

FEDERALLY-FUNDED SUBAWARD AND FUNDING ASSISTANCE AGREEMENT

The following information is provided pursuant to 2 C.F.R. §200.331(a)(1):

Name of sub-recipient: **Southwest Florida Affordable Housing Choice Foundation Inc.**

SAM Organization Identifier: **GHUWWYN7DPG5**

ARPA Unique Identification Number: **ARPA-NE215A**

Federal Award Identification Number: **SLT-2390**

Federal Award Date: **June 14, 2021 (first payment/tranche received)**

Subaward Period of Performance: Start Date: **July 1, 2022**

Subaward Period of Performance: End Date: **September 30, 2024**

Total Amount Obligated by this Action: **\$ 5,000,000**

Total Federal Obligation by Lee County to Sub-recipient: (including this obligation) \$
5,291,811.00

Total Federal Award Commitments by Lee County to Sub-recipient: **\$ 5,000,000**

Award is R&D: **NO**

Program Description: On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law by the President. Section 9901 of ARPA amended Title VI of the Social Security Act (the Act) to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the Fiscal Recovery Funds). The Fiscal Recovery Funds are intended to provide support to state, local, and tribal governments (together, recipients) in responding to the impact of COVID–19 and in their efforts to contain COVID–19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (C.R.F.).

The American Rescue Plan will deliver \$350 billion for state, local, territorial, and tribal governments to respond to the COVID-19 emergency and restore jobs. The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- Support public health expenditures by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- Address negative economic impacts caused by the public health emergency, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- Replace lost public sector revenue by using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;

- Provide premium pay for essential workers by offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- Invest in water, sewer, and broadband infrastructure by making necessary investments to improve access to clean drinking water, to support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Federal awarding agency: **U.S. Department of Treasury**

Pass-through entity: **Lee County, FL**

CFDA number: **21.027**

CFDA name: **Coronavirus State and Local Fiscal Recovery Funds (CSLFRF)**

R&D designation: **Non R&D**

Should you have any question about this sub-award, please contact: **Glen Salyer, Assistant County Manager at 239-533-2221**

As required by Federal Regulations and the terms and conditions of this award, the applicant agrees to complete and sign this document to ensure that they are eligible for any future COVID-19 funding from Lee County. This also includes that the Sub recipient agrees to report any fraud, waste or abuse of these funds to Lee County Administration.

SUBRECIPIENT CONTRACT BETWEEN
THE LEE BOARD OF COUNTY COMMISSIONERS
AND SOUTHWEST FLORIDA AFFORDABLE HOUSING CHOICE FOUNDATION,
INC.

THIS AGREEMENT is entered into by Lee County, a charter county and political subdivision of the State of Florida, herein referred to as COUNTY and **Southwest Florida Affordable Housing Choice Foundation, Inc.** whose address is **4224 Renaissance Preserve Way, Fort Myers, FL 33916**, herein referred to as SUBRECIPIENT.

RECITALS

WHEREAS, Lee County is a body corporate and politic established under the Florida Constitution and the Laws of Florida, and is authorized to, among other things, accept and administer grants from State and Federal authorities to enhance the quality of life in Lee County; and

WHEREAS, Congress passed the American Rescue Plan Act (ARPA) on March 10, 2021 and President Biden signed the American Rescue Plan Act into law on March 11, 2021; and

WHEREAS, the American Rescue Plan Act, in part, amends the Social Security Act (42 U.S.C. 601) by establishing the Fund in the amount of \$350 billion dollars for payments to States, Tribal governments and units of local government based on their populations.

WHEREAS, Lee County accepted American Rescue Plan Act funding from the United States Department of the Treasury; and

WHEREAS, this Agreement is consistent with American Rescue Plan Act guidelines to respond to the public health emergency or its negative economic impacts; and

WHEREAS, the SUBRECIPIENT requests and the COUNTY agrees, to provide funding to the SUBRECIPIENT for eligible expenditures under the American Rescue Plan Act, specifically pursuant to the terms and conditions specified herein relating to COVID-19; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Section 1. Recitals

The foregoing recitals are true and correct and form a material part of this Agreement upon which the Parties relied.

Section 2. Term

This Agreement is effective upon full execution by both parties and ends on September 30, 2024 unless terminated earlier in accordance with this Agreement.

The Subaward Period of Performance is from July 1, 2022 and ends on September 30, 2024.

The Subaward Budget Period is from July 1, 2022 and ends on September 30, 2024.

Section 3. American Rescue Plan Act Funding

- a) The American Rescue Plan (ARP) Act, Section 603(c)(1) of the Social Security Act, established the \$350 billion Coronavirus State and Local Fiscal Recovery Funds. The United States Department of Treasury made payments from the Fund to States and eligible units of local government. The American Rescue Plan Act requires that payments from the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) only be used to cover expenses that: (a) To respond to the public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; (b) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers; (c) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and (d) To make necessary investments in water, sewer, or broadband infrastructure.

- b) For the purposes this Agreement, the COUNTY serves as the pass-through entity for a Federal award and the SUBRECIPIENT serves as the recipient of a sub award. This Agreement is entered into based on the following representations:
 1. The SUBRECIPIENT represents that it is fully qualified and eligible to receive these grant funds per the funding requirements.
 2. The COUNTY received these funds from the Federal government, and the COUNTY has the authority to sub grant these funds to the SUBRECIPIENT upon the terms and conditions outlined below.
 3. The COUNTY has authority to disburse the funds under this Agreement.

The COUNTY agrees to provide financial assistance to the SUBRECIPIENT in an amount not-to-exceed **\$ 5,000,000**. The SUBRECIPIENT must use this financial assistance for expenses eligible under 603(c)(1) of the Social Security Act, specifically the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) to mitigate financial hardships incurred because of COVID-19 during the Term. These funds must be spent in accordance with the guidance on the United States Treasury's website <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>. SUBRECIPIENTS are responsible for ensuring that any procurement using CSLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, and Appendix II to Part 200, as applicable.

