After construction is complete and the HOME-assisted units are rented and occupied, through the end of the Affordability Period, West Lakes shall submit annual reports as of the end of the federal fiscal year (September) with such reports due by the 20th of the following October. In addition to income verification of each tenant, these reports shall include information on rental and occupancy of the HOME-assisted units, family size, income level, data for income certification and occupancy, monthly rent, utility information, maintenance, and financial issues, as well as neighborhood conditions, which may affect the stability of the Project. West Lakes shall also submit reports containing copies of its financial statements and other financial data requested by HCD to enable HCD to determine the financial condition and continued financial viability of the Project. West Lakes acknowledges that over the term of this Agreement, HCD's reporting requirements may change. If this occurs, HCD will notify West

Lakes of the new reports needed and West Lakes agrees to comply with the new reporting procedures. HCD also reserves the right to request additional information as needed.

SECTION 8. MONITORING

1. **Monitoring.** West Lakes acknowledges and agrees that HCD will monitor West Lakes' performance during the term of this Agreement at a minimum annually and shall allow all access, inspection, and copying of records to do so. Also, pursuant to 24 CFR §92.504(d), West Lakes shall assist HCD in its obligation to conduct on-site inspections of the Project for compliance with this Agreement, construction progress and compliance with property standard requirements listed herein and shall allow HCD to access and inspect the Project at any time during the terms of this Agreement.
2. **Financial Monitoring/Oversight.** During the Affordability Period, West Lakes acknowledges and agrees that HCD must examine at least annually the financial condition of West Lakes to determine the continued financial viability of West Lakes and this Project. West Lakes shall provide all information, including financial statements, as requested by HCD so that HCD can verify financial viability, tenant incomes, rents and other HOME requirements pursuant to 24 CFR §92.252 and §92.504(d) on an annual basis. West Lakes shall keep records to document compliance with each of these inspections and monitoring reviews and the resolutions of and findings of concern.

SECTION 9. OTHER PROGRAM REQUIREMENTS

1. **Non-Discrimination and Equal Opportunity.** West Lakes shall not, on the grounds of race, color, national origin, religion or sex, exclude any person from participation in, or deny any person the benefits of this Agreement, or subject any person to discrimination. West Lakes shall fully comply with the requirements of 24 CFR §92.350, including the federal requirements set forth in 24 CFR Part 5, Subpart A and the nondiscrimination requirements at Section 282 of the HOME Investment Partnerships Act and keep records of its compliance.

West Lakes shall at all times comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d-2000d-4 (Nondiscrimination in Federally Assisted Programs) and implementing regulations contained in 24 CFR Part 1, which prohibits discrimination on the basis of race, color, and national origin in all federally assisted programs.

West Lakes shall also not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. §6101-6107) and implementing regulations in 24 CFR Part 146.

West Lakes shall also comply with regulations governing the accessibility of federally assisted buildings, facilities and programs. West Lakes shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and implementing regulations contained in 24 CFR Part 8, which prohibits discrimination on the basis of disability and any applicable provisions of the Uniform Federal Accessibility Standards.

West Lakes shall also comply with Title II of the Americans with Disabilities Act (42 U.S.C. §12101, et seq.) and implementing regulations in 24 CFR Part 8, which prohibits discrimination against persons with disabilities in all program activities and services of a public entity. Any contracts entered into by West Lakes shall include a provision requiring compliance with these

regulations. West Lakes shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

West Lakes shall cooperate with the City and HUD in conducting compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, executive orders, and all related rules and regulations.

2. **Fair Housing Act and Nondiscrimination and Equal Opportunity in Housing under E.O. 11063.** West Lakes shall comply with Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act-42 U.S.C. §§3601-3620), as amended, and implementing regulations at 24 CFR Part 100, et seq., Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs) and implementing regulations in 24 CFR Part 107. All housing for sale or rent assisted with HOME funds must be made available without discrimination based on race, color, national origin, age, sex, religion, familial status, or disability in accordance with fair housing laws. Executive Order 11063 prohibits discrimination on the basis of race, color, religion, sex and national origin or to be denied equal opportunity in housing or related facilities in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds. West Lakes shall also comply with the Florida Fair Housing Act (Florida Statutes 760.20- 760.37). West Lakes shall keep all records demonstrating compliance with these provisions.
3. **Equal Employment Opportunity (Non-Discrimination in Employment).** West Lakes shall comply with Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107 (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR Part 60, and the Equal Employment Opportunity Clause attached hereto as **Exhibit "Q"**, and incorporated herein by this reference. Any construction contracts exceeding \$10,000 entered into by West Lakes or its contractors and subcontractors shall include a provision requiring compliance with these regulations. West Lakes shall keep records and documentation demonstrating compliance with these regulations.
4. **Equal Access to HUD-Assisted or Insured Housing/Prohibition of Inquiries on Sexual Orientation or Gender Identity.** A determination of eligibility for housing that is assisted by HUD shall be made in accordance with the eligibility requirements provided for such program by HUD, and such housing shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

No owner or administrator of HUD-assisted or HUD-insured housing, approved lender in an FHA mortgage insurance program, nor any (or any other) recipient or subrecipient of HUD funds may inquire about the sexual orientation or gender identity of an applicant for, or occupant of, HUD-assisted housing or housing whose financing is insured by HUD, whether renter-or owner-occupied, for the purpose of determining eligibility for the housing or otherwise making such housing available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. This prohibition on inquiries does not prohibit lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided to the individual is temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled.

5. **Equal Access in accordance with the individual's gender identity in community planning and development programs.** West Lakes shall comply with 24 CFR §5.106, a copy of which is attached hereto as **Exhibit "R"** and incorporated herein by reference.
5. **Housing Counseling.** West Lakes shall comply with 24 CFR §5.111, a copy of which is attached hereto as **Exhibit "S"** and incorporated herein by reference.
7. **Section 3 Economic Opportunity.** West Lakes shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701(u) and implementing regulations at 24 CFR Part 135 regarding economic opportunities for low-income persons. West Lakes shall comply with the "Section 3" requirements attached hereto as **Exhibit "T"** and incorporated herein by this reference. In essence, Section 3 provides that opportunities for training and employment arising from the use of HOME funds shall be provided to Low-Income persons residing in the program service area. Contracts for all types of work to be performed in connection with the Project shall be awarded to business concerns that are located in or owned by persons residing in the program service area. West Lakes shall also include this provision in contracts or subcontracts in excess of \$100,000.00. West Lakes shall keep records documenting compliance with these requirements as required by 24 CFR §92.508(a)(7).
8. **Utilization of Minority/Women's Business Enterprises.** West Lakes must take affirmative steps to ensure that minority/women's business enterprises are used when possible, including for consideration for participation in all construction, supply or service contracts or in the performance of this Agreement. Affirmative steps include those items required in 2 CFR §200.321 which include 1) placing qualified small and minority businesses and women's business enterprises on solicitation lists; 2) assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources; 3) dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; 4) establishing delivery schedules where the requirement permits which encourage participation by small and minority businesses, and women's business enterprises; 5) using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and 6) requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in 1-5.

West Lakes shall also comply with Executive Order 11625, as amended by Executive Order 12007 (Minority Business Enterprises); Executive Order 12432 (Minority Business Enterprise Development), and Executive Order 12138, as amended by Executive Order 12608 (Women's Business Enterprise).

All contracts entered into by West Lakes shall include a provision for compliance with these regulations.

West Lakes shall keep such records demonstrating compliance with this provision and those necessary to comply with 24 CFR §92.508(a)(7).

9. **Debarment and Suspension.** West Lakes shall comply with the debarment and suspension requirements set forth in 24 CFR Part 5 and 2 CFR Part 2424. West Lakes shall not enter into a contract with any person, agency or entity that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549

or 12689, "Debarment and Suspension," which is made a part of this Agreement by reference. In the event that West Lakes has entered into a contract or subcontract with a debarred or suspended party, no HOME funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor. West Lakes shall keep copies of the debarment and suspension certifications required by 2 CFR Parts 2424 and 91 and documentation demonstrating compliance with the requirements of 2 CFR Part 2424 and 24 CFR §92.508(a)(7).

10. **Disclosure/Anti-lobbying provision.** West Lakes shall comply with the disclosure requirements and prohibitions of 31 U.S.C. §1352 and implementing regulations at 24 CFR Part 87 and shall so certify to the City. West Lakes shall complete and comply with the "Certification Regarding Lobbying", attached hereto as **Exhibit "U"** and made a part hereof by this reference. A copy of this document will be kept in each of the party's files. West Lakes shall also comply with the requirements for funding competition established by the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. §3531 et seq.).

11. **Conflict of Interest.**

- (a) West Lakes shall comply with the conflict of interest provisions in 24 CFR §92.356. No person who is an employee, agent, consultant, officer or elected official or appointed official of the City who exercises or has exercised any functions or responsibilities with respect to activities assisted with HOME funds or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or financial benefit from a HOME-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to the HOME-assisted activity, or the proceeds thereunder, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter. Immediate family ties include (whether by blood, marriage or adoption) the spouse, parent (including a stepparent), child (including a stepchild), brother, sister (including a stepbrother or stepsister), grandparent, grandchild, and in-laws of a covered person. West Lakes shall keep records supporting requests for waivers of conflicts prohibited in 24 CFR §92.356. West Lakes shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

(b) No owner, developer or sponsor (including West Lakes or LIFT) (or any of its officers, employees, agents, elected or appointed officials, or consultant of the owner, developer, or sponsor or immediate family member or immediate family member of an officer, employee, agent, elected or appointed official, or consultant of the owner, developer, or sponsor), whether, private, for-profit, or non-profit (including a CHDO when acting as an owner, developer, or sponsor) may occupy any of the HOME-assisted units during the Affordability Period. West Lakes shall keep records supporting requests for waivers of conflicts prohibited in 24 CFR §92.356. West Lakes shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).

12. **Displacement and Relocation.** West Lakes will take all necessary steps possible to minimize displacement. If displacement is unavoidable, West Lakes shall comply with the provisions of 24 CFR §92.353, "Displacement, relocation, and acquisition". West Lakes shall keep records of its compliance with the requirements of 24 CFR §92.353, and as specified in 24 CFR §92.508. Types of records to be kept include but are limited to project occupancy lists identifying the names and address of all persons occupying the real property on the date described in

§92.353(c)(2)(i)(A), moving into the property on or after the date described in §92.353(c)(2)(i)(A) and occupying the property on completion of the Project. Records covering displacements and acquisition must be retained for five (5) years after the date by which all persons displaced from the Property and all persons who property is acquired for the Project have received the final payment to which they are entitled in accordance with 24 CFR §92.353. If federal regulations are not applicable, West Lakes shall comply with any applicable City policy regarding relocation.

13. **Lead-Based Paint Prohibited.** West Lakes shall not use lead-based paint in any part of any of the Home-assisted units, common elements, or in the entire Property and shall comply with 24 CFR §92.355, and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§4851-4856), and implementing regulations in 24 CFR Part 35, subparts A, B, J and R (Subpart K must also be complied with if acquisition is part of the project. Subpart M is also required if there is any Tenant Based Rental Assistance). West Lakes shall keep records demonstrating compliance with these requirements including compliance with 24 CFR §92.508(a)(7).
14. **Registration.** West Lakes agrees to maintain a current registration in the federal System Award Management (“SAM”) database (<http://www.sam.gov>) pursuant to the Federal Funding Accountability and Transparency Act, P.L. 109-282, as amended by section 6202(a) of P.L. 110-252 and the regulations implementing the Act at 2 CFR part 25 and 2 CFR part 170. If West Lakes is not currently registered, it must do so within ten (10) days of the date West Lakes executes this Agreement. A unique entity identifier is required for registration. West Lakes must also comply with FFATA, which includes requirements on executive compensation and implementing regulations in 2 CFR part 170, which include requirements on reporting subaward and executive compensation information. West Lakes shall complete and sign the Affidavit attached hereto as **Exhibit “V”** in conjunction with its execution of this Agreement and provide any supplemental documentation if required.
15. **Audits and Financial Statements.**
 - (a) West Lakes shall provide HCD with its annual financial statement within ninety (90) days of the end of its operating year. This financial statement shall be prepared by an actively licensed certified public accountant.
 - (b) In addition, if expending more than \$750,000 of Federal awards during an operating year, West Lakes shall comply with the audit provisions contained in 2 CFR 200 and the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507). Audits shall be conducted annually. West Lakes shall submit its annual audit to HCD and within one hundred twenty (120) days of the end of West Lakes’ fiscal year. In the event the audit shows that the entire funds disbursed hereunder, or any portion thereof, were not expended in accordance with the conditions of this Agreement, West Lakes shall be held liable for reimbursement to the City of all funds not expended in accordance with those regulations and Agreement provisions within thirty (30) days after HCD has notified West Lakes of such non-compliance. Any reimbursement by West Lakes shall not preclude HCD from taking any other action or pursuing other remedies.

(c) West Lakes also agrees to allow the City's Internal Audit and Evaluation Department to conduct any audits or financial monitoring HCD feels necessary at any time during the term of this Agreement or pursuant to any HUD request.

16. **Uniform Administrative Requirements.** West Lakes acknowledges that the City must comply with 2 CFR 200 regarding uniform administrative requirements. If requested by HCD to do so, West Lakes shall provide the City with such documentation and records to satisfy the City's requirements under these various provisions. West Lakes also agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
17. **Environmental Review.** West Lakes is not required to assume responsibility for an environmental review or assessment of this program pursuant to 24 CFR Part 58, nor responsibility for initiation of an intergovernmental review of this program and its activities. However, West Lakes is required to provide information about its activities in order for HCD to comply with its responsibility under 24 CFR §92.352 and 24 CFR Part 58. West Lakes shall submit to HCD any changes to the original proposed scope of work or any changes in the cost of the work so that HCD may evaluate this new information and conduct any further environmental review. This information must be submitted to HCD for approval at least 30 days prior to any commencement of work. West Lakes also agrees to assist HCD in addressing environmental issues that may arise during HCD's review process. No funds may be committed to a HOME activity or project before the completion of the environmental review and approval of the request for release of funds and related certification, except as authorized by 24 CFR part 58.
18. **Crime Prevention Evaluation.** West Lakes agrees to contact and meet with the Crime Prevention Division from the Orlando Police Department before the disbursement of the final draw request.
19. **Compliance with Davis-Bacon Act and the Contract Work Hours and Safety Standards Act.** West Lakes shall comply with 24 CFR §92.354, and the requirements of the Secretary of Labor contained in the Davis-Bacon Act (40 U.S.C. §3141), as amended, and as supplemented and implemented by the Department of Labor regulations in 29 CFR Parts 1-7 and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§3701), and other federal laws and regulations pertaining to labor standards, as applicable. Guidance on these regulations are attached hereto as **Exhibits "W" and "X"** and incorporated herein by this reference. A copy of the current Wage Decision is attached as **Attachment "I" of Exhibit "X"**, made a part hereof by this reference, as such exhibit may be amended from time to time. As provided in 24 CFR §92.354, HOME regulations require:
 - (a) The contract for construction must contain these wage provisions if HOME funds are used for any project costs in §92.206, including construction or nonconstruction costs, of housing with 12 or more HOME-assisted units. Once they are determined to be applicable, the wage provisions must be contained in the construction contract, so as to cover all laborers and mechanics employed in the development of the entire project, which includes portions other than the HOME- assisted units. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701).

