

STATE HOUSING INITIATIVES PARTNERSHIP PROGRAM
(SHIP)
NON-PROFIT CONSTRUCTION
DEFERRED LOAN AGREEMENT

This State Housing Initiatives Program (SHIP) Non-Profit Construction Deferred Loan Agreement (the Agreement) is made and entered into this 7th day of ~~November~~, 2023, by and between **Hernando County, Florida**, a political subdivision of the State of Florida, located at 15470 Flight Path Drive, Brooksville, Florida 34604 (the County), and **Mid Florida Community Services, Inc.**, a Florida Not for Profit Corporation, located at 19450 Cortez Boulevard, Brooksville, Florida 34601 (the Borrower).

ARTICLE I – PURPOSE

Section 1.1 Purpose: The purpose of this Agreement is to distribute SHIP funds awarded pursuant to Hernando County’s Local Housing Assistance Plan (LHAP) and Section 420.9079, Florida Statutes (F.S.).

ARTICLE II – LOAN AMOUNT AND USE

Section 2.1 Loan Amount: The Borrower is awarded a total of \$50,000.00 (the Loan). This amount will be funded upon issuance of (an) approved building permit(s) to begin construction.

Section 2.2 Use of Loan: The Borrower shall use the Loan solely for the purpose of financing, in part, the construction of (a) single-family home(s) at the following location(s):

Address(es): 16148 La Bella Street, Brooksville, FL 34604

Legal Description(s): Tangerine Estates BLK J LOT 32 ORB 296 PG 795

Which single-family home(s) shall be sold to (a) household(s) meeting the definition of very-low-income household set forth in Section 420.9071(30), F.S. Should the single-family homes(s) constructed utilizing SHIP funds be sold within the thirty (30)-month Loan period, the Loan will be forgiven by the County. Any SHIP funds not utilized during the thirty (30)-month Loan period must be returned to the Hernando County SHIP Program.

Section 2.3 Single family homes constructed with the SHIP Loan funds must ensure that they remain affordable to very-low-income households, retaining the character of such funding to meet the objectives and requirements of the SHIP statutes and Hernando County’s SHIP LHAP, in accordance with the intent and requirements of the SHIP statutes. The failure to do so will result in the Borrower having to repay the Loan funds to the County, together with interest at the maximum legal rates in existence at the time the Loan funds are paid to the Borrower.

Section 2.4 All single-family homes constructed utilizing SHIP funds shall have placed on the deed a

“Shared Equity Penalty” which states: “If a homebuyer purchases a home from the Non-Profit and sells the home within five (5) years, such homebuyer must ‘share’ some of the profit from the sale of the home with the Non-Profit, in addition to paying back the Loan.”

The rules are as follows:

If the homebuyer sells or transfers the home within the first three (3) years of purchase from the Non-Profit, the Non-Profit shall share 100% of the appreciated sales price with the homebuyer, in addition to the Loan balance due the Non-Profit. If the homebuyer sells or transfers the home in the fourth or fifth year of purchase from the Non-Profit, the Non-Profit shall share 25% of the appreciated sales price with the homebuyer, in addition to the Loan balance due the Non-Profit.

- A. If the homebuyer has performed any improvements on the property that required a building permit, the cost of such improvements shall be added to the basis of the initial sales price in the determination of the shared equity.
- B. If the homebuyer sells the property to a family member, spouse or ex-spouse, the Non-Profit may order an appraisal to determine if the sales price is equitable and require the shared equity amount to be determined by that valuation.
- C. Appreciation is defined as the gain a homebuyer receives from the sale of the home, less any reasonable title and real estate costs.
- D. Under no condition shall the shared equity amount be more than double the original amount of the Non-Profit’s assistance.

Section 2.5 The Loan shall be made to the Borrower at zero percent interest (0%) for a term of thirty (30) months. The above-described property shall remain “Affordable” as defined in Section 420.9071, F.S., and for use by a household as defined in Section 420.9071(30), F.S., at the time of purchase.