- c) SUBRECIPIENT is required to review the United States Treasury’s website for updates to ensure compliance with the most updated CSLFRF guidance.
- d) For each SUBRECIPIENT, the COUNTY will assess the risk to successfully fulfilling the project objective pertaining to this agreement. The results of subrecipient risk assessments will have an effect on the frequency and level of scrutiny during the monitoring process and may result in additional requirements being imposed on the SUBRECIPIENT.
- e) The SUBRECIPIENT must comply with 2 CFR 200 for accounting standards and cost principles.
- f) The SUBRECIPIENT must comply with COUNTY rules and 2 CFR 200 for conflicts of interest.
- g) The SUBRECIPIENT shall be responsible for indirect cost associated with this grant.
- h) SUBRECIPIENT acknowledges that it has read, understands, will be bound by and agrees to have carried out, shall carry out, or cause to be carried out the terms, conditions, and services as described in the agreement attachments, including:
 - 1. ATTACHMENT A: PROJECT DETAILS – Overview (Need and Response), eligible activities.
 - 2. ATTACHMENT B: SCOPE OF WORK – Description of the SUBRECIPIENT’s and the COUNTY’s task, deliverables, timelines, and milestones. Additional United States Treasury scope requirements may be identify and required after the execution of this agreement.
 - 3. ATTACHMENT C: PROJECT BUDGET – Summary of the project’s annual budget by expense category and budget justification by category.
 - 4. ATTACHMENT D: REPORTING REQUIREMENTS – Description of the reporting requirements. Additional United States Treasury reporting requirements may be identify and required after the execution of this agreement.
 - 5. ATTACHMENT E: EQUITY-BASED REQUIREMENT – Description of the project’s equitable design and implementation by addressing the program’s equity goals, awareness, access and distribution, and outcomes.
 - 6. ATTACHMENT F: EVIDENCE-BASED REQUIREMENT – Description of the supporting evidence or evidence-producing strategy related the project selection, design, and implementation.
 - 7. Award Payment:

- a. All payments made under this Agreement shall be on a reimbursement basis. These reimbursement monies are from CFDA 21.027. In order to obtain reimbursement for expenditures, the SUBRECIPIENT must file with the COUNTY, through the portal, its request for reimbursement and any other information required to justify and support the payment request. Reimbursement requests may be submitted as frequently as monthly. The final reimbursement request is due on or before January 10, 2025, for costs incurred through December 31, 2024.
- b. Reimbursement requests must include a certification, signed by an official who is authorized to legally bind the SUBRECIPIENT, which reads as follows:

By signing this request, I certify to the best of my knowledge and belief that the request is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the reimbursement. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).
- c. The COUNTY shall verify all documentation received prior to expending Funds under this Agreement and may request additional documentation, if needed. Reimbursements will only be made for expenditures that the COUNTY provisionally determines are eligible under the CSLFRF. The COUNTY retains the right to deny any requests for Funds under this Agreement if in the COUNTY’S sole discretion the request is not for and documentation does not substantiate an eligible expenditure. However, the COUNTY’S provisional determination that an expenditure is eligible does not relieve the SUBRECIPIENT of its duty to repay the COUNTY for any expenditures that are later determined by the COUNTY or the Federal government to be ineligible.
- d. COUNTY shall not be liable to any vendor, supplier or subcontractor for any expenses or liabilities incurred in connection with any Project and SUBRECIPIENT shall be solely liable for such expenses and liabilities.
- e. SUBRECIPIENT acknowledges that the COUNTY intends to award a portion of the CSLFRF funding to SUBRECIPIENT, and further acknowledges that the CSLFRF funding may be utilized only for the uses authorized by American Rescue Plan Act. Accordingly, SUBRECIPIENT covenants that the use of the CSLFRF funding by SUBRECIPIENT pursuant to this Agreement is limited to only those uses for which the CSLFRF funding may be utilized under American Rescue Plan Act.
- f. SUBRECIPIENT will retain any equipment purchased with CSLFRF funding through December 31, 2026.

Section 4. Enforcement

SUBRECIPIENT certifies that the information provided is complete, accurate, and current demonstrating SUBRECIPIENT'S eligibility to receive the Funds. SUBRECIPIENT is liable for recapture of Funds if any representation made in the reimbursement requests, reporting or supporting documentation is at any time false or misleading in any respect, or if SUBRECIPIENT is found in non-compliance with laws, rules or regulations governing the use of the Funds provided pursuant to this Agreement. The provisions of this Section 4 shall survive the termination of this Agreement.

Section 5. Recapture of Expenses

- A. Any funds that are not expended as authorized under this Agreement must be refunded to the COUNTY within fourteen (14) days of receipt of written notice provided by the COUNTY.
- B. Any funds that are not expended within the anticipated timeframe under this Agreement are subject to recapture. If requested, a refund to the COUNTY must be made within fourteen (14) days of receipt of written notice for a refund provided by the COUNTY.
- C. The COUNTY'S determination that an expenditure is eligible does not relieve the SUBRECIPIENT of its duty to repay the COUNTY in full for any expenditures that are later determined by the COUNTY or the Federal Government, in each of its sole discretion, to be ineligible expenditures or the discovery of a duplication of benefits.
- D. If requested by the COUNTY, all refunds, return of improper payments, or repayments due to the COUNTY under this Agreement are to be made payable to Lee County and mailed directly to the COUNTY pursuant to Section 18 Notice and this Agreement.
- E. The SUBRECIPIENT has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The SUBRECIPIENT will also report all suspected fraud to the county.