Arranging multiple constructions contracts within a single project for the purpose of avoiding the wage provisions is not permitted.

(b) West Lakes shall ensure that all contractors, subcontractors and other participants must comply with all regulations issued under these acts and with other Federal laws and regulations pertaining to labor standards, as applicable. All construction contracts and subcontracts shall include a provision for compliance with these labor provisions and supporting Department of Labor regulations. West Lakes shall ensure that bid and contract documents contain required labor standards provisions and a copy of the current prevailing wage determination issued by the Department of Labor. West Lakes shall ensure that a copy of the wage decision and a copy of the Department of Labor poster called "Notice to all Employees" (Form WH-1521) shall be posted at the job site in a place that is easily accessible to all of the construction workers employed on the Project. Additionally, West Lakes shall conduct on-site inspections and employee interviews; collect and review certified weekly payroll reports; correct all labor standards violations promptly; maintain documentation and records of administrative and enforcement activities; and require certification as to compliance with the provisions of the Davis Bacon Act and all labor regulations before making payment under such contracts. West Lakes shall also require the contractor to upload labor and payroll data into LCPtracker. West Lakes shall maintain documentation and records which demonstrate compliance with these regulations, including contract provisions and payroll records. Unless labor regulations require more frequent submission, such documentation shall be uploaded into LCPtracker for review by HCD on a weekly basis.

20. **Copeland "Anti-Kickback" Act.** West Lakes shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. §874), as supplemented by the Department of Labor regulations contained in 29 CFR Part 3.
21. **Drug-Free Workplace.** West Lakes shall comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701, et.seq.) and HUD's implementing regulations at 2 CFR 2429 regarding maintenance of a drug-free workplace. West Lakes shall complete and comply with the "Certification Regarding Drug-Free Workplace Requirements" attached hereto as **Exhibit "Y"** and made a part hereof by this reference. West Lakes will complete this certification and a copy shall be kept in the files of each of the parties of this Agreement.
22. **VAWA.** The Violence Against Women Act (VAWA) requirements set forth in 24 CFR part 5, subpart L apply to this Project, as supplemented by 24 CFR §92.359 and any of the HCD's notices, policies, procedures, and plans.
23. **Close-out.** West Lakes acknowledges HOME funds will be closed out in accordance with 2 CFR 200, subpart D.
24. **Applicability.** The reference to a law, rule or regulation herein means that such law, rule or regulation applies to West Lakes and the Project, only if by its terms such law, rule or regulation actually applies to West Lakes or the Project. In other words, the mere reference to a law, rule or regulation does not mean that it is applicable to West Lakes or the Project.

SECTION 10. ENFORCEMENT OF AGREEMENT - DEFAULTS AND REMEDIES

1. **Events of Default.** The following shall constitute an Event of Default under this Agreement:
- (a) if West Lakes fails to comply with any HOME Program regulations including, but not limited to, 42 U.S.C. §§12701-12839 and 24 CFR Part 92;
 - (b) if West Lakes fails to comply with any of the terms contained in this Agreement or uses the funds other than as authorized by this Agreement or any of the other documents executed in connection with this Project;
 - (c) if West Lakes fails to timely comply with audit requirements;
 - (d) if West Lakes fails to expend HOME funds in a timely manner or fails to meet any of the time requirements as set forth in this Agreement;
 - (e) if West Lakes fails to construct the Project as required by this Agreement;
 - (f) if West Lakes fails to rent any of the HOME-assisted units to Eligible Persons at the Affordable rents for the duration of the Affordability Period as required by this Agreement;
 - (g) if West Lakes fails to rent the HOME-assisted units to Eligible Persons within the time frames required by this Agreement;
 - (h) if West Lakes or LIFT fails to maintain CHDO status, as applicable (the parties agree this is not applicable);
 - (i) if West Lakes is deemed in default under any other HOME agreements it has with the City relating to this Project or any other project or under the terms of other financing or mortgages used for the Property or any other projects and said default extends beyond the applicable cure period provided in said documents and in connection with other financing, such lender has begun enforcement proceedings;
 - (j) if at any time any material representation or omission made by West Lakes in any written certification or communication submitted by West Lakes to the City in an effort to induce the making of this loan or the administration thereof is determined by the City to be false, misleading, or incorrect in any material manner;
 - (k) if West Lakes does not disclose to HCD, upon demand, the names of all persons with whom West Lakes has contracted or intends to contract with for the construction or management of any portion of the Property, including contracts for services and/or labor;
 - (l) if West Lakes fails to pay any sum when due under this Agreement, the Note, or other documents executed in connection with this Project and such failure continues for ten (10) days after written notice by HCD to West Lakes;
 - (m) if West Lakes sells or transfers the Property or any part of the Project without the prior written consent of the City; or

- (n) if any other default or breach shall occur under the Note, Mortgage, Declaration of Restrictive Covenant or any other Loan Documents executed in connection with this loan by the City.

Notwithstanding any of the foregoing provisions to the contrary, prior to any noncompliance with the terms of this Agreement being deemed a default, breach or Event of Default, West Lakes shall be entitled to prior notice and 30 days (10 days in the case of (1) above) to cure the same. Further, if West Lakes has failed to cure any default prior to the expiration of any stated applicable cure period, the City may, at its sole option, cure such default, provided, however, that the City shall be under no duty or obligation to do so. Further, any notice of default given to West Lakes shall also be given to STCC West Lakes Phase II, LLC, the limited partner of West Lakes (the ‘Limited Partner’) and the City shall accept any timely cure by the Limited Partner as if such cure was made by West Lakes.

- 2. **No Waiver.** Failure of HCD to declare a default shall not constitute a waiver of any rights by the City. Furthermore, the waiver of any default by HCD shall in no event be construed as a waiver of rights with respect to any other default, past or present.
- 3. **Remedies.** Upon the occurrence of any Event of Default or any other breach of this Agreement, the City shall be free to take many actions including, but not limited to terminating this Agreement, retaining all undisbursed funds, accelerating the loan to maturity and demanding payment for all amounts disbursed to West Lakes and/or exercising all rights and remedies available to it under the terms of this Agreement, or other Loan Documents, statutory law, equity or under common law. Additional examples of actions HCD may take include, but are not limited to:
 - (a) direct West Lakes to prepare and follow a schedule of actions for carrying out the affected activities, consisting of schedules, time tables and milestones necessary to implement the affected activities;
 - (b) establish and follow a management plan that assigns responsibility for carrying out the remedial actions;
 - (c) cancel or revise activities likely to be affected by the performance deficiency, before expending HOME funds for the activities;
 - (d) reprogram HOME funds that have not yet been expended from activities to offer eligible activities or withhold HOME funds;
 - (e) direct West Lakes to reimburse the City for any amounts not used in accordance with the requirements of 24 CFR Part 92 or this Agreement;
 - (f) suspend disbursement of HOME funds;
 - (g) debarment or suspension; limited further funding opportunities; or
 - (h) other appropriate action including, but not limited to any action legally available such as litigation, declaratory judgment, specific performance, damages, injunctions,

enforcement of the Declaration of Restrictive Covenant, termination of the Agreement, or any other available remedies.

All remedies shall be deemed cumulative and, to the extent permitted by law, the election of one or more remedies shall not be construed as a waiver of any other remedy the City may have available to it.

SECTION 11. EQUAL PARTICIPATION OF FAITH BASED ORGANIZATIONS

The HUD program requirements in 24 CFR §5.109 apply to the HOME Program, including the requirements regarding disposition and change in use of real property by a faith-based organization. A copy of 24 CFR §5.109 is attached hereto as **Exhibit “Z”** and incorporated herein by reference.

SECTION 12. DURATION OF THE AGREEMENT

1. **Term.** Unless earlier terminated, the term of this Agreement shall commence on the effective date of this Agreement which is the date of the last party to sign this Agreement (the "Effective Date") and shall remain in effect through the end of the twenty (20) year Affordability Period. Notwithstanding any of the foregoing, all record keeping requirements, audit and use and maintenance requirements mandated by HOME regulations shall survive termination of this Agreement. All Loan Documents executed in connection with this Agreement shall also survive termination of this Agreement and will remain in effect under the terms and conditions specified therein.

SECTION 13. INDEMNIFICATION

1. **Indemnification.** West Lakes shall defend, indemnify and hold harmless the City from and against any and all liability, claims, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions, including attorney's fees, whether or not suit is filed and if suit is filed, attorney fees and costs at all trial and appellate levels, including bankruptcy, of any kind and nature arising or growing out of or in any way connected with the performance of this Agreement by West Lakes or any of its contractors, agents, or the like because of or due to the existence of the Agreement itself, unless caused by the City's gross negligence or willful misconduct. This indemnity shall survive termination of this Agreement.
2. **Environmental Indemnification.** West Lakes shall indemnify and hold the City harmless from any claim arising from, or in any way related to, the environmental condition of the Property, including, but not limited to, the cost of investigating, defending, and/or negotiating to a satisfactory conclusion claims made by environmental regulatory agencies, as well as all cleanup and property maintenance requirements imposed by any agency with lawful jurisdiction over the Property. This indemnification shall run from the time of initial discovery of any such adverse environmental condition and shall not be construed to commence only upon realization by the City of an actual pecuniary loss as a result of such adverse environmental condition. The existence of this indemnification agreement shall not be construed as an indication of ownership, management or control of the Property by the City, and West Lakes hereby recognizes and acknowledges that the City is not an owner or manager of the Property and does

not exert any control thereupon. Notwithstanding anything herein, or in the Note, Mortgage, or other Loan Documents to the contrary, this indemnification provision shall survive closing.

SECTION 14. INSURANCE

1. **Insurance.** Without limiting West Lakes' indemnification, West Lakes shall maintain in force at all times during the performance of this Agreement all appropriate policies of insurance hereinafter described concerning its operations. Certificates with valid and authorized endorsements evidencing the maintenance and renewal of such insurance coverage shall be delivered to HCD thirty (30) days prior to commencement of construction. HCD shall be given notice in writing at least thirty (30) calendar days in advance of cancellation or modification of any policy of insurance. The City, its officers and employees shall be named as an additional named insured on all policies of liability insurance.
 - (a.) All policies of insurance shall be in a company or companies authorized by law to transact insurance business in the State of Florida. In addition, such policy shall provide that the coverage shall be primary for losses arising out of West Lakes' performance of the Agreement. The required certificate shall be furnished by West Lakes prior to execution of this Agreement.
 - (b.) At least thirty (30) calendar days prior to the expiration of any of the above-referenced insurance policies, West Lakes shall provide HCD with evidence of the renewal of said insurance policies in a form satisfactory to the City.
 - (c.) The policies of insurance which must be secured are:
 1. **Commercial General Liability Insurance:** West Lakes must secure commercial general liability insurance to include, but not be limited to, bodily injury and property damage coverage. The policy's limit liability amount shall not be less than Five Hundred Thousand Dollars (\$500,000) per person/per occurrence for bodily injury to, or death to one or more than one person and not less than One Hundred Thousand Dollars (\$100,000) per occurrence for property damage.
 2. **Workers' Compensation Coverage:** All employees of West Lakes must be included under such policy in an amount and with coverage to meet all requirements of Florida law.
 3. **Flood Insurance:** West Lakes shall provide flood insurance as required under applicable HUD regulations.
 4. **Builder's Risk.** During the construction of the Project, West Lakes shall have insurance in effect to cover all risks or damages to the Project.
 5. **Property Insurance.** West Lakes must obtain property insurance for the fair market value of the Property.

SECTION 15. SUBCONTRACTS

1. **Contracts.** West Lakes is required to provide all work pursuant to this Agreement and in no event shall any portion be subcontracted to any other party without HCD's prior written consent. If any part of the work is subcontracted, it shall not in any way affect the provisions of this Agreement and West Lakes' obligation to comply. West Lakes is allowed to subcontract the development or construction of the HOME-assisted units to properly licensed contractors. All contracts with properly licensed contractors shall be in writing and subject to approval by HCD.

SECTION 16. MISCELLANEOUS PROVISIONS

1. **Assignment.** This Agreement may not be assigned to any other entity without the prior written consent of the City.
2. **No Grant of Vested Rights.** This Agreement shall not be construed as granting or assuring or vesting any land use, zoning, development approvals, permission or rights with respect to property owned or to be acquired by West Lakes.
3. **No Partnership or Agency.** City shall not in any way or for any purpose be considered to be or to have become a partner of West Lakes with respect to the Project. West Lakes is not, and shall not be, the agent of the City for any purpose, nor shall the City be the agent of West Lakes for any purpose.
4. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement. If the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can continue to be effected, this Agreement is declared severable.
5. **Entire Agreement/Modification.** This Agreement, together with **Exhibits "A" through "Z"** attached hereto, constitute the entire agreement between the parties and supersedes all previous discussions, understandings, representations and agreements as to the items herein contained. This Agreement may only be modified by a writing signed by both of the parties hereto.
6. **Notices.** Whenever by the terms of this Agreement notice shall or may be given to either party, such notice shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, postage prepaid to:

A. City of Orlando
Housing and Community Development Department
400 S. Orange Avenue, 7th Floor
Orlando, Florida 32801
Attn: Oren Henry, Director

B. West Lakes Phase II, LP
West Lakes Phase II ALP, LLC
1718 Peachtree St. NW
Ste. 684, South Tower
Atlanta, GA 30309
Attn: James Grauley

with a copy to:

Lift Orlando, Inc.
2043 Jacobs Place
Orlando, FL 32805
Attn: Eddy Moratin, President

and to:

Nelson Mullins Broad and Cassel
390 N. Orange Avenue, Suite 1400
Orlando, FL 32801
Attn: Randal M. Alligood, Esq.

and to:

Lowndes, Drosdick, Doster, Kantor & Reed, P.A.
215 N. Eola Drive
Orlando, FL 32801
Attn: Scott C. Thompson, Esq.

and to:

STCC West Lakes Phase II, LLC
c/o SunTrust Community Capital, LLC
303 Peachtree Street, N.E., 22nd Floor
Atlanta, GA 30338
Attn: Brian Womble

and to:

Nixon Peabody, LLP
100 Summer Street
Boston, MA 02110
Attn: David Kavanaugh

C. Lift Orlando, Inc.
2043 Jacobs Place
Orlando, FL 32805
Attn: Eddy Moratin, President

with a copy to:

Lowndes, Drosdick, Doster, Kantor, & Reed, P.A.
215 N. Eola Drive
Orlando, FL 32801
Attn: Scott C. Thompson, Esq.