ARTICLE III – DISBURSEMENTS

Section 3.1 Disbursement of Loan Funds. The County will only disburse funds under this Agreement when the Borrower submits evidence that (a) building permit(s) has(have) been issued for construction of the single-family home(s) on the site(s) described in Section 2.2 above.

Section 3.2 Disbursement Limitations. In no event will the County ever be required to disburse funds more than the Loan unless expressly provided otherwise in this Agreement.

Section 3.3 Disbursement Without Prejudice. Any disbursement made by the County to the Borrower shall be without prejudice to the County’s rights later to challenge the propriety of the Borrower’s claimed costs or expenses.

Section 3.4 Withholding Disbursements. If the Borrower fails to perform any obligation under this Agreement and the failure has not been cured within ten (10) days following oral or written notice from the County, the County may, without penalty and in its sole discretion and upon written notice to the Borrower, withhold all monies otherwise due the Borrower until such failure to perform is cured. This right to withhold disbursements is in addition to all other rights and remedies the County may have available to it under this Agreement or under law.

ARTICLE IV – REPORTS AND RECORDKEEPING

Section 4.1 Records Retention; Review. The Borrower shall maintain records sufficient to fully

document its compliance with all contractual, Loan and legal requirements. Upon reasonable advance notice, the Borrower shall provide the County or its authorized agents full access to all the Borrower's records in relation to this Agreement. The Borrower agrees to be financially and legally responsible for any audit exceptions or other irregularities in its performance or recordkeeping, including, but not limited to, impermissible or unauthorized use of the Loan funds. This section shall survive termination of this Agreement.

ARTICLE V – NOTICES

Section 5.1 Notices. Any notice required or permitted to be made under this Agreement may be given personally, by facsimile, or by first-class, registered, or certified mail. A notice personally delivered to the other party is deemed given upon proper delivery. A notice sent by first-class, registered, or certified mail is deemed given three (3) days after mailing, if properly addressed and having proper postage. Notices delivered by facsimile shall be deemed to have been given on the date of transmission if received during the recipient's business day. Notices delivered by facsimile and received on other than the recipient's business day shall be deemed received on the recipient's next business day. E-mail addresses, if listed in this Agreement, are only for convenience and not for notice purposes.

ARTICLE VI – INSURANCE

Section 6.1 Professional Legal Liability. The Borrower will maintain professional legal liability or professional errors and omissions coverage appropriate to the Borrower's profession. The coverage will have a limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. The coverage will apply to liability for a professional error, act or omission arising out of the Borrower's services under the Agreement. The coverage will not exclude bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Agreement or within the scope of the Borrower's services under the Agreement, including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Agreement.

Section 6.2 Worker' Compensation and Employer Liability. The Borrower will maintain workers' compensation insurance as required by Florida Statutes and will provide evidence of coverage to the County. If the Contract is for over \$50,000, then the Borrower will also maintain employer's liability coverage with a limit of not less than One Million Dollars (\$1,000,000.00) not excluding bodily injury or property damage. The coverage will not exclude hazards related to the work rendered as part of the Agreement or within the scope of the Borrower's services under the Agreement, including testing, monitoring, measuring operations or laboratory analysis where such services are rendered under the Agreement.

Section 6.3 Commercial General Liability. The Borrower will maintain commercial general liability coverage for bodily injury, personal injury, and property damage, subject to a limit of not less than One Million Dollars (\$1,000,000.00) per occurrence. The general aggregate limit will apply separately to the Agreement and be not less than Two Million Dollars (\$2,000,000.00). The Borrower will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of the Agreement. Specialized forms specific to the industry of the Borrower will be deemed equivalent, provided coverage is no more restrictive than would be provided under a standard commercial general liability policy, including contractual liability coverage.

Section 6.4 Miscellaneous Insurance Provisions.