Section 6. Maintenance and Review of Records

SUBRECIPIENT shall maintain all records and accounts, including property, personnel and financial records, contractual agreements, memoranda of understanding, subcontracts, proof of insurance, and any other records related to or resulting from the Agreement to assure a proper accounting and monitoring of all funds awarded and shall maintain all accounts pertaining to such services, including, but not limited to, property, personnel and financial records, and supporting documentation, and any additional records required as a result of or associated with the utilization of the CSLFRF funding as outlined in the United States Treasury Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds, or as maybe amended, which, among other things, shall enable ready identification of SUBRECIPIENT'S cost of goods and use of funds. 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 that arise from it, or the end of the required period, whichever is later.

With respect to all matters covered by this Agreement, records will be made available for examination, audit, inspection or copying purposes at any time during normal business hours and as often

as COUNTY may require. SUBRECIPIENT will permit same to be examined and excerpts or transcriptions made or duplicated from such records, and audits made of all contracts, invoices, materials, records of personnel and of employment and other data relating to all matters covered by this Agreement.

The SUBRECIPIENT must maintain records and financial documents in compliance with all standards in the ARPA CSLFRF guidance and 2 CFR 200. Generally, records and financial documents must be maintained for five years after all funds have been expended or returned. The COUNTY or Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

SUBRECIPIENT must agree to provide or make available such records to the COUNTY upon request, to Treasury upon request, and to the Government Accountability Office (“GAO”), Treasury’s Office of Inspector General (“OIG”), and their authorized representative in order to conduct audits or other investigations.

The COUNTY may access the SUBRECIPIENT records and financial statements as necessary to conduct monitoring activities.

Section 7. Monitoring

The SUBRECIPIENT agrees to permit persons duly authorized by the COUNTY, the Federal or State grantor agency (if applicable) or any representatives to inspect all records, papers, documents, facility's goods and services of the SUBRECIPIENT and/or interview any clients and employees of the SUBRECIPIENT to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the law after giving the SUBRECIPIENT reasonable notice. The monitoring is a limited scope review of the contract and agency management and does not relieve the SUBRECIPIENT of its obligation to manage the grant in accordance with applicable rules and sound management practices.

Following such monitoring, the COUNTY will deliver to the SUBRECIPIENT a written report regarding the manner in which services are being provided. The SUBRECIPIENT will rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the COUNTY with a reasonable and acceptable justification for not correcting the noted shortcomings. The SUBRECIPIENT'S failure to correct or justify the deficiencies within the time specified by the COUNTY may result in the withholding of payments, being deemed in breach or default, or termination of this contract.

Section 8. Audits

A. The COUNTY may perform an audit of the records of the SUBRECIPIENT at any time during the Term of this Agreement and after final disbursements have been made, even if the Agreement has expired or terminated. Audits may be performed at a time mutually agreeable to the SUBRECIPIENT and the COUNTY. When conducting an audit of the SUBRECIPIENT’S performance under this Agreement, the COUNTY must use Generally Accepted Government Auditing Standards (“GAGAS”). As defined by 2 C.F.R. §200.50, GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

B. If an audit shows that all or any portion of the Funds disbursed were not spent in accordance with the conditions of and strict compliance with this Agreement, the SUBRECIPIENT will be held liable for reimbursement to the COUNTY of all Funds not spent in accordance with these applicable regulations and this Agreement, within fourteen (14) days after the COUNTY has notified the SUBRECIPIENT of such non-compliance.

C. If the COUNTY elects to have the SUBRECIPIENT perform an audit, the SUBRECIPIENT must have all audits completed by an independent auditor, which is defined in § 215.97(2)(i), Florida Statutes, as “an independent certified public accountant licensed under chapter 473.” The independent auditor must state that the audit complied with the applicable provisions noted above. The audits must be received by the COUNTY no later than six (6) months from the end of the SUBRECIPIENT’S fiscal year.

D. The SUBRECIPIENT must send copies of reporting packages required under this paragraph directly to the COUNTY in accordance with Section 18 Notice.

E. Single Audit Requirements. SUBRECIPIENTS, that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 C.F.R. Part 200, Subpart F regarding audit requirements.

Section 9. Closeout

SUBRECIPIENT will comply will all closeout procedures of the awards, to include full compliance with the agreement terms and conditions, ARPA, CSLFRF rule and guidance, and 2 CFR 200. Key tasks will be closeout communications, confirmation for maintenance of records and financial documents, receipt of all final reimbursement requests or payment requests, receipt of all financial reports and performance reports, fulfillment of any requests to reconcile reports and payment requests. The retention period per CSLFRF compliance and reporting is 5 years.

Section 10. Indemnification

SUBRECIPIENT shall indemnify, hold harmless, and defend COUNTY from and against any and all liabilities, losses, claims, damages, demands, expenses or actions, either at law or in equity, including court costs and attorneys' fees (at the trial and all appellate levels), that may hereafter at any time be made or brought by anyone on account of personal injury, property damage, loss of monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission, or based on any act of fraud or defalcation or breach of any provision or covenant of this Agreement or applicable law by the SUBRECIPIENT, its agents, subcontractors, assigns, heirs, and employees resulting from or arising under this Agreement.

The provisions of this Section 11 shall survive the termination of this Agreement.

Section 11. Termination

This Agreement may be terminated by the SUBRECIPIENT or the COUNTY at any time, with Cause or without Cause, upon not less than thirty (30) days prior written notice delivered to the SUBRECIPIENT as provided for in this Agreement or, at the option of COUNTY, immediately in the event

that SUBRECIPIENT fails to fulfill any of the terms, understandings, or covenants of this Agreement. COUNTY will not be obligated to pay for costs incurred by SUBRECIPIENT after SUBRECIPIENT has received notice of termination.