7. **Compliance with All Laws.** Notwithstanding anything to the contrary, the Project shall be operated consistent with all applicable federal, state and local laws and regulations.
8. **Survival.** All provisions of this Agreement intended to survive or to be performed subsequent to the end of the period of this Agreement shall survive termination of the Agreement.
9. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Florida.
10. **Nonrecourse.** The nonrecourse provisions of the Note are incorporated herein.

11. **LIFT**. If West Lakes elects to be treated as a limited liability limited partnership or substitute LIFT as general partner, West Lakes must obtain the City's consent which consent will not be unreasonable withheld. Any such election or substitution shall be effective as of the Effective Date for purposes hereof.
12. **Authority**. LIFT has delegated certain authority to West Lakes administrative limited partner (West Lakes Phase II ALP, LLC), including without limitation, the authority to sign documents and instruments on behalf of West Lakes in order to obtain construction draws.

IN WITNESS WHEREOF the parties have executed this Agreement, each upon the date set forth next to his/her name.

**WEST LAKES PHASE II, LP,
a Florida limited partnership (Seal)**

**By: Lift Orlando, Inc., a Florida not-for-profit
Its General Partner**

**By: _____
Eddy Moratin, its President**

Date: _____

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING was acknowledged before me this _____ day of _____, 2018, by **Eddy Moratin**, as President of Lift Orlando, Inc., a Florida not-for-profit corporation, the general partner of West Lakes Phase II, LP, a Florida limited partnership. He/She ☐ is personally known to me or ☐ who has produced _____ as identification.

NOTARY PUBLIC
Print Name: _____
My Commission Expires: _____

**Lift Orlando, Inc., a Florida not-for-profit
Corporation**

**By: _____
Eddy Moratin, its President**

Date: _____

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING was acknowledged before me this _____ day of _____, 2018, by **Eddy Moratin**, as President of Lift Orlando, Inc., a Florida not-for-profit corporation, the general partner of West Lakes Phase II, LP, a Florida limited partnership. He/She ☐ is personally known to me or ☐ who has produced _____ as identification.

NOTARY PUBLIC

Print Name: _____

My Commission Expires: _____

ATTEST:

**CITY OF ORLANDO, FLORIDA,
a municipal corporation**

By: _____
Denise Aldridge, City Clerk

By: _____
Mayor / Mayor Pro Tem

Date: _____

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was acknowledged before me this ____ day of _____, 2018 by _____, Mayor Pro Tem and _____, City Clerk, who are personally known to me who did (did not) take an oath.

Name

Notary Public

Serial Number: _____

My Commission Expires: _____

Approved as to form and legality for the
use and reliance of the City of Orlando,
Florida only

_____, 2018

By: _____
Chief Assistant City Attorney

Exhibit “A”

**All of Block C, Orange Center Manor, according to the map or plat thereof,
as recorded in Plat Book Y, Page 66, of the Public Records of Orange
County, Florida**

EXHIBIT “B”

STANDARDS OF ELIGIBILITY

HOME INCOME LIMITS

**PERSONS ELIGIBLE AS ESTABLISHED BY THE U.S. DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT (HUD) Effective June 15, 2018**

	<u>1 Person</u>	<u>2 Person</u>	<u>3 Person</u>	<u>4 Person</u>	<u>5 Person</u>	<u>6 Person</u>	<u>7 Person</u>	<u>8 Person</u>
VERY LOW INCOME (31% - 50%)	22,400	25,600	28,800	31,950	34,550	37,100	39,650	42,200
60% INCOME	26,880	30,720	34,560	38,340	41,460	44,520	47,580	50,640
LOW INCOME (51% TO 80%)	35,800	40,900	46,000	51,100	55,200	59,300	63,400	67,500

EXHIBIT “C”

Budget

UNIT MIX BREAKDOWN

<u>Very Low-Income (50%)</u>
7 Units
(7 Units) 1-bedroom/1 bath
LOW HOME Rents

HOME BUDGET:

Building Components	Cost	HOME funds	West Lakes Funds
General Conditions	\$ 1,420,245		\$ 1,420,245
Inspections, Testing & Warranty	\$ 60,566		\$ 60,566
Hoisting & Equipment	\$ 131,700		\$ 131,700
Concrete	\$ 480,768	\$ 200,000	\$ 280,768
Masonry	\$ 42,000		\$ 42,000
Metals	\$ 140,271		\$ 140,271
Carpentry	\$ 2,351,148	\$ 850,000	\$ 1,501,148
Weather Proofing	\$ 668,847		\$ 668,847
Doors & Windows	\$ 567,467		\$ 567,467
Finishes	\$ 1,902,959		\$ 1,902,959
Specialties	\$ 184,397		\$ 184,397
Equipment	\$ 200,863		\$ 200,863
Furnishings	\$ 300,245		\$ 300,245
Conveying Systems	\$ 165,826		\$ 165,826
Fire Suppression System	\$ 236,705		\$ 236,705
Plumbing System	\$ 866,000		\$ 866,000
HVAC System	\$ 793,255		\$ 793,255
Electrical Systems	\$ 1,956,400		\$ 1,956,400
Site Work	\$ 1,148,909		\$ 1,148,909
Exterior Improvements	\$ 491,994		\$ 491,994
Insurance & Bonds	\$ 281,152		\$ 281,152
Fee & Contingency	\$ 719,586		\$ 719,586
Totals	\$ 15,111,303	\$ 1,050,000	\$ 14,061,303

EXHIBIT "D"

CITY OF ORLANDO HOME Investment Partnerships Program (HOME) West Lakes Phase II, LP

PROMISSORY NOTE

\$1,050,000.00

_____, 2018

Orlando, Florida

For value received, the undersigned ("Borrower") promises to pay the City of Orlando, a Florida municipal corporation (the "Lender" or "City"), the principal sum of ***One Million Fifty Thousand Dollars (\$1,050,000.00)***. Said principal shall be payable at 400 South Orange Avenue, Orlando, Florida 32801, or at such other place as the holder hereof may designate in writing, in one (1) principal installment of ***One Million Fifty Thousand Dollars (\$1,050,000.00)*** due on the later of (i) expiration of the Affordability Period or (ii) December 31, 2040; provided, however, that if the undersigned Borrower (or any of its partners or their affiliates) remains the fee simple owner of the noted property in the Mortgage and HOME Program Agreement executed in connection with this Note and is in full compliance with that certain HOME Program Agreement and all agreements between the undersigned Borrower and the City through the Affordability Period or the Borrower has cured any defaults, then the debt evidencing this Note may be marked cancelled by the Lender in the Lender's sole discretion.

Notwithstanding the above, at the option of the City, this Note shall become immediately due and payable, upon the occurrence of anyone of the following events (Each an "Event of Default") : (i) failure to pay any sum when due under this Note, the HOME Program Agreement or such other documents executed in connection with this Project and such failure continues for ten (10) days after written notice thereof by the Lender to Borrower; (ii) failure to comply with any HOME Program regulations including, but not limited to, 42 U.S.C. §§12701-12839 and 24 CFR Part 92; (iii) failure to comply with any of the terms contained in the HOME Program Agreement, or uses the funds other than as authorized by the HOME Program Agreement or any of the other documents executed in connection with this Project; (iv) if any other default or breach of any term shall occur under the Note, Mortgage or any Loan Documents or (v) any other Event of Default listed in the HOME Program Agreement. To the extent notice and cure is not provided above, the Borrower shall be entitled to prior notice and 30 days thereafter to cure any default before the Lender exercises rights or remedies.

The holder hereof may exercise this option to accelerate upon an Event of Default, provided said Event of Default extends beyond the applicable cure period by the Borrower regardless of any prior forbearance. In the event of Event of Default under this Note, and if the same is referred to an attorney at law for collection or any action at law or in equity is brought with respect hereto, the Borrower shall pay the holder hereof all expenses and costs, including, but not limited to, reasonable attorney's fees.

The maker of this Note hereby waives demand, presentment, notice of dishonor, and protest. This Note shall be the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their successors and assigns.

The debt evidenced by this Note is secured by a Mortgage and Security Agreement of even date herewith (the "Mortgage"), covering the property described in **Exhibit "A"** (the "Property") of the HOME Program Agreement and **Exhibit "B"** of the Mortgage, as more fully described therein.

The term "Loan Documents" when used herein shall mean, collectively, the following documents: (i) this Note; (ii) the Mortgage; (iii) the HOME Program Agreement between the City of Orlando and **West Lakes Phase II, LP** and **Lift Orlando, Inc.** ("HOME Program Agreement"); (iv) Declaration of Covenants and Restrictions; and (v) all other documents or agreements arising under, related to, or made in connection with, the loan evidenced by this Note, as such Loan Documents may be amended. All persons to whom this Note may come are referred to the Mortgage, the HOME Program Agreement, and other Loan Documents for their effect on this Note. All terms not defined herein shall have the meaning ascribed to such terms in the HOME Program Agreement.

The validity of this Note and the other Loan Documents, each of their terms and provisions and the rights and obligations of the Borrower under this Note, and the other Loan Documents shall be governed by, interpreted, construed, and enforced pursuant to and in accordance with the laws of the State of Florida. The Borrower agrees that any controversy arising under or in relation to this Note, HOME Program Agreement, the Mortgage or any other Loan Documents shall be litigated exclusively in the State of Florida. The state and federal courts and authorities with jurisdiction in the State of Florida shall have exclusive jurisdiction over all controversies which may arise under or in relation to this Note, including without limitation those controversies relating to the execution, interpretation, breach, enforcement or compliance with this Note, the Mortgage, or any other issue arising under, related to, or in connection with any of the Loan Documents. The Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any litigation arising from this Note, Mortgage, or any of the other Loan Documents, and waives any other venue to which it might be entitled by virtue of domicile, habitual residence, or otherwise.

The provisions of this Note, the Mortgage, HOME Program Agreement, and all other Loan Documents shall be binding on the successors and assigns, including, but not limited to, any receiver, trustee, representative or other person appointed under foreign or domestic bankruptcy, receivership, or similar proceedings of the Borrower and any person having an interest in the Borrower.

The enforcement of this Note and the other Loan Documents shall be nonrecourse to the Borrower and its partners. Lender's sole recourse against Borrower and its partners for the payment of principal and interest shall be the collateral under the Mortgage.

By signing below, the Borrower accepts and agrees to the covenants and agreements contained in this Note.

WEST LAKES PHASE II, LP
a Florida limited partnership (Seal)

By: Lift Orlando, Inc.,
a Florida not-for-profit corporation
Its General Partner

By: _____
Eddy Moratin, its President

Date: _____

EXHIBIT "E"

PREPARED BY AND RETURN TO:

Lisa R. Pearson, Esq.
Chief Assistant City Attorney
City of Orlando
400 South Orange Ave.
Orlando, FL 32801
Phone: (407) 246-2295

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (hereinafter "Mortgage") is made this ____ day of _____, 2018, by the Mortgagor, **West Lakes Phase II, LP**, a Florida limited partnership, whose mailing address is 1718 Peachtree St. NW, Suite 684, South Tower, Atlanta, GA 30309 (hereinafter "Borrower"), in favor of the Mortgagee, **City of Orlando**, a Florida municipal corporation with a principal address of 400 South Orange Avenue, Orlando, FL 32801 (hereinafter "Lender").

WHEREAS, Borrower and Lender have entered into an HOME Program Agreement (the "HOME Agreement"), a copy of which is on file in the City Clerk's Office for the City of Orlando and the definitions and terms of which are incorporated herein by this reference as if fully set forth herein, and which provides, among other things, that the Lender will loan to Borrower HOME funds to be used towards the construction of one-hundred twenty (120) units located in the Pendana at West Lakes Senior Residences at 2205 Orange Center Blvd. Orlando, FL, 32805, seven (7) of which units shall be designated as HOME-assisted units for rent to Very Low-Income families at Affordable rents (LOW HOME rents) and upon such other terms as set forth in the HOME Agreement; and

WHEREAS, to ensure, among other things, that the HOME-assisted units are rented to Very Low-Income families at Affordable rents and on the terms set forth in the HOME Agreement, Borrower has executed a note in favor of Lender in the principal sum of ***One Million Fifty Thousand Dollars and 00/100 (\$1,050,000.00)***, which indebtedness is evidenced by Borrower's promissory note dated of even date herewith (hereinafter "Note"), a copy of which is attached hereto as **Exhibit "A"**, due and payable as provided in the Note.

To secure to Lender (a) the indebtedness evidenced by the Note, and all renewals, extensions and modifications thereof; (b) the performance of the covenants and agreements of Borrower contained in the Note between Lender and Borrower; (c) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; (d) the performance of the covenants and agreements contained in the HOME Agreement between the Lender and Borrower; and (e) the performance of the covenants and agreements of Borrower herein contained, Borrower does hereby mortgage, grant, convey and assign to Lender the benefit of a lien on, and a security interest in all of Borrower's right title or interest in the following property, whether now owned or hereinafter acquired: Any fee simple interest Borrower may acquire now or in the future in and to the following described real property located in Orange County, Florida:

[SEE ATTACHED EXHIBIT "B"]

Together with all of Borrower's right, title and interest in all buildings, structures,

improvements and tenements now or hereafter erected on the Property; all heretofore or hereafter vacated alleys and streets abutting the Property, and all easements, streets, ways, alleys, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and therefor; all rents, royalties, mineral, oil and gas rights and profits, water rights and water stock appurtenant to the Property; all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in or on, or used or intended to be used in connection with the Property, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light; all elevators and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds, shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants; all leasehold estates and all leases or subleases of the Property, or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Borrower thereunder, including, without limitation, all cash or security deposits, advance rentals and deposits or payments of similar nature; all rents, profits, issues and revenue of the Property and the buildings on the Property from time to time accruing, whether under leases or tenancies now existing or hereafter created; all machinery, apparatus, equipment, fittings, fixtures and tangible personal property of every kind and nature whatsoever now or hereafter located on the Property or in any buildings or improvements upon the Property, or any part thereof, and used or usable in connection with the construction of or any occupancy of any buildings on the Property or the operation of the Property and all additions thereto; and all proceeds, products, substitutions, additions, renewals, accessions and replacements of any of the foregoing items. All of the foregoing real and personal property herein referred to as the "Property").