- A. The insurance limits established by this article are not intended to indicate the Borrower's exposure, nor are they limitations of the Borrower's indemnification duties. This article

- shall survive termination of this Agreement.
- B. The policy shall be endorsed, and the Certificates of Insurance shall reflect that the County, its officers, officials, employees, agents, and representatives, are an additional insured with respect to activities under the Agreement, and the policy will contain no special limitations on the scope of protection afforded to the County, its officers, officials, employees, agents, and representatives as an additional insured.
 - C. The Certificates will, at a minimum, list limits of liability and coverage. The Borrower will furnish the County with properly executed Certificates of Insurance or a signed policy endorsement, including the additional insured provision, which will clearly evidence all insurance required in this article, before work under this Agreement shall commence, but no later than ten (10) days after the effective date of this Agreement. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured.
 - D. The Borrower will maintain all required policies in force from the time services commence until services are completed. The Borrower will provide a current or updated copy of all insurance policies specified in the Agreement upon the request of the County. Certificates, policies, and endorsements scheduled to expire before completion of services will be renewed before expiration. The Certificates will provide that the underlying insurance contract may not be canceled or allowed to expire, except on thirty (30) days prior written notice to the County. Any Certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes must be amended to negate the intent of this provision. Written notice of cancellation or change must be delivered to the County as set forth in Section 5.1 above.
 - E. If the Borrower's liability coverage is written as a claims-made policy, then the Borrower must evidence the purchase of an extended-reporting period or "tail" coverage for a three (3)-year period after completion of the services.
 - F. The Borrower's liability insurance provisions will be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees, agents, and representatives,
 - G. Any failure to comply with reporting provisions of the policies will not affect coverage provided to the County, its officers, officials, employees, agents, or representatives.
 - H. The Borrower's insurance will apply separately to each insured against whom claim is made or suit is brought subject to the limits of the insurer's liability. The Borrower will include all subcontractors as insureds under its policies or will furnish separate Certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all the requirements stated in these provisions.

ARTICLE VII – INDEMNIFICATION

Section 7.1 Indemnification. To the fullest extent permitted by law, the Borrower shall indemnify, defend and hold harmless the County and the Hernando Board of County Commissioners (BCC), and all County officials, officers, employees, agents and each of them, from and against all claims in any way resulting from or arising out of the performance of this Agreement, whether such claims arise from the actual or alleged acts, errors or omissions of the Borrower, its subcontractors, third parties, the County or the BCC or anyone directly or indirectly employed or supervised by any of them or anyone for whose acts, errors or omissions any of them may be liable. "Claim" means any loss, claim, suit, action, liability, damage or expense of any kind or nature whatsoever, including, but not limited to, attorneys' fees and costs, attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of property, including the loss of use resulting therefrom.

Section 7.2 Borrower's Duty to Indemnify. The Borrower's duty to indemnify, defend and hold

harmless includes, but is not limited to, claims by the Borrower or any subcontractor's officers, employees, or agents. The Borrower's duty, however, does not extend to claims arising from the sole negligence or willful misconduct of the County, or of the officials, officers, employees, agents or representatives of the County or the BCC.

ARTICLE VIII – NONDISCRIMINATION AND LEGAL COMPLIANCE

Section 8.1 Nondiscrimination. The Borrower shall not discriminate against any employee or applicant for employment, or program participant or program participant applicant, on account of race, color, sex, religion, national origin, creed, marital status, age, or disability.

Section 8.2 Compliance with Laws. The Borrower and its officials, officers, employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, regulations, rules, and policies. The County shall have no obligation to ensure such compliance.

ARTICLE IX – TERMINATION

Section 9.1 Termination for Loss of Funding. The County shall have the right to terminate this Agreement upon advance written notice if the funds relied upon for the SHIP Loan Program are terminated, suspended, or otherwise lost or impaired in whole or in part.

Section 9.2 Termination for Convenience. Either party may terminate this Agreement for convenience upon giving the other party at least thirty (30) days advance written notice. In the event of termination by the County under this Section 9.2, the Borrower will be entitled to payment only for those expenses and costs reasonably and actually incurred prior to the effective date of the termination.