Section 12. Remedies

The COUNTY may exercise any other rights or remedies, which may be available under law. If the COUNTY waives any right or remedy in this Agreement or fails to insist on strict performance by the SUBRECIPIENT, it will not affect, extend or waive any other right or remedy of the COUNTY, or affect the later exercise of the same right or remedy by the COUNTY for any other default by the SUBRECIPIENT.

Section 13. Equal Opportunity; Non-Discrimination

SUBRECIPIENT shall comply with the requirements of all applicable federal, state and local laws, rules, regulations, ordinances and executive orders prohibiting and/or relating to discrimination, as amended and supplemented. All of the aforementioned laws, rules, regulations, and executive orders are incorporated herein by reference.

Section 14. Governing Laws; Venue

This Agreement and terms and conditions shall be governed by the laws, rules, and regulations of the State of Florida, and venue shall be in Lee County, Florida.

Section 15. Public Records Law

This Agreement, including attachments, is subject to disclosure under Florida's public records law subject to limited applicable exemptions. SUBRECIPIENT acknowledges, understands, and agrees that, except as noted below, all information in its application and attachments will be disclosed, without any notice to SUBRECIPIENT, if a public records request is made for such information, and the COUNTY will not be liable to SUBRECIPIENT for such disclosure. Social security numbers are collected, maintained and reported by the COUNTY must comply with IRS 1099 reporting requirements and are exempt from public records pursuant to Florida Statutes §119.071.

If SUBRECIPIENT believes that information in the Agreement, including attachments, contains information that is confidential and exempt from disclosure, SUBRECIPIENT must include a general description of the information and provide reference to the Florida Statute or other law which exempts such designated information from disclosure in the event a public records request is made. The COUNTY does not warrant or guarantee that information designated by SUBRECIPIENT as exempt from disclosure is in fact exempt, and if the COUNTY disagrees, it will make such disclosures in accordance with its sole determination as to the applicable law.

IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-533-2221, 2115 SECOND STREET, FORT MYERS, FL 33901, <http://www.leegov.com/publicrecords>.

Section 16. Independent Contractor

SUBRECIPIENT acknowledges that it is acting as an independent contractor and not as an agent, officer or employee of COUNTY. In no event shall any provision of this Agreement make COUNTY liable to any person or entity that contracts with or provides goods or services to SUBRECIPIENT in connection with this Agreement. There is no contractual relationship, either express or implied, between COUNTY or any political subdivision of the State of Florida and any person or entity supplying any work, labor, services, goods or materials to SUBRECIPIENT as a result of this Agreement.

Section 17. Compliance with Applicable Laws

SUBRECIPIENT shall comply with the requirements of all applicable federal, state and local laws and the rules and regulations promulgated thereunder, including, but not limited to, Florida's Public Records Act, Chapter 119, Florida Statutes and specifically including, but not limited to ARPA.

Section 18. Notice

Any notice delivered with respect to this Agreement must be in writing and will be deemed to be delivered (whether or not actually received) when (1) hand delivered to the persons designated below, or (2) when deposited in the United States Mail, postage prepaid, certified mail, return-receipt requested, addressed to the person at the address for the party as set forth below, or such other or to such other person as the Party may have specified by written notice to the other Party delivered according to this Section:

As to COUNTY:

Roger Desjarlais
County Manager
PO Box 398
Fort Myers, FL 33902

As to SUBRECIPIENT:

Southwest Florida Affordable Housing Choice Foundation, INC.
Marcia Davis, Executive Director
4224 Renaissance Preserve Way
Fort Myers, FL 33916

Section 19. Risk Management

A. Hold Harmless and Indemnity Clause

To the fullest extent permitted by applicable law, SUBRECIPIENT shall protect, defend, indemnify, save and hold the COUNTY, the BoCC, its agents, officials, and employees harmless from and against any and all claims, demands, fines, loss or destruction of property, liabilities, damages, for claims based on the negligence, misconduct, or omissions of the SUBRECIPIENT resulting from the SUBRECIPIENT'S work as further described in this contract and its attachments, which may arise in favor of any person or persons resulting from the SUBRECIPIENT'S performance or non-performance of its obligations under this contract except any damages arising out of personal injury or property claims from third parties caused solely by the negligence, omission(s) or willful misconduct of the COUNTY, its officials, commissioners, employees or agents, subject to the limitations as set out in Florida general law, Section 768.28, Florida Statutes, as amended from time to time. Further, SUBRECIPIENT hereby agrees to indemnify the COUNTY for all reasonable expenses and attorney's fees incurred by or imposed upon the COUNTY in connection therewith for any loss, damage, injury, liability or other casualty. SUBRECIPIENT additionally agrees that the COUNTY may employ an attorney of the COUNTY's own selection to appear and defend any such action, on behalf of the COUNTY, at the expense of the SUBRECIPIENT. The SUBRECIPIENT further agrees to pay all reasonable expenses and attorney's fees incurred by the COUNTY in establishing the right to indemnity.

The SUBRECIPIENT further agrees that it is responsible for any and all claims arising from the hiring of individuals relating to activities provided under the contract. All individuals hired are employees of the SUBRECIPIENT and not of the COUNTY.

B. Insurance Requirements

Insurance – Nonprofit SUBRECIPIENTS

The SUBRECIPIENT agrees to secure and maintain the insurance coverage outlined below during the term of this contract. The SUBRECIPIENT agrees that this insurance requirement shall not relieve or limit SUBRECIPIENT'S liability and that the COUNTY does not in any way represent that the insurance required is sufficient or adequate to protect the SUBRECIPIENT'S interests or liabilities, but are merely minimums. It is the responsibility of the SUBRECIPIENT to insure that all subcontractors comply with the insurance requirements.