TO HAVE AND TO HOLD the said Property unto the Lender until the payment in full or forgiveness (in Lender's sole discretion) of the Note and the performance of all obligations under the Loan Documents through the date of such payment or forgiveness (in Lender's sole discretion).

To protect the security of this Mortgage, Borrower further covenants, warrants and agrees with Lender as follows:

1. **Payment of Principal and Interest.** Borrower shall promptly pay all payments provided for in the Note, any prepayment and late charges provided in the Note and all other sums secured by this Mortgage and shall otherwise comply with all the terms in the Note and this Mortgage.
2. **HOME Agreement.** The indebtedness that is secured by this Mortgage and is the subject of the Note shall be advanced pursuant to the covenants and conditions of the HOME Agreement between Borrower and Lender, all of which terms are incorporated herein by reference and made a part of this Mortgage with the same force and effect as if fully set forth in this Mortgage.
3. **Funds for Taxes, Assessments, Charges; Liens.** Borrower shall pay all water and sewer rates, rents, taxes, ad valorem taxes, assessments, premiums, insurance and other impositions attributable to the Property by Borrower making payment when due, directly to the payee thereof, or in such other manner as Lender may designate in writing. Upon request, Borrower shall promptly furnish to Lender all receipts evidencing such payments. Borrower shall pay, when due, the claims of all persons supplying labor or

materials to or in connection with the Property, or shall transfer to bond any claims of lien filed by any such persons.

4. **Leases, Subleases and Easements.** Borrower, at Borrower's sole cost and expense, shall maintain and cause to be performed, all of the covenants, agreements, terms, conditions and provisions on its part to be kept, observed and performed under any lease, sublease or easements, which may constitute a portion of or an interest in the Property; shall require its tenants or subtenants to keep, observe and perform all of the covenants, agreements, terms, conditions and provisions on their part to be kept, observed or performed under any and all leases, subleases, or easements; and shall not suffer or permit any breach or default to occur with respect to the foregoing; and in default thereof, Lender shall have the right to perform or to require performance of any such covenants, agreements, terms, conditions and provisions of any lease, sublease or easements. Except in the ordinary course of business, Borrower shall not, without the consent of Lender, consent to any modification or amendment of any lease, sublease or easement or to the, cancellation, termination or surrender of any lease, sublease or easement. Borrower shall not enter into any lease, sublease, or easement or make any modification or amendment that would violate any terms of the HOME Agreement or violate any of the HOME regulations governing this Property.
5. **Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured by carriers at all times satisfactory to Lender against loss by fire, hazards included within the term "extended coverage", rent loss and such other hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require. Borrower shall also maintain commercial general liability insurance with Lender named as an additional insured in such amounts and for such periods as Lender may require. Borrower shall also maintain worker's compensation insurance, subject to the statutory limits of the State of Florida, and employer's liability insurance with a limit of no less than \$500,000.00 per accident, per employee.

All premiums on the foregoing insurance policies shall be paid by Borrower making payment, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgagee clause in favor of and in form acceptable to Lender. Lender shall have the right to hold the policies or certificate of insurance with regard thereto, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

In the event of loss, Borrower shall give immediate written notice to the insurance carrier and Lender. During the continuance of an Event of Default, Borrower hereby authorizes and empowers Lender as attorney in fact for such Borrower to make proof of loss, to adjust and compromise any claim under insurance policies (provided, however, that so long as no Event of Default shall not then exist, no such compromise shall be

made by Lender without the Borrower's consent, which consent shall not be unreasonably withheld), to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Lender's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder. Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property, or (b) to apply the balance of such proceeds to the payment of the sums secured by this Mortgage, whether or not then due. Lender shall permit the proceeds to be used to reconstruct if Borrower demonstrates there are sufficient funds for reconstruction and Borrower is not otherwise in default hereunder.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, the Property shall be restored to the equivalent of its original condition or such other condition as Lender may approve in writing. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Mortgage, any such application of proceeds to principal shall not extend or postpone the due dates of any future installments. If the Property is sold or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

6. **Preservation and Maintenance of the Property.** Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the standards required by HUD and its property standards requirement, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, and cure any violations within the time permitted by the applicable governing body, (f) shall use and operate, and shall require its lessees or licensees to use or operate, the Property in compliance with all applicable laws, ordinances, regulations, covenants, conditions and restrictions and with all applicable requirements of any lease or sublease now or hereafter affecting the Property, (g) shall operate and maintain the Property in a manner to ensure compliance with applicable U.S. Department of Housing and Urban Development (HUD) and HOME regulations, and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Mortgage or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any non-obsolete improvement now existing or hereafter

erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind.

7. **Use of Property.** Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Mortgage was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.
8. **Protection of Lender's Security.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement or arrangements or proceedings involving a bankrupt or decedent, then Lender, at Lender's option after notice to the Borrower, may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of attorney's fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof.

Any amounts disbursed by Lender pursuant to this paragraph shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable upon demand by Lender and shall bear interest from the date of disbursement at the Event of Default rate stated in the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Nothing contained in this paragraph shall require Lender to incur any expense or take any action hereunder.

9. **Inspection.** Lender may make or cause to be made reasonable entries upon and inspections of the Property at any time. If the Property requires repair, care or attention, after notice to Borrower, Lender may enter or cause entry to be made on the Property to repair, protect and maintain the Property as Lender may deem necessary after notice to the Borrower. Any and all money that the Lender must pay to accomplish the proper maintenance on the Property shall become due and payable under the provisions of the above paragraph.
10. **Books and Records.** Borrower shall keep and maintain at all times at Borrower's address stated above, or such other place as Lender may approve in writing, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property, compliance with all applicable HOME and federal regulations, compliance with the HOME Agreement and copies of all written contracts, leases and other mortgages or other interests which affect the Property. Such books, records, contracts leases, other documentation and mortgages shall be subject to examination and inspection at any reasonable time by Lender. Upon Lender's request, Borrower shall furnish to Lender, within one hundred and twenty (120) days after the end of each fiscal year of Borrower, a balance sheet, a statement of income and expenses

of the Property and a statement of changes in financial position, each in reasonable detail and certified by Borrower and, if Lender shall require, by an independent certified public accountant.

11. **Condemnation.** Borrower shall promptly give written notification to Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney in fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking (provided, however, that so long as no Event of Default then exists, no compromise or settlement shall be made without the Borrower's consent, which consent shall not be unreasonably withheld). The proceeds of any award or payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Mortgage, whether or not then due, with the balance, if any, to Borrower.

12. **Assignment of Rents.** Borrower hereby collaterally assigns and transfers to Lender all the leases, subleases, franchises, rents, issues and profits of the Property, and hereby gives to and confers upon Lender the right, power and authority to collect such rents, issues and profits as herein set forth. Borrower irrevocably appoints Lender its true and lawful attorney-in-fact for such purposes. Upon the occurrence and during the continuance of an Event of Default, not cured within any applicable grace period, under this Mortgage, Lender shall have the right, at its option, immediately and without further legal action being necessary, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Borrower or Lender, for all such rents, issues and profits and apply the same to the indebtedness secured hereby; provided, however, that Borrower shall have the right to collect, use and retain such rents, issues and profits (but not more than one month in advance) prior to or so long as there is not the continuance of an Event of Default under this Mortgage.

13. **Collection of Rents Upon Event of Default.** Upon and during the continuance of any Event of Default under this Mortgage, Lender may, at any time without notice, either in person, by agent or by a receiver appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property (but only by way of a court-appointed receiver or court order), or any part thereof, in its own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, and in such order as Lender may determine. The collection of such rents, issues and profits, or the entering upon and taking possession of

the Property, or the application thereof as aforesaid, shall not cure or waive any Event of Default or notice of Event of Default hereunder or invalidate any act done in response to such Event of Default or pursuant to such notice of Event of Default.

14. **Restriction on Further Assignments or Modifications.** Except for the SunTrust construction loan and Valley National Bank permanent loan, first mortgages, Borrower shall not, without the prior written consent of Lender, assign the rents, issues or profits, or any part thereof, from the Property or any part thereof, and shall not consent to the modification, cancellation or surrender of any lease or sublease covering the Property. However, Borrower shall not enter into any lease, sublease, or easement, or make any modification or amendment that would violate any terms of the HOME Agreement or violate any of the HOME regulations governing this property. An action of Borrower in violation of the terms of this section shall be void as against Lender in addition to being an Event of Default under this Mortgage after applicable notice and cure periods.

Borrower shall not, without the consent of Lender after the occurrence of an Event of Default, consent to the cancellation or surrender of, accept prepayment of rents, issues or profits more than thirty (30) days in advance under, any lease or sublease now or hereafter covering the Property or any part thereof, nor modify any such lease or sublease so as to shorten the term, decrease the rent, accelerate the payment of rent, or change the terms of any renewal option; and any such purported assignment, cancellation, surrender, prepayment or modification made without the written consent of Lender shall be void as against Lender. Borrower shall, upon demand of Lender, enter into an agreement with Lender with respect to the provisions contained in the preceding provision regarding any lease or sublease covering said Property or any part thereof, and Borrower hereby appoints Lender attorney-in-fact of Borrower to execute and deliver any such agreement on behalf of Borrower and deliver written notice thereof to the tenant to whose lease such agreement relates. Borrower agrees to furnish to Lender a copy of all leases, any modification of any lease presently in effect and copies of all future leases affecting the Property covered by this Mortgage, and failure to furnish to Lender a copy of any modification of a lease or a copy of any future lease affecting said Property shall be deemed a Event of Default under this Mortgage after applicable notice and cure periods.

All leases or subleases hereafter entered into by Borrower with respect to the Property or any part thereof shall be subordinate to the lien of this Mortgage.

15. **Uniform Commercial Code Security Agreement.** This Mortgage is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Mortgage or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Mortgage in

such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Except for the SunTrust construction loan and the Valley National Bank permanent loan, without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Mortgage, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in this Mortgage as to such items.

In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in this Mortgage.

16. **Events of Default.** The following shall constitute an Event of Default under this Mortgage:

- (a) failure to pay any sum when due under the Note, this Mortgage or other documents executed in connection with this Project and such failure continues for ten (10) days after written notice thereof by Lender to Borrower;
- (b) failure to comply with any HOME Program regulations including, but not limited to, 42 U.S.C. §§12701-12839 and 24 CFR Part 92;
- (c) failure to comply with any of the terms contained in the HOME Agreement or uses the HOME funds other than as authorized by the HOME Agreement;
- (d) failure to expend HOME funds in a timely manner or fails to meet any of the time requirements as set forth in the HOME Agreement;
- (e) failure to construct the Project as required by the HOME Agreement;
- (f) failure to rent the HOME-assisted units to Eligible Persons at Affordable rents for the duration of the Affordability Period as required in the HOME Agreement;
- (g) failure to rent the HOME-assisted units to Eligible Persons at Affordable rents within the timeframes required by this Agreement;
- (h) sale or transfer of any part of the Property or Project without the prior written consent of the City;
- (i) Borrower is deemed in default under any other HOME agreements it has with the Lender even if unrelated to this Project or Property or is in default under the terms of other financing or mortgages used for the Property or other projects;

- (j) if any other default or breach of any term shall occur under the Note, Mortgage or any Loan Documents; or
- (k) any other Event of Default listed in the HOME Agreement.

Notwithstanding any of the foregoing provisions to the contrary, prior to any noncompliance with the terms of this Agreement being deemed a default, breach, or Event of Default, Borrower shall be entitled to prior notice and 30 days (10 days in the case of (a) above) to cure the same. Further, if Borrower has failed to cure any Event of Default by any applicable cure period, the Lender may, at its sole option, cure such Event of Default, provided, however, that the Lender shall be under no duty or obligation to do so.

- 17. **Remedies.** Upon the occurrence and during the continuance of any Event of Default, or any other breach of this Mortgage, Lender may declare Borrower in default and the remedies available to Lender shall include, but not necessarily be limited to, any one or more of the following: (i) Lender may declare all of the sums secured by this Mortgage to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding; (ii) Lender may take immediate possession of the Property or any part thereof by way of a court-appointed receiver as discussed in this Mortgage and manage, control or lease the same to such person and at such rental as it may deem proper and collect all rents, issues and profits therefrom; and (iii) Lender shall be free to terminate the HOME Agreement, withhold all funding and/or exercise all rights and remedies available to it under the terms of the HOME Agreement, the Loan Documents, under statutory law, federal or under common law. HCD may also exercise any one or more of the actions contained in 2 CFR part 200.
- 18. **Remedies Cumulative.** Each remedy provided in this Mortgage is distinct and cumulative to all other rights or remedies under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively, in any order whatsoever.
- 19. **Borrower and Lien Not Released.** From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower or any junior lien holder, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Mortgage, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, with the consent of Borrower, release from the lien of this Mortgage any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, or join in any extension or subordination agreement. Any actions taken pursuant to this paragraph shall not affect the obligation of Borrower to pay the sums secured by this Mortgage and to observe the covenants of Borrower contained herein and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender title insurance premiums and attorney's fees as may be incurred at Lender's option, for any such action if taken at Borrower's request.
- 20. **No Waiver.** Failure of the Lender to declare an Event of Default shall not constitute a

waiver of any rights by the Lender. Furthermore, the waiver of any Event of Default by the Lender shall in no event be construed as a waiver of rights with respect to any other Event of Default, past or present.

21. **Appointment of Receiver; Lender in Possession.** Upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage which is not cured within any applicable cure period, Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Mortgage. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Mortgage after applicable notice and cure periods, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for managing the Property.
22. **Transfers of the Property; Assumption.** On sale or transfer of all or any part of the Property, or any interest therein, Lender may, at Lender's option, declare all of the sums secured by this Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by this Mortgage or by state or federal law. Transfers of interests in the Borrower shall not be considered a transfer hereunder or an event of default.
23. **Notice.** Except for any notice required under applicable law to be given in another manner, each notice, demand, consent or other approval (collectively, "notices" and singly, "notice") given under the Note, this Mortgage and any other Loan Document, shall be in writing to the other party, and if to Borrower, at c/o West Lakes Phase II ALP, LLC, 1718 Peachtree St. NW, Ste. 684, South Tower, Atlanta, GA 30309, with a copy to Lift Orlando, Inc., at 2043 Jacobs Place, Orlando, FL 32805, with a copy to Nelson Mullins Broad and Cassel, 390 N. Orange Ave., Suite 1400, Orlando, FL 32801, Attn: Randal M. Alligood, Esq., a copy to Lowndes, Drosdick, Doster, Kantor & Reed, P.A., 215 N. Eola Drive, Orlando, FL 32801, Attn: Scott C. Thompson, Esq and a copy to STCC West Lakes Phase II, LLC, c/o SunTrust Community Capital, LLC, 303 Peachtree Street, N.E., 22nd Floor, Atlanta, GA 30338, Attn: Brian Womble and a copy to Nixon Peabody, LLP, 100 Summer Street, Boston, MA 02110, Attn: David Kavanaugh and if to Lender, at its address set forth at the beginning of the Mortgage, or at such other address as such party may designate by notice to the other party and shall be deemed given (a) three (3) Business Days after mailing, by certified U.S. mail, return receipt requested, postage prepaid; (b) one (1) Business Day after delivery, fee prepaid, to a national overnight delivery service; or (c) when delivered, if personally delivered with proof of delivery thereof.