Section 9.3 Termination for Default. If either party defaults in its performance under this Agreement, the non-defaulting party may give the defaulting party written notice that it has thirty (30) days in which to cure the default. If the default is not cured within thirty (30) days of notice, the non-defaulting party may terminate the Agreement. In the event of such termination, the non-defaulting party shall have all rights and remedies available to it under law.

ARTICLE X – MISCELLANEOUS

Section 10.1 Effective Date. This Agreement shall become effective upon the date of execution by both parties.

Section 10.2 Permissible-Use Warranty. The Borrower warrants that its planned and actual uses of the Loan constitute permissible uses for SHIP funds as established by Florida Statutes. This section shall survive termination of this Agreement.

Section 10.3 Organizational-Status Warranty. The Borrower warrants that it is duly organized, existing and in good standing under the laws of the State of Florida.

Section 10.4 Relationship of Parties. This Agreement, and the Borrower's and the County's activities under it, shall not be construed as creating any kind of partnership or joint venture, nor shall it be construed as creating any kind of independent contractor, agency or employment relationship between the Borrower and the County.

Section 10.5 Assignment. The Borrower shall not assign any of its rights or delegate any of its duties

under this Agreement without the prior express written consent of the County, which may be granted or refused in the County's sole discretion.

Section 10.6 No Third-Party Rights. This Agreement is entered into by the parties solely for their own benefit and it creates or grants no rights of any kind in any other party.

Section 10.7 Governing Law; Venue; Jurisdiction; Waiver of Jury Trial; Attorneys' Fees and Costs. This Agreement shall be governed by the laws of the State of Florida. In the event of a legal proceeding, venue shall be only in a court of competent jurisdiction in Hernando County, Florida. Each party hereby consents to the personal jurisdiction of the courts of the State of Florida, Hernando County. The parties hereby waive their right to trial by jury in any claim, action, litigation or proceeding arising out of this Agreement. In the event of any litigation or enforcement involving the terms and provisions of this Agreement through court proceedings or other action, each party shall be responsible for paying its own attorneys' fees and costs regardless of the outcome of such litigation or action. This section shall survive termination of this Agreement.

Section 10.8 Waiver. No term or condition of this Agreement shall be deemed waived unless such waiver is expressly agreed to in writing by the party granting the waiver. In addition, waiver of any breach of this Agreement shall not be deemed a waiver of any prior or subsequent breach.

Section 10.9 Amendment. This Agreement can be amended only by a writing executed by the parties.

Section 10.10 Entire Agreement. The parties acknowledge that this Agreement is the complete expression of their agreement regarding the subject matter of this Agreement. Any oral or written representations or understandings not incorporated into this Agreement are specifically excluded.

Section 10.11 Headings. The headings in this Agreement are for convenience only and shall not be deemed to affect the meaning of its provisions.

Section 10.12 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the remaining provisions that can be given effect without the invalid provision, provided that the underlying intent of the parties can still be given effect.

Section 10.13 Signature Authority. Each person signing this Agreement on behalf of a party warrants that he or she has full authority to sign this Agreement on that party's behalf.

Section 10.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed one agreement. Each counterpart may be executed and delivered by facsimile or e-mail to the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement, by and through their duly authorized representatives, on the respective dates below.

ATTEST:

HERNANDO COUNTY, FLORIDA,
a political subdivision of the State of Florida

Heidi Kuyper, Deputy Clerk
Douglas A. Chorvat, Jr.,
Clerk of the Circuit Court & Comptroller

By: 
John Allocco, Chairman
Board of County Commissioners

Date: November 7, 2023



Approved as to Form and Legal Sufficiency.

Victoria Anderson
County Attorney's Office

**MID FLORIDA COMMUNITY SERVICES,
INC.**
a Florida Not for Profit Corporation

Witness

By: _____
Richard Sanvenero, Sr., Executive Director

Witness

Date: _____