Certificate(s) of Insurance *naming Lee Board of County Commissioners as Certificate Holder and additional insured* will be attached to this contract as an exhibit. Name and address for Certificate Holder should be: Lee Board of County Commissioners, P.O. Box 398, Fort Myers, FL 33902. Certificate(s) must be provided for the following coverage's at the time of contract execution and upon policy renewal. Renewal certificates are due to the COUNTY on or before expiration date.

1. Workers' Compensation– Statutory benefits as defined by Florida Statute 440 encompassing all operations contemplated by this contract or agreement to apply to all owners, officers, and employees. Employers' liability will have minimum limits of:
 - \$100,000 per accident
 - \$500,000 disease limit

\$100,000 disease limit per employee

2. Commercial General Liability – Coverage shall apply to premises and/or operations, products and/or completed operations, independent contractors, contractual liability, and broad form property damage exposures with minimum limits of:

\$500,000 bodily injury per person (B.I.)

\$1,000,000 bodily injury per occurrence (B.I.)

\$500,000 property damage (PD) or

\$1,000,000 combined single limit (C.S.L.) of B.I. and P.D.

The General Liability Policy Certificate shall name "Lee County, a political subdivision and Charter County of the State of Florida, its agents, employees, and public officials" as "Additional Insured". The SUBRECIPIENT agrees that the coverage granted to the Additional Insured applies on a primary basis, with the Additional Insured's coverage being excess.

3. Business Auto Liability – The following Automobile Liability will be required and coverage shall apply to all owned, hired, and non-owned vehicles used with minimum limits of:

\$100,000 bodily injury per person (B.I.)

\$300,000 bodily injury per occurrence (B.I.)

\$100,000 property damage (PD) or

\$300,000 combined single limit (C.S.L.) of B.I. and P.D.

4. Directors & Officers Liability – Entity coverage to cover claims against the organization directly for wrongful acts with limits not less than \$100,000.

5. Fidelity Bonding – Covering all employees who handle the agency's funds. The bond amount must be equivalent to the highest daily cash balance or a minimum amount of \$50,000.

Insurance – Government/Municipality

Documentation of the above coverage requirements are not applicable to government/municipalities that are self-insured.

Section 20. Disclaimer of Third Party Beneficiaries

This Agreement is made for the sole benefit of the Parties of this Agreement and their respective successors and assigns, and is not intended to and will not benefit any third party. No third party will have any rights under this Agreement, because of this Agreement or any right to enforce any provisions of this Agreement.

Section 21. Dispute Resolution

In the event of a dispute related to any performance or payment obligation arising under this Agreement, the Parties shall exhaust COUNTY administrative dispute resolution procedures prior to filing a lawsuit or otherwise pursuing legal remedies.

In the event that COUNTY administrative dispute resolution procedures are exhausted, either Party to this Agreement may notify the other Party in writing that it wishes to commence formal dispute resolution with respect to any unresolved problem under this Agreement. The Parties agree to submit the dispute to a Florida Certified Circuit Court Civil Mediator for mediation, within sixty (60) days following the date of this notice. In the event that any dispute cannot be resolved by mediation, the dispute may be filed as a civil action in the Circuit Court of the Twentieth Judicial Circuit of Florida, in and for Lee County, Florida, which is the sole venue for any such civil action.

Section 22. Assignment

This Agreement may not be assigned nor subcontracted in whole or in part without the prior written consent of the COUNTY.

Section 23. Headings

Article headings have been included in the Agreement solely for the purpose of convenience and shall not affect the interpretation of any of the terms of this Agreement.

Section 24. Survivability

Any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.

Section 25. Modifications

This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument executed by the COUNTY and the SUBRECIPIENT expressly for that purpose.

Section 26. Entire Agreement

It is understood and agreed that the entire agreement of the Parties is contained in this Agreement, which supersedes all oral agreements, negotiations, and previous agreements between the Parties relating to the subject matter of this Agreement.

Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by the Parties, except as otherwise specifically provided in this Agreement.

IN WITNESS WHEREOF, the SUBRECIPIENT and the COUNTY respectively, have caused this Agreement to be executed by their duly authorized representatives.

SUBRECIPIENT: SOUTHWEST FLORIDA AFFORDABLE HOUSING CHOICE FOUNDATION, INC.

BY:

Signature

Date

Name (print)

ATTEST:
CLERK OF CIRCUIT COURT

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY

County Attorney's Office

ATTACHMENT A: PROJECT DETAILS – Overview (Need and Response), Eligible activities.

Southwest Florida Affordable Housing Choice Foundation, Inc. created the Greater Dunbar Initiative built around Housing, Neighborhood, and People strategies consisting of four phases. For Housing and Neighborhood strategies, Southward Village within the Dunbar community and an off-site parcel (Cleveland Avenue) will be redeveloped into affordable, high-quality, safe, sustainable, well-managed mixed-income, mixed-use, multi-generational communities totaling 462 Units. All housing is supported with new infrastructure and complemented with amenities (clubhouse, fitness room, business center, etc.). The neighborhood will also include a large central park with retention pond. The People strategies will work to meet resident needs and facilitate education and employment. Strategies include comprehensive case management, enhancing access to healthcare providers, structured use of amenities to facilitate healthy lifestyles, connections to proven workforce development programs, and extensive series of educational programs supporting children.

Funding award will focus on Phase 2 of this overall project outlined below:

Phase 2: Beginning on the northern side of the Southward Village site, there will be multifamily townhomes and garden apartments totaling to 145 units. Of these units, 42% will be PBV/LIHTC replacement, 33% will be LIHTC/workforce, 21% will be market, and the last 1% will be PBV-only replacement. Additionally, a 7,500 sq. ft. community center and central park stormwater retention pond will be constructed during this phase.