Borrower and Lender each agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, the receipt of the same upon

request by the other party and that any notice rejected or refused by it shall be deemed for all purposes of this Mortgage to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service. As used in the Mortgage, the term "Business Day" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business.

24. **Successors and Assigns Bound; Joint and Several Liability; Agents; Captions.** The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.
25. **Governing Law and Severability.** This Mortgage shall be governed by the law of the State of Florida. In the event that any provision of this Mortgage or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Mortgage or the Note which can be given effect without the conflicting provisions, and to this end, the provisions of this Mortgage and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Mortgage or in the Note, whether considered separately or together with other charges levied in connection with this Mortgage and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation.
26. **Waiver of Statute of Limitations.** Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured by this Mortgage.
27. **Attorney's Fees.** If this Mortgage is placed in the hands of an attorney for the collection of any sum payable hereunder or the enforcement of any provisions contained herein, Borrower agrees to pay all costs of collection, including attorneys' fees, including those in all appellate and bankruptcy proceedings incurred by Lender, either with or without the institution of any action or proceeding, and in addition to all costs, disbursements and allowances provided by law. All such costs so incurred shall be deemed to be secured by this Mortgage.
28. **Environmental Hazards.** Borrower covenants and agrees that Borrower shall not: (a) cause or permit the presence, use, generation, manufacture, production, processing, installation, release, discharge, storage (including aboveground and underground storage tanks for petroleum or petroleum products), treatment, handling or disposal of any Hazardous Materials (as defined below) (excluding the safe and lawful use and storage of quantities of Hazardous Materials customarily used in the operation and maintenance of comparable multi-family or commercial properties or for normal household or business purposes) on or under the Property, or in any way affecting the Property or its value, or which may form the basis for any present or future demand, claim or liability

relating to contamination, exposure, cleanup or other remediation of the Property; or (b) cause or permit the transportation to, from or across the Property of any Hazardous Material (excluding the safe and lawful use and storage of quantities of Hazardous Materials customarily used in the operation and maintenance of comparable multi-family or commercial properties or for normal household or business purposes); or (c) cause or exacerbate any occurrence or condition on the Property that is or may be in violation of Hazardous Materials Law (as defined below). The matters described in (a), (b) and (c) above are referred to collectively below as “Prohibited Activities or Conditions”.

Borrower represents and warrants that it has not at any time caused or permitted any Prohibited Activities or Conditions and to the best of its knowledge, except as set forth in any environmental assessment furnished by Borrower to Lender or previously remediated, no Prohibited Activities or Conditions exist or have existed on or under the Property. Borrower shall take all appropriate steps (including but not limited to appropriate lease provisions) to prevent its employees, agents and contractors, and all tenants and other occupants on the Property, from causing, permitting or exacerbating any Prohibited Activities or Conditions.

If Borrower has disclosed that Prohibited Activities or Conditions exist on the Property, Borrower shall comply in a timely manner with, and cause all employees, agents and contractors of Borrower and any other persons present on the Property to so comply with (1) any program of operation and maintenance (“O&M Program”) relating to the Property that is acceptable to Lender with respect to one or more Hazardous Materials (which O&M Program may be set forth in an agreement of Borrower (an “O&M Agreement”)) and all other obligations set forth in any O&M Agreement, and (2) all Hazardous Materials Laws. Any O&M Program shall be performed by qualified personnel. All costs and expenses of the O&M Program shall be paid by Borrower, including without limitation Lender’s fees and costs incurred in connection with the monitoring and review of the O&M Program and Borrower’s performance thereunder. If Borrower fails to timely commence or diligently continue and complete the O&M Program and comply with any O&M Agreement, then Lender may, at Lender’s option, after applicable notice and cure periods, declare all of the sums secured by the Mortgage to be immediately due and payable, and Lender may invoke any remedies permitted by this Mortgage.

Borrower represents that Borrower has not received, and has no knowledge of the issuance of, any claim, citation or notice of any pending or threatened suits, proceedings, orders or governmental inquiries or opinions involving the Property that allege the violation of any Hazardous Materials Law in regard to the Property (“Government Actions”).

Borrower shall promptly notify Lender in writing of: (i) the occurrence of any Prohibited Activity or Condition on the Property; (ii) Borrower’s actual knowledge of the presence on or under any adjoining property of any Hazardous Materials which can reasonably be expected to have a material adverse impact on the Property or the value of the Property, discovery of any occurrence or condition on the Property or any adjoining real property that could cause any restriction on the ownership, occupancy,

transferability or use of the Property under Hazardous Materials Law; Borrower shall cooperate with any governmental inquiry and shall comply with any governmental or judicial order which arises from any alleged Prohibited Activities or Conditions; (iii) any Governmental Action; and (iv) any claim made or threatened by any third party against Borrower, Lender or the Property relating to loss or injury resulting from any Hazardous Materials. Any such notice by Borrower shall not relieve Borrower of or result in a waiver of any obligation of Borrower.

Borrower shall pay promptly the costs of any environmental audits, studies or investigations (including but not limited to advice of legal counsel) and the removal of any Hazardous Materials from the Property required by Lender as a condition of its consent to any sale or transfer of all or any part of the Property or any transfer occurring upon a foreclosure or a deed in lieu of foreclosure or any interest therein, or required by Lender following a reasonable determination by Lender that there may be Prohibited Activities or Conditions on or under the Property. After reasonable prior notice to Borrower, Borrower authorizes Lender and its employees, agents and contractors to enter onto the Property for the purpose of conducting such environmental studies, audits and investigations. Any such costs and expenses incurred by Lender (including but not limited to fees and expenses of attorneys and consultants, whether incurred in connection with any judicial or administrative process or otherwise) which Borrower fails to pay promptly shall become immediately due and payable and shall become additional indebtedness secured by the Mortgage.

Borrower shall hold harmless, defend and indemnify Lender and its officers, directors, trustees, employees and agents from and against all proceedings (including but not limited to Government Action), claims, damages, penalties, costs and expenses (including without limitation fees and expenses of attorneys and expert witnesses, investigatory fees and cleanup and remediation expenses, whether or not incurred within the context of the judicial process), arising directly or indirectly from (i) any breach of any representation, warranty or obligation of Borrower contained in this paragraph, or (ii) the presence or alleged presence of Hazardous Materials on or under the Property.

The term "Hazardous Materials" for purposes of this paragraph includes petroleum and petroleum products, flammable explosives, radioactive materials (excluding radioactive material in smoke detectors), polychlorinated biphenyls, lead, asbestos in any form that is or could become friable, hazardous waste, toxic or hazardous substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise including, but not limited to, those materials defined as "hazardous substances," "extremely hazardous substances," "air pollutants," "toxic pollutants," "hazardous wastes," "extremely hazardous waste," or "restricted hazardous waste" by Hazardous Materials Law or regulated by Hazardous Materials Law in any manner whatsoever.

The term "Hazardous Materials Law" for the purposes of this paragraph means all federal, state and local laws, ordinances and regulations and standards, rules, policies and other binding governmental requirements and any court judgments applicable to Borrower or to the Property relating to industrial hygiene or to environmental or unsafe conditions or to human health including, but not limited to, those relating to the

generation, manufacture, storage, handling, transportation, disposal, release, emission or discharge of Hazardous Materials, those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Property, and those relating to the atmosphere, soil, surface and ground water, wetlands, stream sediments and vegetation on, under, in or about the Property.

The representations, warranties, covenants, agreements, indemnities and undertakings of Borrower contained in this paragraph shall be in addition to any and all other obligations and liabilities that Borrower may have to Lender under applicable law.

The representations, warranties, covenants, agreements, indemnities and undertakings of Borrower contained in this paragraph shall continue and survive notwithstanding the satisfaction, discharge, release, assignment, termination, subordination or cancellation of the Mortgage or the payment in full or forgiveness of the principal of and interest on the Note and all other sums payable under the Loan Documents or the foreclosure of the Mortgage or the tender or delivery of a deed in lieu of foreclosure or the release of any portion of the Property from the lien of the Mortgage, except with respect to any Prohibited Activities or Conditions or violation of any of the Hazardous Materials Laws which first commences and occurs after the satisfaction, discharge, release, assignment, termination or cancellation of the Mortgage following the payment in full or forgiveness of the principal of and interest on the Note and all other sums payable under the Loan documents or which first commences or occurs after the actual dispossession from the entire Property of the Borrower and all entities which control, are controlled by, or are under common control with the Borrower (each of the foregoing persons or entities is hereinafter referred to as a "Responsible Party") following foreclosure of the Mortgage or acquisition of the Property by a deed in lieu of foreclosure or a transfer of the Property with the Lender's consent. Nothing in the foregoing sentence shall relieve the Borrower from any liability with respect to any Prohibited Activities or Conditions or violation of Hazardous Materials Laws where such Prohibited Activities or Conditions or violation of Hazardous Material Laws commences or occurs, or is present as a result of, any act or omission by any Responsible Party or by any person or entity acting on behalf of a Responsible Party.

29. **Waiver of Jury Trial.** Borrower (i) covenants and agrees not to elect a trial by jury with respect to any issue arising under any of the Loan Documents triable by a jury and (ii) waives any right to trial by jury to the extent that any such right shall now or hereafter exist. This waiver of right to trial by jury is separately given, knowingly and voluntarily with the benefit of competent legal counsel by the Borrower and this waiver is intended to encompass individually each instance and each issue as to which the right to a jury trial would otherwise accrue. Further, Borrower hereby certifies that no representative or agent of the Lender (including but not limited to Lender's counsel) has represented, expressly or otherwise, to Borrower that Lender will not seek to enforce the provisions of this paragraph.
30. **Nonrecourse.** The nonrecourse provisions from the Note are incorporated by reference.

SIGNATURES NEXT PAGE

IN WITNESS WHEREOF, Borrower has executed this Mortgage or has caused the same to be executed by its representatives thereunto duly authorized.

Signed in the presence of Two Witnesses:

**West Lakes Phase II, LP,
a Florida limited partnership**

Signature

Print Name: _____

**By: Lift Orlando, Inc.,
a Florida not-for-profit corporation
Its General Partner**

Signature

Print Name: _____

**By: _____
Eddy Moratin, its President**

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority, Eddy Moratin, as President of Lift Orlando, Inc., a Florida not-for-profit corporation, the general partner of West Lakes Phase II, LP, a Florida limited partnership. He/she ☐ is personally known to me or ☐ who has produced _____ as identification.

WITNESS my hand and official seal this _____ day of _____, 2018.

Notary Public

Print Name: _____

My commission expires:

***THIS DOCUMENT IS EXEMPT FROM THE PAYMENT OF INTANGIBLE
PERSONAL PROPERTY TAX PURSUANT TO SECTION 199.183(1), FLORIDA
STATUTES.**

EXHIBIT “A”

EXHIBIT “B”

All of Block C, Orange Center Manor, according to the map or plat thereof, as recorded in Plat Book Y, Page 66, of the Public Records of Orange County, Florida

Exhibit "F"

PREPARED BY AND RETURN TO:

Lisa R. Pearson
Chief Assistant City Attorney
City of Orlando
400 South Orange Avenue
Orlando, FL 32801
Phone: (407) 246-2295

DECLARATION OF RESTRICTIVE COVENANT CONTAINING
RENT AND INCOME RESTRICTIONS

THIS **DECLARATION OF RESTRICTIVE COVENANT CONTAINING RENT AND INCOME RESTRICTIONS** is made this ____ day of _____, 2018, by **West Lakes Phase II, LP**, a Florida limited partnership, (hereinafter referred to as "Owner"), in favor of the **City of Orlando**, a Florida municipal corporation (hereinafter referred to as "City").

WHEREAS, the City has been designated by the United States Department of Housing and Urban Development ("HUD") as a participating jurisdiction for the receipt and use of funds as provided by the HOME Investment Partnerships Program (hereinafter referred to as "HOME Program"), as provided in 24 CFR Part 92; and,

WHEREAS, Owner is the fee simple owner of Pendana at West Lakes Senior Residences, an apartment complex of 120 units, located on the property at **2205 Orange Center Blvd., Orlando, Florida, 32805** more particularly described as follows:

All of Block C, Orange Center Manor, according to the map or plat thereof, as recorded in Plat Book Y, Page 66, of the Public Records of Orange County, Florida

(hereinafter the "Property"); and,

WHEREAS, the City and Owner entered into a HOME Program Agreement wherein federal HOME funds have been provided to construct a project consisting of 120 units, and pursuant to federal regulations, 24 CFR §92.252 requires that certain affordability requirements be met for a certain period of time on the HOME-assisted units; and

WHEREAS, the Owner has designated seven (7) of the 120 units on the Property as "Home-assisted" units; and

[Redacted Box]

WHEREAS, Owner and City wish to ensure that the HOME-assisted units continue to be maintained as Affordable housing for rent to Very Low-Income families at Affordable rents for a period of not less than twenty (20) years from the date of Project Completion, regardless of any subsequent changes in ownership of the Property.

NOW, THEREFORE, Owner declares that said Property shall be held, transferred, encumbered, used, sold, conveyed, and occupied, subject to the covenants hereinafter set forth expressly and exclusively for the use and benefit of said Property and of each and every person or entity who now or in the future owns any portion or portions of the Property.