Eligible Activities

A. Expense Category

Project(s) direct services must follow the restrictions from U.S Treasury rules and fit within the ARPA expense category: **2.15 Long-term Housing Security: Affordable Housing**

B. Back-up Project Eligible Use Justification:

31 CFR 35.6(b)(3)(ii)(A)(5)

Responding to the negative economic impacts of the public health emergency for purposes including:

(A) Assistance to households and individuals, including:

(5) Development, repair, and operation of affordable housing and services or programs to increase long-term housing security;

ATTACHMENT B: SCOPE OF WORK

Description of the SUBRECIPIENT's and the COUNTY's task, deliverables, timelines, and milestones. Additional United States Treasury scope requirements may be identified and required after the execution of this agreement.

1. Task: Risk Assessment Questionnaire

All ARPA Subrecipients of Lee County are required to complete a subrecipient risk assessment questionnaire. The results will assist Lee County with subrecipient monitoring.

Deliverable: Completed Risk Assessment Questionnaire

2. Task: Project Planning

The project planning shall include an explanation of the plan components below. As necessary, copies of corresponding document for the components should be provided. Example: Provide a copy of the relevant policy and procedure.

Components:

- Provide an outline to document timelines for critical tasks associated with the project
- Evidence-based Documentation
- Equity-based Documentation

3. Task: Project Budget

The SUBRECIPIENT will maintain a Project Budget and Financial Accounting System. The SUBRECIPIENT will develop and maintain a project budget summary that shows annual and quarterly proposed obligated and actual expenses.

Deliverables:

Project Budget Updates; Contract Amendments as needed

4. Task: Reimbursement Requests

Due: Monthly by the 20th of the following month. All payments will be **reimbursement** for eligible expenses/services defined as uncompensated expenses rendered during the contract term. Copies of supporting documentation is required as part of the Payment Request for review of grant compliance and before payment will be authorized by Human and Veterans Services.

Reimbursement for eligible expenses will be made after review and authorization of request and all required back up documentation. Appropriate back-up/supporting documentation may include: payroll reports, time cards, cancelled checks, vendor invoices, authorized purchase orders, attendance/service logs, other funder invoices, expenditure spreadsheets or other original documentation.

SUBRECIPIENTS are responsible for ensuring that any procurement using CSLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2

CFR 200.327, and Appendix II to Part 200, as applicable. Lee County procurement standard thresholds must also be considered. Proof of compliance must be included with back-up/supporting documentation.

The Payment Request must be submitted with an **authorized** signature. Cancelled checks, bank statements and/or other documentation from vendor that expense has been paid or service provided may be verified during monitoring.

Deliverables:

Payment reimbursement requests and supporting documents

5. Task: Construction Progress Report

Due: Monthly by the 20th of the following month. SUBRECIPIENT shall provide detailed information on the progress of the project including, but not limited to:

- Design Modifications
- Development Order/Permitting Process
- Narrative Indicating Type of Work Completed During the Reporting Period
- Building Inspection Report Results
- Construction Change Orders

Deliverables:

Construction Progress Report (Exhibit 1)

6. Task: Beneficiary Report

Due: Monthly by the 20th of the following month when initial occupancy begins. SUBRECIPIENT shall complete upon initial occupancy once construction is complete.

Deliverables:

Program/Demographics/Beneficiary Report (Exhibit 2)

7. Task: Statement of Work

SUBRECIPIENT shall provide relevant information to inform the statement of work for the project not limited to project description, development order, and project timeline dates.

Deliverables:

Provide/Update project information when applicable. (Exhibit 3)

8. Task: Project Monitoring

- a. The SUBRECIPIENT shall cooperate with the COUNTY's monitoring of the Grant project by making the necessary staff and project records available.
- b. The SUBRECIPIENT shall make the COUNTY aware of any project deemed at-risk of nonperformance or non-compliance.
- c. When a project is deemed non-performing or incapable of expending its grant allocations as specified in its Subrecipient agreement, the SUBRECIPIENT may ask the COUNTY to repurpose the funds.

Deliverables:

Cooperation with monitoring

9. Task: Ensure Project Data Collection and Reporting

The SUBRECIPIENT will document its data collection and reporting methodology for the project. The SUBRECIPIENT will collect, compile, and report the project information in ATTACHMENT D to the COUNTY, including project performance, expenses, equity data, and learning data if applicable.

In addition, the COUNTY may ask the SUBRECIPIENT to collect other data as Treasury clarifies reporting and compliance requirements. The example required reports are listed in ATTACHMENT D – Reporting Requirements.

Deliverables:

SUBRECIPIENT'S Monthly Reports (Quarterly and Annual as required)

10. Task: Project Closeout

SUBRECIPIENT will comply with all closeout procedures of the awards, to include full compliance with the agreement terms and conditions, ARPA, CSLFRF rule and guidance, and 2 CFR 200. Key tasks will be closeout communications, confirmation for maintenance of records and financial documents, receipt of all final reimbursement requests or payment requests, receipt of all financial reports and performance reports, fulfillment of any requests to reconcile reports and payment requests.

Deliverables:

- Submittal of all performance and financial reports and records as required
- Plan for records retention

ATTACHMENT C: Project Budget and Expenses Worksheet

Use the template below to provide a projected project budget to execute your project. The same template should be used for reporting obligations and expended funds. Budget should be submitted as a spreadsheet document.

If a project cost overrun is identified, the SUBRECIPIENT must receive approval from the County before additional costs are incurred.