1. **RESTRICTION OF USE TO AFFORDABLE HOUSING.** The 7 HOME-Assisted units must be rented and occupied and are restricted as follows: seven (7) [1-bedroom/1 bath] units, shall be rented and occupied by Very Low-Income (50% median income or less within the Orlando Metropolitan Statistical Area) families at Affordable rents (LOW HOME rents), all as from time to time defined by HUD, or any successor entity, at such minimum and maximum rental rates determined by HUD and approved by the City of Orlando's Housing and Community Development Department. The Project must at all times meet the property standards set forth in 24 CFR §92.251 and meet the accessibility requirements contained in 24 CFR Part 8, and all applicable local codes, or such successive regulations which may be adopted by HUD. The HOME Program Agreement executed by and between **West Lakes Phase II, LP** and Lift Orlando, Inc., and the City of Orlando dated _____, 2018 on file with the City Clerk's Office and the City's Housing and Community Development Department, (400 South Orange Avenue, Orlando, Florida, 32801), contains additional requirements and restrictions and is hereby incorporated herein by reference as if fully set forth herein and made a part hereof, including the terms and definitions contained therein. All terms not defined herein shall have the meaning ascribed to said terms in the Home Program Agreement.

2. **BINDING NATURE OF COVENANTS.** These covenants shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date of Project Completion (the "Affordability Period") as that term is defined in 24 CFR Part 92 and the HOME Program Agreement between Owner, LIFT, and the City and shall become null and void at the end of the Affordability Period.

3. **ENFORCEMENT OF DECLARATION OF RESTRICTIVE COVENANT.** Enforcement of the foregoing restrictive covenant shall be by proceedings at law or in equity, including the right of specific performance, against any person or persons violating or attempting to violate such covenant to restrain violation. Such action may be brought by the City of Orlando, or by the United

States Department of Housing and Urban Development. This Agreement shall not be construed to cause recourse liability for principal or interest under the Note attached to the Home Program Agreement.

4. **ATTORNEYS' FEES.** Any person who successfully brings an action for enforcement of this Restrictive Covenant shall be entitled to recover attorneys' fees and costs for such action, including any successful appellate proceedings, from the then owner of the affected portion or portions of the Property.

IN WITNESS WHEREOF, Owner has executed this Declaration of Covenants and Restrictions, the day and year first above written.

Signed in the presence of Two Witnesses:

West Lakes Phase II, LP,
a Florida limited partnership

Signature

Print Name: _____

By: Lift Orlando, Inc.,
a Florida not-for-profit corporation
Its General Partner

Signature

Print Name: _____

By: _____
Eddy Moratin, Its President

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority, Eddy Moratin, as President of Lift Orlando, Inc., a Florida not-for-profit corporation, the general partner of West Lakes Phase II, LP, a Florida limited partnership. He/she ☐ is personally known to me or ☐ who has produced _____ as identification.

WITNESS my hand and official seal this _____ day of _____, 2018.

Notary Public

Print Name: _____

CITY OF ORLANDO
HOME AGREEMENT
Pendana at West Lakes Senior Residences

EXHIBIT "G"

REQUEST FOR PARTIAL PAYMENT

TO: Housing and Community Development Department

FROM: West Lakes Phase II, LP

PROJECT ADDRESS: 2205 Orange Center Blvd.

HOME LOAN: \$1,050,000.00

REQUESTED AMOUNT:

I certify that _____% of the rehabilitation/construction work on the above referenced Project has been completed according to the HOME Agreement between the above and the City of Orlando has been completed to date.

Said work consists of:

1.	Original Contract:	_____
2.	Net Changes by Change Orders	_____
3.	Contract Sum to Date (line 1 + 2)	_____
4.	Total completed & Stored to Date (Column G)	_____
5.	Retainage of completed work & stored materials (10%) (Column D + E + F)	_____
6.	Total Less Retainage (Line 4 less line 5 total)	_____
7.	Less Previous Payments (line 6 from previous pay application)	_____
8.	Current Payment Due	_____
9.	Balance to Finish, including retainage (line 3 less line 6)	_____

Therefore, I request that the Housing and Community Development Department pay a partial payment in the amount of \$_____ (this payment.

Authorized Signature

Date

Exhibit H

**PARTIAL RELEASE AND WAIVER OF LIEN / BOND CLAIM
OF CONTRACTOR\SUBCONTRACTOR\SUPPLIER**

Pursuant to the agreement between _____ (herein after referred to as Contractor \ Subcontractor \ Supplier) and Owner (hereinafter referred to as Owner), the undersigned Contractor \ Subcontractor \ Supplier acknowledges that for and in consideration of the sum of \$ _____ the undersigned in hand this day paid, the receipt of which is hereby acknowledged, the undersigned does hereby waive, release, remise and relinquish any and all right to claim any lien or liens, or assert any kind or class of lien whatsoever, or make any claims on bond or to otherwise make any claims upon the Owner, Contractor, and/or Contractor's surety, if any, for work done, materials and/or equipment furnished, which the undersigned now has or may hereinafter have on the following-described property through the date of _____:

PROPERTY:

Orlando, FL

OWNER:

Orlando, FL

This affidavit is executed by the Contractor in accordance with section 713.06 of the Florida Statutes for the purposes of obtaining (partial) payment from the Owner in the amount of \$ _____.

The undersigned certifies that all labor, services, materials and/or equipment furnished to or for the property described herein have been provided prior to the execution and delivery of this document. The undersigned further certifies that all bills, charges, payroll, taxes and any other obligations of the undersigned Subcontractor\Vendor for this project have been paid in full through ____/____/____; and that there are no pending actions, claims, liens or suits against said Subcontractor\Vendor for work performed, materials and/or equipment furnished for the above-described project. The undersigned Subcontractor \ Supplier further agrees to indemnify and hold harmless the Owner, Contractor and/or Contractor's surety (if any) and the City of Orlando from any and all claims that may arise in violation and/or contradiction of this document and/or pursuant to said work done, materials and/or equipment furnished through the above referenced date.

DATED on _____ 20__

NAME OF COMPANY

NAME OF AUTHORIZED AGENT

SIGNATURE OF AUTHORIZED AGENT

TITLE

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME, the undersigned officer, personally appeared _____ as _____ of _____ who is personally known to me or presented _____ as identification, and who did ____ take an oath, and who is known to me to be the person described in and who executed the forgoing instrument, and acknowledged to and before me that he/she is authorized to execute the forgoing instrument in the capacity and for the purposes therein expressed.

Signature of Notary _____

My Commission # and Expiration:

EXHIBIT "I"

MONTHLY PROGRESS REPORT/FINAL REPORT

A. Project Information

Agency: West Lakes Phase II, LP

Project Title: Pendana at West Lakes Senior Residences

Project Start Up Date:

Estimated Project Completion Date:

B. Project Financial Summary

	Amount	Funds Invoiced to Date	Percentage (%)
Other Funding			
HOME Funding			
Total Funding			

Percentage of Project Completed to Date: _____ % (Monthly ____ Final ____)

C. Comments (Please answer all questions)

1. Describe specific tasks completed this month.

EXHIBIT “J”

Home-Assisted Units

UNIT MIX BREAKDOWN

<u>Very Low-Income (50%)</u>
7 Units
(7 Units) 1-bedroom/1 bath (specific units with street addresses and apartment numbers must be designated no later than initial occupancy)
LOW HOME Rents

EXHIBIT “K”

CITY OF ORLANDO HOME AGREEMENT

West Lakes Phase II, LP

The Tenant Qualification package must include the following:

1. City Assistance Application
2. Client Tax Returns, if applicable
3. Income verification
 - Third party verification, if available
 - 2 months of recent paystubs or wage statements
 - Alternatives sources of income
 - Social Security
 - Social Security Income
 - Unemployment
 - Child Support
 - Alimony
4. Asset verification
 - Bank Statements (for checking accounts – provide most recent 6 months and for savings accounts – provide most current statement)
 - 401k/retirement/investment

ANNUAL INCOME AS DEFINED IN 24 CFR PART 5

The Part 5 definition of annual income is the gross amount of income of all adult household members that is anticipated to be received during the coming 12- month period.

For additional guidance, refer to the “Technical Guide for Determining Income and Allowances for the HOME Program”, Third Edition, January 2005, or as updated by HUD and the City.

EXHIBIT “L”

RESIDENT INCOME CERTIFICATION - RENTAL HOUSING

HOME Program

Property Name Pendana at West Lakes Senior Residences

A. Effective Date: _____ _____ Initial Certification (IC)
 Move-In Date: _____ _____ Annual Recertification (AR)

B. Subsidy Use (check one)

<input type="checkbox"/>	Multifamily Rental	<input type="checkbox"/>	Other
<input type="checkbox"/>	Transitional Housing	<input type="checkbox"/>	

C. Household Information

Member	Names - All Household Members	Relationship	Age
1			
2			
3			
4			
5			
6			
7			

D. Assets: All household members including minors

Member	Asset Description	Cash Value	Income from Assets
1			
2			
3			
4			
5			
6			
7			
Total Cash Value of Assets		D(a) \$	
Total Income from Assets		D(b)	\$
If line D(a) is greater than \$5,000, multiply that amount by the rate specified by HUD (applicable rate <u>2.0</u> %) and enter results in D(c), otherwise leave blank.		D(c)	\$

E. **Anticipated Annual Income:** Includes unearned income and support paid on behalf of minors.

Member	Wages / Salaries (include tips, commission, bonuses and overtime)	Benefits / Pensions	Public Assistance	Other Income	Asset Income
1					(Enter the greater of box D(b) or box D(c), above, in box E(e) below)
2					
3					
4					
5					
6					
7					
	(a)	(b)	(c)	(d)	(e)
Totals	\$	\$	\$	\$	\$
Enter total of items E(a) through E(e). This amount is the Annual Anticipated Household Income					\$

F. **Resident Statement:** The information on this form is to be used to determine maximum income for eligibility. I/we have provided, for each person set forth in Item C, acceptable verification of current and anticipated annual income. I/we certify that the statements are true and complete to the best of my/our knowledge and belief and are given under penalty of perjury.

WARNING: Florida Statute 817 provides that willful false statements or misrepresentation concerning income and assets or liabilities relating to financial condition is a misdemeanor of the first degree and is punishable by fines and imprisonment provided under S 775.082 or 775.83.

Signature of Head of Household _____ Date _____

Signature of Spouse or Co-Head of Household _____ Date _____

G. **Administrator Statement:** Based on the representations herein, and upon the proofs and documentation submitted pursuant to item F, hereof, the family or individual(s) named in item C of this Resident Income Certification is/are eligible under the HOME provisions and the family or individual(s) constitute(s) a: (check one)

Very Low Income (VLI) Household means individuals or families whose annual income does not exceed 50% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Sixty Percent Income Household means individuals or families whose annual income does not exceed 60% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Low Income (LI) Household - means individuals or families whose annual income does not exceed 80% of the area median income as determined by the U.S. Department of Housing and Urban Development with adjustments for household size (maximum Income Limit \$ _____).

Based upon the _____ (year) income limits for _____ Metropolitan Statistical Area (MSA) or County, Florida.

Signature of the Administrator or His/Her Designated Representative:

(Signature) _____

Name _____
(Print or type name)

Title _____

Date _____

H. Household Data (to be completed by Administrator or designee)

Number of Persons									
By Race / Ethnicity						By Age			
White	Black	Hispanic	Asian	American Indian	Other	0 - 25	26 - 40	41 - 61	62 +

Unit Information			Special Target / Special Needs (Check all that apply)				
Number of Residents	Tenant Rent	Number of Bedrooms	Farmworker	Developmentally Disabled	Homeless	Elderly	Other
						xxxxxx	

NOTE: Information concerning the race or ethnicity of the occupants is being gathered for statistical use only. No occupant is required to give such information unless he or she desires to do so, and refusal to give such information will not affect any right he or she has as an occupant.

Exhibit M

2018 UTILITY SCHEDULE FOR ORLANDO AND SANFORD HOUSING AUTHORITY EFFECTIVE 1/1/2018

Allowances for Tenant-Furnished Utilities And Other Services

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Locality:	Orange County, Florida	Unit Type:	Duplex, Triplex, Attached, Garden, Apartment With 2-4 Floors					Date: 1/1/2018	
Utility or Service		Monthly Dollar Allowances; Number of Bedrooms							
		0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	6BR	
Heating	a. Natural Gas	\$2	\$3	\$4	\$5	\$6	\$7	\$ 8	
	b. Electric Resistance	\$3	\$4	\$5	\$6	\$9	\$11	\$ 12	
	c. Heat Pump	\$1	\$2	\$2	\$3	\$4	\$4	\$ 4	
	d. LPG/Propane	\$10	\$14	\$17	\$21	\$27	\$31	\$ 33	
Cooking	a. Natural Gas	\$4	\$6	\$7	\$8	\$10	\$11	\$ 12	
	b. Electric	\$6	\$8	\$10	\$12	\$13	\$15	\$ 17	
	c. LPG/Propane	\$20	\$26	\$32	\$39	\$45	\$51	\$ 57	
Other Electric/Lighting		\$26	\$37	\$49	\$60	\$71	\$83	\$ 92	
Air Conditioning		\$9	\$21	\$34	\$50	\$68	\$83	\$ 93	
Water Heating	a. Natural Gas	\$7	\$13	\$20	\$27	\$33	\$40	\$ 45	
	b. Electric	\$7	\$16	\$24	\$33	\$41	\$49	\$ 55	
	c. LPG/Propane	\$31	\$62	\$93	\$124	\$155	\$186	\$ 106	
Water	a. Orlando	\$10	\$10	\$12	\$15	\$18	\$23	\$ 26	
	b. Winter Park	\$10	\$11	\$13	\$18	\$26	\$34	\$ 38	
	c. Apopka	\$11	\$13	\$16	\$20	\$25	\$31	\$ 34	
	d. Winter Garden	\$9	\$10	\$12	\$15	\$18	\$22	\$ 25	
Sewer	a. Orlando	\$27	\$31	\$39	\$51	\$63	\$76	\$ 85	
	b. Winter Park	\$16	\$20	\$29	\$41	\$54	\$67	\$ 75	
	c. Apopka	\$19	\$21	\$26	\$32	\$39	\$44	\$ 49	
	d. Winter Garden	\$15	\$18	\$24	\$34	\$43	\$43	\$ 48	
Trash	a. Orlando	\$19	\$19	\$19	\$19	\$19	\$19	\$ 19	
	b. Winter Park	\$19	\$19	\$19	\$19	\$19	\$19	\$ 19	
	c. Apopka	\$17	\$17	\$17	\$17	\$17	\$17	\$ 17	
	d. Winter Garden	\$19	\$19	\$19	\$19	\$19	\$19	\$ 19	
Gas Fixed Monthly Charge (any use of gas)		\$13	\$13	\$13	\$13	\$13	\$13	\$ 13	
Range/Microwave		\$7	\$7	\$7	\$7	\$7	\$7	\$ 7	
Refrigerator		\$7	\$7	\$7	\$7	\$7	\$7	\$ 7	
Other-Specify									

Actual Family Allowances To be used by the family to compute allowance. Complete below for the actual unit rented.		
Name of Family		
1-\$127	2-\$173	3- \$227
Address of Unit		
Number of Bedrooms		

Utility or Service	Monthly Rate
Heating	
Cooking	
Other Electric	
Air Conditioning	
Water Heating	
Water	
Sewer	
Trash Collection	
Range/Microwave	
Refrigerator	
Gas Monthly Charge	
Total	\$

Note: if natural gas is used for any purpose, add fixed monthly charge of \$13

EXHIBIT “N”

CERTIFICATION OF OTHER FINANCIAL ASSISTANCE*

PROJECT NAME: Pendana at West Lakes Senior Residences

I, _____, Owner _____ or Owner’s Representative _____
hereby certify the following:

1. _____ The following assistance has been or is to be provided to the Project:

_____ (Amount)	_____ (Source)
-------------------	-------------------

_____ (Amount)	_____ (Source)
-------------------	-------------------

_____ (Amount)	_____ (Source)
-------------------	-------------------

OR

2. _____ No other assistance (governmental or non-governmental) has been provided at the time of application for HOME funding nor is any other assistance anticipated in the future.

I also certify that should other assistance be sought in the future, the City of Orlando will be notified within 15 days of application for other assistance.

(Signature)

(Date)

*Assistance includes any loan, grant, (including Community Development Block Grant), guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from any source, including, governmental or non-governmental, the federal, state or local government for use in, or in connection with, a specific housing project.

EXHIBIT “O”

AFFIRMATIVE MARKETING PROCEDURES AND REQUIREMENTS

In 1973 the City of Orlando and its City Council created a Human Relations Board under Chapter 57 of the Code of the City of Orlando, as amended, to undertake the following functions:

1. To foster mutual understanding and respect among all racial, religious and ethnic groups in the City of Orlando;
2. To encourage equality of treatment for, and prevent discrimination against, any racial, religious or ethnic group of its members;
3. To cooperate with governmental and nongovernmental agencies and organizations having like or kindred functions;
4. To make such investigations and studies in the field of human relations as in the judgment of the Board will aid in effectuating its general purposes;
5. To assist various groups and agencies of the community to cooperate in education campaigns devoted to the elimination of groups prejudices, racial tension, intolerance or discrimination;
6. To aid in permitting the City of Orlando to benefit from the fullest realization of its human resources; and
7. To accept grants and donations on behalf of the City from foundations and others for the purpose of carrying out the above listed functions, subject to the approval of the Mayor and City Council.

The Office of Human Relations (OHR) is responsible for the administration of Chapter 57, as amended, and has applied for designation as a “substantial equivalency” agency of the Department of Housing and Urban Development.

Affirmative marketing steps consist of good faith efforts and actions to provide information and otherwise attract eligible persons from all racial, ethnic and gender groups in the housing market area to the available housing. The Office of Human Relations will assist the Housing Department to undertake the following steps to ensure the affirmative marketing of HOME-assisted housing containing five or more units:

Provision of Fair Housing Information

The City of Orlando will disseminate fair housing information through its Office of Human Relations (OHR). In addition to being responsible for the enforcement of fair housing laws, the OHR will assist in the implementation of affirmative marketing techniques. Some of the activities the OHR will undertake related to the provision of fair housing information are: to conduct periodic workshops and seminars, to distribute information on available housing, housing programs for low and moderate income persons, sources for housing counseling and credit, etc. to neighborhood centers and to residents through homeowner and neighborhood associations. In addition, the OHR is in the process of instituting a fair housing reference library as a central source of information on fair housing in the community.

Compliance

Any program, office, organization or owner implementing or participating in HOME-assisted activities will undertake the following procedures in marketing units under the HOME program:

- Display Fair Housing posters in the respective offices
- Use the Equal Housing Opportunity logotype or slogan in press releases and solicitations for owners and tenants
- Include in any published information that the project provides fair housing opportunities.

In addition, program participants will be required to take one or more of the following minimum steps to ensure that applications are solicited from persons in the housing market areas who are not likely to apply for the housing without special outreach:

- Notice of the availability of the units will be provided to community groups such as neighborhood associations and other non-profit service organizations.
- Notice of the availability of units will be published in community newspapers.
- Notify the Metropolitan Orlando Urban League, the Coalition for the Homeless of Orlando, Inc., and/or the Central Florida Housing and Development Services, Inc. (HANDS) of any units available for rent.

Maintenance of Records

Each applicant must submit to the City of Orlando copies of advertisements, letters, or other documentation which evidences the outreach and fair housing efforts undertaken to market units.

The City of Orlando will monitor compliance with this requirement,

will maintain the records submitted and will assess the results of these efforts on a quarterly basis. When affirmative marketing requirements are not met, the City staff will provide technical assistance and counseling to remedy the problem. If a subsequent evaluation shows that affirmative marketing requirements are still not being met, the City will have the option of working closer with the recipient or of withholding funding until compliance is achieved, or as a last resort calling due any loans or assistance that may have been disbursed.

Exhibit "P"
Daily Progress Report

[illegible]

Contractor Signature & Title

EXHIBIT “Q”

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE FOR CONTRACTS SUBJECT TO EXECUTIVE ORDER 11246

In carrying out this Agreement, West Lakes and its contractors and subcontractors shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. West Lakes shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such employment practices shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. West Lakes shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this nondiscrimination clause. West Lakes shall state in all job postings, solicitations, or advertisements for employees that it is an Equal Opportunity Employer. West Lakes shall also post that it is an Equal Opportunity Employer in a visible place in the office.

ELECTRONIC CODE OF FEDERAL REGULATIONS**e-CFR data is current as of August 15, 2017**Title 24 → Subtitle A → Part 5 → Subpart A → §5.106

Title 24: Housing and Urban Development
 PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS
 Subpart A—Generally Applicable Definitions and Requirements; Waivers

§5.106 Equal access in accordance with the individual's gender identity in community planning and development programs.

(a) *Applicability.* This section applies to assistance provided under Community Planning and Development (CPD) programs, including assistance under the following CPD programs: HOME Investment Partnerships program (24 CFR part 92), Housing Trust Fund program (24 CFR part 93), Community Development Block Grant program (24 CFR part 570), Housing Opportunities for Persons With AIDS program (24 CFR part 574), Emergency Solutions Grants program (24 CFR part 576), Continuum of Care program (24 CFR part 578), or Rural Housing Stability Assistance Program (24 CFR part 579). The requirements of this section apply to recipients and subrecipients, as well as to owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in whole or in part by any CPD program.

(b) *Equal access in accordance with gender identity.* The admissions, occupancy, and operating policies and procedures of recipients, subrecipients, owners, operators, managers, and providers identified in paragraph (a) of this section, including policies and procedures to protect privacy, health, safety, and security, shall be established or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:

(1) Equal access to CPD programs, shelters, other buildings and facilities, benefits, services, and accommodations is provided to an individual in accordance with the individual's gender identity, and in a manner that affords equal access to the individual's family;

(2) An individual is placed, served, and accommodated in accordance with the gender identity of the individual;

(3) An individual is not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's gender identity; and

(4) Eligibility determinations are made and assisted housing is made available in CPD programs as required by §5.105(a)(2).

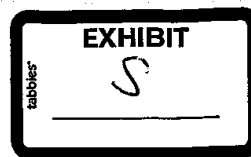
(c) *Placement and accommodation in temporary, emergency shelters and other buildings and facilities with shared sleeping quarters or shared bathing facilities—(1) Placement and accommodation.* Placement and accommodation of an individual in temporary, emergency shelters and other buildings and facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or shared bathing facilities shall be made in accordance with the individual's gender identity.

(2) *Post-admission accommodations.* A recipient, subrecipient, owner, operator, manager, or provider must take nondiscriminatory steps that may be necessary and appropriate to address privacy concerns raised by residents or occupants and, as needed, update its admissions, occupancy, and operating policies and procedures in accordance with paragraph (b) of this section.

(d) *Documentation and record retention.* Providers shall document and maintain records of compliance with the requirements in paragraph (b) of this section for a period of 5 years.

[81 FR 64782, Sept. 21, 2016]

Need assistance?

**ELECTRONIC CODE OF FEDERAL REGULATIONS****e-CFR data is current as of August 15, 2017**

Title 24 → Subtitle A → Part 5 → Subpart A → §5.111

Title 24: Housing and Urban Development
PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS
Subpart A—Generally Applicable Definitions and Requirements; Waivers

§5.111 Housing counseling.

(a) Any housing counseling, including homeownership counseling or rental housing counseling, as defined in §5.100, required under or provided in connection with any program administered by HUD shall be provided only by organizations and counselors certified by the Secretary under 24 CFR part 214 to provide housing counseling, consistent with 12 U.S.C. 1701x.

(b) For purposes of this section, *required under or provided in connection with any program administered by HUD* means:

(1) Housing counseling required by statute, regulation, Notice of Funding Availability (NOFA), or otherwise required by HUD;

(2) Housing counseling that is funded under a HUD program;

(3) Housing counseling that is required by a grantee or subgrantee of a HUD program as a condition of receiving assistance under the HUD program; or

(4) Housing counseling to which a family assisted under a HUD program is referred, by a grantee or subgrantee of the HUD program.

[81 FR 90657, Dec. 14, 2016]

Need assistance?

EXHIBIT “T”

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development (“HUD”) 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. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the Project area and 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 area of the Project.
- B. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this Agreement certify and agree that they are under no contractual agreement or other disability which would prevent them from complying with these requirements.
- C. West Lakes will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers’ representative of his commitments under this Section 3 Clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. 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, the name and location of the persons taking applications for each of the positions, and the anticipated date the work shall begin.
- D. West Lakes will include this Section 3 Clause in every subcontract for work in connection with the Project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that West Lakes is in violation of the regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. West Lakes will not subcontract with any agency where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, and will not let any subcontract unless the agency has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- E. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the contract shall be a condition of the Federal financial assistance provided to the Project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its subrecipients, and its successors, and assigns to those sanctions specified by the HOME Program Agreement or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135, which include termination of this Agreement for default and debarment and suspension from future HUD-assisted contracts.

EXHIBIT "U"

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grant and contracts under grants, and cooperative agreements) and that West Lakes shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed 31 U.S.C. §1352. Any person who fails to file this required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

West Lakes Phase II, LP
a Florida limited partnership (Seal)

By: Lift Orlando, Inc.,
a Florida not-for-profit corporation
Its General Partner

By: _____
Eddy Moratin, its President

Date: _____

EXHIBIT “V”

AFFIDAVIT

Federal Funding Accountability and Transparency Act (FFATA)

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The FFATA Subaward Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS will then be displayed on www.USASpending.gov associated with the prime award furthering Federal spending transparency.

The Transparency Act requires information disclosure concerning entities receiving Federal financial assistance through Federal awards such as Federal contracts, sub-contracts, grants, and sub-grants.

Specifically, the Transparency Act’s section 2(b)(1) requires the City to provide the following information about each Federal award:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type,
- Location of the entity receiving the award and primary location of performance under the award;
- Unique identifier of the entity receiving the award and the parent entity of the recipient;
- Names and total compensation of the five most highly compensated officers of the entity if the entity

In the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

I, _____ (print name), hereby swear or affirm that:

I read and understand the information provided above.

I have personal knowledge of the facts I am attesting to in this affidavit.

(please check one of the following)

_____ I attest that _____(agency name) **does not** meet the above threshold requiring names and total compensation of the five most highly compensated officers of the entity if the entity.

_____ I attest that _____(agency name) **does** meet the above threshold* requiring names and total compensation of the five most highly compensated officers of the entity if the entity.

*If agency meets the above threshold, the agency **MUST** attach a spreadsheet with the names and total compensation of the five most highly compensated officers of the entity, signed and dated by the one of the following: President; Executive Director; CEO; Board Chairperson; Finance Director; CFO; or Treasurer.

I understand that the submission of a false affidavit is punishable as a second-degree misdemeanor under Florida law.

Signature of President/Executive Director/Board Chair

Printed Name of President/Executive Director/Board Chair

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING was acknowledged before me this _____ day of _____, 2018, by Eddy Moratin, as President of Lift Orlando Inc., a Florida not-for profit corporation, the General Partner of **West Lakes Phase II, LP**, a Florida limited partnership. He/She ☐ is personally known to me or ☐ who has produced _____ as identification.

Notary Public
My Commission Expires:

EXHIBIT “W”

Contract Work Hours and Safety Standards Act

The provisions of this paragraph are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms “laborers” and “mechanics” include watchmen and guards.

(1) **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty (40) hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.

(2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (b)(1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b)(1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under such contract of any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b)(2) of this paragraph.

(4) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (b)(1) through (4) of this paragraph.

Health and Safety:

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as

determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

- (2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29, Part 1926 (formerly Part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act. **40 USC 3701 et seq.**
- (3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT "X"

Federal Labor Standards Provisions U.S. Department of Housing and Urban Development

Office of Labor Relations Previous editions are obsolete

Page 1 of 5 form HUD-4010 (06/2009) ref. Handbook 1344.1

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the

work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics

includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part [Previous editions are obsolete [Page 2 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1] of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid

(including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its

designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete; [Previous editions are obsolete Page 3 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1]

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be

necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be

paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by Previous editions are obsolete [Page 4 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1] the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements.