ARPA FUNDING CANNOT BE USED AS A MATCH FOR FEDERAL FUNDING

Budget Category	Projected Budget Amount thru December 31, 2022	Projected Budget Amount Jan 2023 – December 2023*	Projected Budget Amount Jan 2024 – September 2024
Construction	\$0	\$14,290,873	\$0
A&E & Environmental	\$0	\$995,220	\$0
Interest, Fees, and Insurance	\$0	\$734,787	\$0
Marketing, Lease Up, FFE	\$0	\$0	\$0
Contingency	\$0	\$81,510	\$0
Developer Fee	\$0	\$1,733,000	\$0
Reserves	\$0	\$271,440	\$0
Demolition	\$0	\$954,000	\$0
Relocation	\$0	\$103,500	\$0
Site work \$ Infrastructure	\$0	\$282,680	\$0
Management Improvements	\$0	\$66,000	\$0
Admin	\$0	\$310,000	\$0
Total	\$0	\$ 19,823,010	\$0

*All ARPA funding will be expended in this year. The amount shown is the full expenditures for the project during this calendar year. SUBRECIPIENT will utilize the funding award of \$5,000,000 first, and it will mainly be applied to soft cost expenses with the occasional application to hard costs when necessary.

ATTACHMENT D: REPORTING REQUIREMENTS (Example)

Below is an example of information that will be requested. There may be additional reporting requirements that the US Treasury requires or Lee County identifies during the project.

1. Equity: Describe how you ensure that your program is designed and implemented with equity in mind for disproportionately affected populations. Additional Information – ATTACHMENT E: EQUITY-BASED REQUIREMENT
2. Evidence Based or Evidence Producing: If the project is an **evidence-based** practice, identify the source(s), the level of evidence, and explain how this project incorporates this principle.

If the project is an **evidence-producing** practice, identify related source(s) of your hypothesis and state your hypothesis clearly. Outline how evidence will be collected to validate that it presents as evidence-producing.

Additional Information – ATTACHMENT F: EVIDENCE-BASED REQUIREMENT
See Treasury's Compliance and Reporting Guidance State and Local Fiscal Recovery Fund, <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

3. Quarterly Reporting:

Schedule: Reporting due for SUBRECIPIENT.

Reporting Periods	Notes
Award Start Date – September 30, 2022	Due 15 working days after end of quarter
October 1, 2022 – December 31, 2022	
January 1, 2023 – March 31, 2023	
April 1, 2023 – June 30, 2023	
July 1, 2023 – September 30, 2023	
October 1, 2023 – December 31, 2023	
January 1, 2024 – March 31, 2024	
April 1, 2024 – June 30, 2024	
July 1, 2024 – September 30, 2024	
Close Out Report	

Expenditure Summary

Reimbursement requests will detail expenditures. This project will report expenditures after reimbursement requests are approved and payment is distributed. Lee County will report project expenditures to US Treasury quarterly.

- A. Disadvantaged Communities Summary (If applicable report quarterly)

How much of the grant has been expended to serve disadvantaged communities through program or service that is provided at a physical location in a Qualified Census Tract (for multi-site projects, if a majority of sites are within Qualified Census Tract);
How much of the grant has been expended to serve disadvantaged communities through program or service where the primary intended beneficiaries live within a Qualified Census Tract;
How much of the grant has been expended to serve disadvantaged communities through program or service for which the eligibility criteria are such that the primary intended beneficiaries earn less than 60 percent of the median income for the relevant jurisdiction (e.g., State, county, metropolitan area, or other jurisdiction); or
How much of the grant has been expended to serve disadvantaged communities through program or service for which the eligibility criteria are such that over 25 percent of intended beneficiaries are below the federal poverty line.

B. Performance Success Summary

<p>Project Status: Choice</p> <ul style="list-style-type: none"> • Not Started • Completed less than 50 percent • Completed 50 percent or more • Completed
<p>Provide a success story or summary of successes from this program that can be shared publicly. Always protect the privacy of beneficiaries.</p> <p>This will be requested quarterly, but the SUBRECIPIENT only needs to share one story during the project.</p>
<p>Provide a report of key outputs for the past period [between ____ and ____]. Indicate baseline and goal.</p> <p>Project status as a % complete. Number of units that are completed and approved for occupancy. Number of units occupied by beneficiaries meeting the eligibility criteria.</p>
<p>Provide a report of key outcomes for the past period [between ____ and ____]. Indicate baseline and goal</p> <p>145 redeveloped units of affordable housing available.</p>
<p>Estimated Demographic Data: Treasury encourages recipients to provide data disaggregated by race, ethnicity, gender, income, and other relevant factors. Please supply data currently collected through existing registration process. Do not provide any personally identifying information.</p>

ATTACHMENT E: EQUITY-BASED REQUIREMENT

Below is an example of information that will be requested. There may be additional reporting requirements that the US Treasury requires or Lee County identifies during the project.

Equity: Describe how you ensure that your program is designed and implemented with equity in mind for disproportionately affected populations. Address the following:

- a. Goals: Are there particular historically underserved, marginalized, or adversely affected groups that you intend to serve within your jurisdiction?
- b. Awareness: How do you market the program to Lee County residents with equity in mind? How equal and practical is the ability for residents or businesses to become aware of the services funded by the SLFRF?
- c. Access and Distribution: Are there differences in levels of access to benefits and services across groups? Are there administrative requirements that result in disparities in ability to complete applications or meet eligibility criteria?
- d. Outcomes: Are intended outcomes focused on closing gaps, reaching universal levels of service, or disaggregating progress by race, ethnicity, and other equity dimensions where relevant for the policy objective?

ATTACHMENT F: EVIDENCE-BASED REQUIREMENTS

SUBRECIPIENTS must briefly describe the goals of the project, and the evidence base for the interventions funded by the project.

- a) Demonstrate that the intervention is implemented as a program evaluation, see OMB M-20-12. "Recipients are exempt from reporting on evidence-based interventions in cases where a program evaluation is being conducted. Criteria requires the recipient to:

Required

- i. describe the evaluation design including whether it is a randomized or quasi experimental design;
- ii. state the key research questions being evaluated;
- iii. describe whether the study has sufficient statistical power to disaggregate outcomes by demographics;
- iv. post the evaluation publicly and link to the completed evaluation in the Recovery Plan;
- v. describe the timeframe for the completion of the evaluation (including a link to completed evaluation if relevant)
- vi. after sufficient evidence of efficacy has been provided, determine whether the spending for the evaluated interventions should be counted towards the dollar amount categorized as evidence-based for the relevant project
- vii. Recipient may be selected to participate in a nation evaluation which would study the project along with similar projects.