The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the

purpose of influencing in any way the action of such Administration makes, utters or publishes any statement knowing the same to be false. shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages

required by the clause set forth in sub paragraph (1) of this paragraph. Previous editions are obsolete [Page 5 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1] **(3) Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

ATTACHMENT #1

8/9/2018

<https://www.wdol.gov/wdol/scaffiles/davisbacon/FL120.dvb?v=0>

General Decision Number: FL180120 01/05/2018 FL120

Superseded General Decision Number: FL20170120

State: Florida

Construction Type: Residential

County: Orange County in Florida.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/05/2018

ENGI0673-009 05/01/2013

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Crawler Crane, Hydro		
Crane, Locomotive Crane,		
Tower Crane, Truck Crane....	\$ 23.50	9.05
Gantry Crane, Bridge Crane..	\$ 22.70	9.05
Oiler.....	\$ 19.52	9.05

* IRON0808-003 02/01/2017

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.03	12.95

SUFL2009-116 06/08/2009

	Rates	Fringes
BRICKLAYER.....	\$ 20.00	0.00
CARPENTER, Excludes Form Work....	\$ 11.85	3.29
CEMENT MASON/CONCRETE FINISHER...	\$ 12.19	0.00
ELECTRICIAN.....	\$ 11.98	0.00

<https://www.wdol.gov/wdol/scaffiles/davisbacon/FL120.dvb?v=0>

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FENCE ERECTOR.....	\$ 13.50	1.06
FORM WORKER.....	\$ 14.00	0.54
INSULATOR: Batt and Blown.....	\$ 12.01	0.00
IRONWORKER, ORNAMENTAL.....	\$ 12.60	0.00
IRONWORKER, REINFORCING.....	\$ 16.88	0.00
LABORER: Common or General.....	\$ 9.50	0.00
LABORER: Mason Tender - Brick...	\$ 11.51	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 10.46	0.00
LABORER: Pipelayer.....	\$ 11.79	0.00
LABORER: Roof Tearoff.....	\$ 9.00	0.00
LABORER: Landscape and Irrigation.....	\$ 9.15	0.00
OPERATOR: Asphalt Paver.....	\$ 12.07	0.00
OPERATOR: Backhoe Loader Combo.....	\$ 17.04	0.00
OPERATOR: Backhoe/Excavator.....	\$ 12.56	0.00
OPERATOR: Bulldozer.....	\$ 12.14	0.00
OPERATOR: Distributor.....	\$ 11.57	0.00
OPERATOR: Forklift.....	\$ 17.38	0.00
OPERATOR: Grader/Blade.....	\$ 15.50	0.00
OPERATOR: Loader.....	\$ 11.10	0.00
OPERATOR: Roller.....	\$ 11.02	0.00
OPERATOR: Screed.....	\$ 11.08	0.00
OPERATOR: Trackhoe.....	\$ 15.68	0.00
OPERATOR: Tractor.....	\$ 10.20	0.00
PAINTER: Brush, Roller and Spray.....	\$ 13.61	0.00
PLASTERER.....	\$ 13.59	0.00
PLUMBER.....	\$ 15.04	0.00
ROOFER, Includes Built Up, Modified Bitumen, and Shake & Shingle Roofs (Excludes Metal Roofs).....	\$ 13.33	0.00
ROOFER: Metal Roof.....	\$ 16.99	0.00
SHEET METAL WORKER, Includes		

HVAC Duct Installation (Excludes Metal Roof Installation).....	\$ 9.95	0.00
TRUCK DRIVER, Includes Dump Truck.....	\$ 10.22	0.00
TRUCK DRIVER: 4 Axle Truck.....	\$ 11.78	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 12.10	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing

the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial

contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Exhibit “Y”

**CERTIFICATION REGARDING
DRUG-FREE WORKPLACE REQUIREMENTS**

The certification set out below is a material representation upon which reliance is placed by the City of Orlando and the U.S. Department of Housing and Urban Development (“HUD”) in awarding the Loan. If it is later determined that West Lakes knowingly rendered a false certification or otherwise violates the requirements of the Drug-Free Workplace Act, the Housing Department and/or the HUD, in addition to any other remedies available to the federal government, may take action authorized under the Drug-Free Workplace Act. West Lakes will comply with the other provisions of the Act and with other applicable laws.

CERTIFICATION

1. West Lakes certifies that it will provide a drug-free workplace by:
 - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in West Lakes’ workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - B. Establishing an ongoing drug-free awareness program to inform employees about:
 1. the dangers of drug abuse in the workplace;
 2. West Lakes’ policy of maintaining a drug-free workplace;
 3. any available drug counseling, rehabilitation and employee assistance programs; and
 4. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - C. Making it a requirement that each employee be engaged in the performance of the grant be given a copy of the statement required by paragraph (A).
 - D. Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the Loan, the employee will:
 1. Abide by the terms of the statement; and
 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction
 - E. Notify the City’s Housing and Community Development Department and/or the HUD in writing within ten (10) calendar days after receiving notice under subparagraph (D)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has

designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

- F. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (D)(2), with respect to any employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement or other appropriate agency.
 - G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A), (B), (C), (D), (E) and (F).
2. West Lakes shall insert in the space provided on the attached "Place of Performance" form the site(s) for the performance of work to be carried out with the Loan funds (including street address, city, county, state, zip code and total estimated number of employees). West Lakes further certifies that, if it is subsequently determined that additional sites will be used for the performance of work under the Loan, it shall notify the City's Housing and Community Development Department and/or HUD immediately upon the decision to use such additional sites by submitting a revised "Place of Performance" form.

Name of Subgrantee:	West Lakes Phase II, LP
Loan Program Name:	HOME Program/Entitlement Loan
Grant:	_____
Date:	_____

2205 Orange Center Blvd.
Orlando, FL 32805

**West Lakes Phase II, LP, a Florida
limited partnership (Seal)**

**By: Lift Orlando, Inc., a Florida not-for-profit corporation,
Its General Partner**

By: _____
Eddy Moratin, Its President

Date: _____



ELECTRONIC CODE OF FEDERAL REGULATIONS

Title 24 → Subtitle A → Part 5 → Subpart A → §5.109

Title 24: Housing and Urban Development
 PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS
 Subpart A—Generally Applicable Definitions and Requirements; Waivers

§5.109 Equal participation of faith-based organizations in HUD programs and activities.

(a) *Purpose.* Consistent with Executive Order 13279 (issued on December 12, 2002, 67 FR 77141), entitled "Equal Protection of the Laws for Faith-Based and Community Organizations," as amended by Executive Order 13559 (issued on November 17, 2010, 75 FR 71319), entitled "Fundamental Principles and Policymaking Criteria for Partnerships With Faith-Based and Other Neighborhood Organizations," this section describes requirements for ensuring the equal participation of faith-based organizations in HUD programs and activities. These requirements apply to all HUD programs and activities, including all of HUD's Native American Programs, except as may be otherwise noted in the respective program regulations in title 24 of the Code of Federal Regulations (CFR), or unless inconsistent with certain HUD program authorizing statutes.

(b) *Definitions.* The following definitions apply to this section:

Direct Federal financial assistance means Federal financial assistance provided when a Federal Government agency or an intermediary, as defined in this section, selects the provider and either purchases services from that provider (*i.e.*, via a contract) or awards funds to that provider to carry out an activity (*e.g.*, via grant, sub-grant, sub-award, or cooperative agreement). The recipients of sub-grants or sub-awards that receive Federal financial assistance through State-administered programs (*e.g.*, flow-through programs) are considered recipients of direct Federal financial assistance. In general, Federal financial assistance shall be treated as direct, unless it meets the definition of indirect Federal financial assistance.

Federal financial assistance means assistance that non-Federal entities receive or administer in the forms of grants, contracts, loans, loan guarantees, property, cooperative agreements, food commodities, direct appropriations, or other assistance, but does not include a tax credit, deduction, or exemption.

Indirect Federal financial assistance means Federal financial assistance provided when the choice of the provider is placed in the hands of the beneficiary, and the cost of that service is paid through a voucher, certificate, or other similar means of Government-funded payment. Federal financial assistance provided to an organization is considered indirect when the Government program through which the beneficiary receives the voucher, certificate, or other similar means of Government-funded payment is neutral toward religion; the organization receives the assistance as a result of a decision of the beneficiary, not a decision of the Government; and the beneficiary has at least one adequate secular option for the use of the voucher, certificate, or other similar means of Government-funded payment.

Intermediary means an entity, including a nongovernmental organization, acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that accepts Federal financial assistance and distributes that assistance to other entities that, in turn, carry out activities under HUD programs.

(c) *Equal participation of faith-based organizations in HUD programs and activities.* Faith-based organizations are eligible, on the same basis as any other organization, to participate in HUD programs and activities. Neither the Federal Government, nor a State, tribal or local government, nor any other entity that administers any HUD program or activity, shall discriminate against an organization on the basis of the organization's religious character or affiliation, or lack thereof. In addition, decisions about awards of Federal financial assistance must be free from political interference or even the appearance of such interference and must be made on the basis of merit, not based on the religious character or affiliation, or lack thereof, of an organization.

(d) *Separation of explicitly religious activities from direct Federal financial assistance.*

https://www.ecfr.gov/cgi-bin/text-idx?SID=44eb4a221e304cb8a152f62f65ac631&mc=true&node=se24.1.5_11092rgn=div8

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(1) A faith-based organization that applies for, or participates in, a HUD program or activity supported with Federal financial assistance retains its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct Federal financial assistance that it receives (e.g., via contract, grant, sub-grant, sub-award or cooperative agreement) to support or engage in any explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), or in any other manner prohibited by law.

(2) A faith-based organization that receives direct Federal financial assistance may use space (including a sanctuary, chapel, prayer hall, or other space) in its facilities (including a temple, synagogue, church, mosque, or other place of worship) to carry out activities under a HUD program without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization participating in a HUD program or activity retains its authority over its internal governance, and may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(e) *Explicitly religious activities.* If an organization engages in explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), the explicitly religious activities must be offered separately, in time or location, from the programs or activities supported by direct Federal financial assistance and participation must be voluntary for the beneficiaries of the programs or activities that receive direct Federal financial assistance.

(f) *Intermediary responsibilities to ensure equal participation of faith-based organizations in HUD programs.* If an intermediary—acting under a contract, grant, or other agreement with the Federal Government or with a State, tribal or local government that is administering a program supported by Federal financial assistance—is given the authority to select a nongovernmental organization to receive Federal financial assistance under a contract, grant, sub-grant, sub-award, or cooperative agreement, the intermediary must ensure that such organization complies with the requirements of this section. If the intermediary is a nongovernmental organization, it retains all other rights of a nongovernmental organization under the program's statutory and regulatory provisions.

(g) *Beneficiary protections.* Faith-based organizations that carry out programs or activities with direct Federal financial assistance from HUD must give written notice to beneficiaries and prospective beneficiaries of the programs or activities describing certain protections available to them, as provided in this subsection. In addition, if a beneficiary or prospective beneficiary objects to the religious character of the organization carrying out the programs or activities, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider to which the beneficiary or prospective beneficiary has no such objection.

(1) *Written notice.* The written notice must state that:

(i) The organization may not discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice;

(ii) The organization may not require beneficiaries to attend or participate in any explicitly religious activities that are offered by the organization, and any participation by beneficiaries in such activities must be purely voluntary;

(iii) The organization must separate, in time or location, any privately funded explicitly religious activities from activities supported by direct Federal financial assistance;

(iv) If a beneficiary objects to the religious character of the organization, the organization must undertake reasonable efforts to identify and refer the beneficiary to an alternative provider to which the beneficiary has no such objection; and

(v) Beneficiaries or prospective beneficiaries may report an organization's violation of these protections, including any denial of services or benefits by an organization, by contacting or filing a written complaint to HUD or the intermediary, if applicable.

(2) *Timing of notice.* The written notice must be given to prospective beneficiaries before they enroll in any HUD program or activity. When the nature of the program or activity or exigent circumstances make it impracticable to provide the written notice in advance, the organization must provide written notice to beneficiaries of their protections at the earliest available opportunity.

(3) *Referral requirements.* (i) If a beneficiary or prospective beneficiary of a program or activity that receives direct Federal financial assistance from HUD objects to the religious character of an organization that carries out the program or activity, that organization must promptly undertake reasonable efforts to identify and refer the beneficiary or prospective beneficiary to an alternative provider to which the beneficiary or prospective beneficiary has no such objection.

(ii) A referral may be made to another faith-based organization, if the beneficiary or prospective beneficiary has no objection to that provider based on the provider's religious character. But if the beneficiary or prospective beneficiary requests a secular provider, and a secular provider is available, then a referral must be made to that provider.

(iii) Except for activities carried out by telephone, Internet, or similar means, the referral must be to an alternative provider that is in reasonable geographic proximity to the organization making the referral and that carries out activities that are similar in substance and quality to those offered by the organization. The alternative provider also must have the capacity to accept additional beneficiaries.

(iv) If the organization determines that it is unable to identify an alternative provider, the organization shall promptly notify the intermediary or, if there is no intermediary, HUD. If HUD or an intermediary is notified that an organization is unable to identify an alternative provider, HUD or the intermediary, as appropriate, shall promptly determine whether there is any other suitable alternative provider to which the beneficiary or prospective beneficiary may be referred. An intermediary that receives a request for assistance in identifying an alternative provider may request assistance from HUD.

(4) *Recordkeeping.* A faith-based organization providing a referral under paragraph (g)(3) of this section must document a beneficiary or prospective beneficiary's request for a referral, whether the beneficiary or prospective beneficiary was referred to another provider, to which provider the beneficiary or prospective beneficiary was referred, and if the beneficiary or prospective beneficiary contacted the alternative provider, unless the beneficiary or prospective beneficiary requests no follow up.

(h) *Nondiscrimination requirements.* Any organization that receives Federal financial assistance under a HUD program or activity shall not, in providing services or carrying out activities with such assistance, discriminate against a beneficiary or prospective beneficiary on the basis of religion, religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. However, this section does not require any organization that only receives indirect Federal financial assistance to modify its program or activities to accommodate a beneficiary that selects the organization to receive indirect aid.

(i) *Exemption from Title VII employment discrimination requirements.* A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in section 702(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1), is not forfeited when the organization participates in a HUD program. Some HUD programs, however, contain independent statutory provisions that impose certain nondiscrimination requirements on all grantees. Accordingly, grantees should consult with the appropriate HUD program office to determine the scope of applicable requirements.

(j) *Acquisition, construction, and rehabilitation of structures.* Direct Federal financial assistance may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under a HUD program or activity. Where a structure is used for both eligible and explicitly religious activities (including activities that involve overt religious content such as worship, religious instruction, or proselytization), direct Federal financial assistance may not exceed the cost of the share of acquisition, construction, or rehabilitation attributable to eligible activities in accordance with the cost accounting requirements applicable to the HUD program or activity. However, acquisition, construction, or rehabilitation of sanctuaries, chapels, or other rooms that a HUD-funded faith-based organization uses as its principal place of worship, may not be paid with direct Federal financial assistance. Disposition of real property by a faith-based organization after its use for an authorized purpose, or any change in use of the property from an authorized purpose, is subject to Government-wide regulations governing real property disposition (2 CFR part 200, subpart D) and the HUD program regulations, as directed by HUD.

(k) *Commingling of Federal and State, tribal, and local funds.* If a State, tribal, or local government voluntarily contributes its own funds to supplement direct Federal financial assistance for an activity, the State, tribal or local government has the option to segregate those funds or commingle them with the direct Federal financial assistance. However, if the funds are commingled, the requirements of this section apply to all of the commingled funds. Further, if a State, tribal, or local government is required to contribute matching funds to supplement direct Federal financial assistance for an activity, the matching funds are considered commingled with the direct Federal financial assistance and, therefore, subject to the requirements of this section. Some HUD programs' requirements govern any activity assisted under those programs. Accordingly, recipients should consult with the appropriate HUD program office to determine the scope of applicable requirements.

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