Encouraged

- viii. Consider how a Learning Agenda, either narrowly focused on SLFRF or broadly focused on the recipient's broader policy agenda, could support their overarching evaluation efforts in order to create an evidence-building strategy for their jurisdiction. See OMB M-19-23
- b) Strong Evidence-based interventions- Is the intervention, based on a "well-designed and well-implemented experimental studies conducted on the proposed program with positive findings on one or more intended outcomes".
 - i. If yes, identify the program as "Strong Evidence Based", cite the study, summarize the findings, and provide the associations to the COUNTY program.
 - c) Moderate evidence-based interventions – the intervention is based on one or more quasi-experimental studies with positive findings on one or more intended outcomes OR two or more non-experimental studies with positive findings on one or more intended outcomes.
 - d) Preliminary evidence – the intervention is based on conclusions drawn from a non-experimental study which demonstrates improvement in program beneficiaries over time on one or more intended outcomes OR an implementation (process evaluation) study used to learn and improve program operations would constitute preliminary evidence. Examples of research that meet the standards include: (1) outcome studies that track program beneficiaries through a service pipeline and measure beneficiaries' responses at the end of the program. (2) pre- and post-test research that determines whether beneficiaries have improved on an intended outcome.

EXHIBIT 2 - BENEFICIARY REPORT

Complete upon initial occupancy once construction is complete and **until the Southward Village Phase 2 units are leased up**. On all reports, the total number of beneficiaries in the income, race, and ethnicity categories **MUST EQUAL** the number of new beneficiaries for the reporting period.

Developer: _____ Activity: _____

Contract No. _____ Reporting Period: _____

Total beneficiaries served this reporting period: _____ Total **new** beneficiaries this reporting period: _____

Is this activity in a targeted neighborhood as defined by the Department of Human Services? _____

If yes, which neighborhood area(s): _____

INCOME: Household income is calculated and reported in accordance with the annual HUD income limits. Income percentages indicate “at or below” that percentage and are a percentage of the area median income (AMI). Annual income limits are provided at issuance and throughout the duration of the contract. The current income limits can be found online at <https://www.hudexchange.info/manage-a-program/home-income-limits/>. The agency committed to rent all of the units to persons at a certain income limit. For these units, that income limit was at or below 50% of the AMI.

Are all tenants reported at or below the 50% AMI? _____

(Documentation must be provided for programmatic monitoring visits.)

FEMALE HEAD OF HOUSEHOLD? Yes or No (**Circle one**)

RACE/ETHNICITY: Report the number of **new** beneficiaries (households) for the reporting period in the box below the appropriate category.

	White	Black/ African	Asian	American Indian/ Indian/	Native Hawaiian/ Other Pacific	American Indian/ Alaskan Native & White	Asian	Black / African	American Indian/Alaskan Native &	Other Multi-
Number Hispanic										
Number Non-Hispanic										

PERFORMANCE MEASUREMENTS:

Number of persons assisted with **NEW** access to the service/benefit being provided: _____

Number of persons assisted with **IMPROVED** access to the service/benefit being provided: _____

Number of beds **CREATED** in overnight shelter and/or other emergency housing: _____

MONTHLY RENT INFORMATION:

Unit #	# of Bedrooms	Household Size	Female Head of Household (Y/N)	Annual Household Income	Tenant Rent	Comments

NARRATIVE: For this reporting period, provide a brief summary of activities completed and any accomplishments achieved.

DEVELOPER hereby certifies that all information reported in this exhibit has been collected and reported in compliance with all applicable statutes and regulations, and in accordance with the approved County agreement.

Completed by: _____ Date _____

EXHIBIT 3: STATEMENT OF WORK – CONSTRUCTION PROJECTS

Name of Agency: Southwest Florida Affordable Housing Choice Foundation, Inc. Project & Location: Southward Village; 2990 Edison Avenue Fort Myers, FL 33916

1. Description of Project:

Southwest Florida Affordable Housing Choice Foundation’s Dunbar Choice Neighborhood Initiative includes physically replacing 159 of the distressed public housing units on the Southward Village public housing site (SV) and 40 units on a second off-site parcel in an area of opportunity (Cleveland Avenue). All of the new units will be in newly constructed buildings that are well-designed, energy-efficient, mixed-income, sustainable, and accessible. With the 199 physical replacement units, the Housing Strategy also will develop 70 market-rate units and 196 workforce/LIHTC units in four phases, for a project total of 465 new housing units.

For this funding award, Phase 2 will be the focus. Phase 2 is the first phase on the Southward Village site and will include: multifamily townhomes and garden apartments totaling to 145 units. Of these units, 42% will be PBV/LIHTC replacement, 33% will be LIHTC/workforce, 21% will be market, and the last 1% will be PBV-only replacement. Additionally, a 7,500 sq. ft. community center and central park stormwater retention pond will be constructed during this phase.

- a. Site Control: Housing Authority of the City of Fort Myers
- b. Development Order/Zoning: Current zoning in place since 1960
- c. Construction Management: McCormack Baron Salazar Construction Team, Besselo Architects, and SWFL Affordable Housing Choice Foundation, Inc.
 - i. Construction Start (Phase 2): April 2023
 - ii. Completion Date (Phase 2): April 2025
 - iii. Occupancy Date (Phase 2): January 2025

2. Type of Contract: Line Item

3. Items or services to be funded by ARPA funds: Eligible soft costs/loan payments, a little to supplement hard costs where needed.