

CAO Draft v3  
5/03/2022

**LINE OF CREDIT AGREEMENT**

THIS LINE OF CREDIT AGREEMENT, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022 (the "Agreement"), is made by and between the SOUTHEAST FLORIDA COMMUNITY DEVELOPMENT FUND, INC., a not-for-profit corporation organized under the laws of the State of Florida ("Borrower") with its principal place of business located at 1 Oakwood Boulevard, Suite 250, Hollywood, Florida 33020, and BROWARD COUNTY, a political subdivision of the State of Florida ("Lender") with its principal place of business located at 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301.

**RECITALS:**

A. The Borrower has applied to the Lender for a revolving loan in the form of a line a credit authorizing the Borrower to borrow up to an aggregate principal sum of \$1,000,000 (the "Line of Credit"), to be advanced by the Lender pursuant to the terms hereof.

B. The Lender will make a loan to the Borrower (the "Loan") upon satisfaction by the Borrower of the requirements to be set forth in this Agreement.

C. The Borrower will use the proceeds of the Loan to lend to agencies or contractors for construction and/or equipping of single-family residential units that will be occupied by Eligible Persons (as defined herein).

D. The boards of each of the Lender and the Borrower have approved the execution and delivery of this Agreement and, in the case of the Borrower, the Note pursuant hereto.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower and the Lender hereby agree as follows:

[Remainder of page intentionally left blank]

## ARTICLE I

### Definitions

1.1 For the purposes hereof:

(a) "Agreement" or "Line of Credit Agreement" shall mean this agreement between the Borrower and the Lender, as it may be amended or supplemented from time to time.

(b) "Collateralized Properties" means the properties for the Projects described on Attachment 1 to Exhibit B hereto for which the Borrower has provided collateral held by the Escrow Agent.

(c) "Costs" means any soft costs, material costs, or Project closing costs for the construction and/or equipping of the Projects, but shall not include any administrative costs or staff costs of the Borrower related to administration of the Loan or construction of the Projects.

(d) "Developer" means any governmental entity or non-profit corporation, properly vetted by the Borrower, to whom the Borrower will disburse funds from the Loan for completion of the Projects.

(e) "Default Condition" means the occurrence or existence of an event or condition which, upon the giving of notice or the passage of time, or both, would constitute an Event of Default.

(f) "Escrow Agent" means [\_\_\_\_\_] and its successors and assigns.

(g) "Eligible Persons" means one or more natural persons or a family that has a total annual gross household income that does not exceed 120 percent of the median annual income, adjusted for family size, for households within Broward County, as made available annually from Lender.

(h) "Event of Default" means an Event of Default as defined in Section 6.1 hereof.

(i) "Force Majeure" means strikes, lock-outs, riots or other labor troubles, unavailability of materials, a national emergency, any rule, order or regulation of Governmental Authorities, tornadoes, floods, hurricanes or other natural disasters, or other similar causes not within the Borrower's control.

(j) "Governmental Authorities" means any governmental (including health and environmental) office, officer, or official whose consent or approval is required as a prerequisite to the construction of a home at a Project Location (as defined herein) to the performance of any act or obligation or the observance of any agreement, provision, or condition of whatsoever nature required by this Agreement.

(k) "Loan Documents" means this Agreement, the Note, and all other documents executed in connection herewith.

(l) "Maturity Date" means \_\_\_\_\_, 2024, unless such date has been extended pursuant to Section 8.6 hereof.

(m) "Note" means the Promissory Note of the Borrower dated as of the closing date in favor of the Lender in the amount of the Loan as well as any promissory note issued by the Borrower in substitution, replacement, extension, amendment, or renewal of any such promissory note.

(n) "Permitted Exceptions" mean the encumbrances on the title to the Project Location, as set forth in the title policy delivered to Policy, provided such encumbrances do not and would not materially impact the ownership of the Project Location or materially impact the market value of such Project Location, as reasonably determined by Borrower

(o) "Project" means the construction or equipping of single-family residential units to be occupied by Eligible Persons and meeting the requirements set forth in Exhibit B. The initial Projects are set forth in Attachment 1 to Exhibit B.

(p) "Project Location" means real property on which a Project is located.

(q) "Vendors" means any person or company who performs work at any Project Location or any Project, including the general contractor for any part of the Project and its subcontractors or suppliers.

## ARTICLE II

### The Loan

#### 2.1 Loan Terms.

(a) General. Subject to the terms and conditions of this Agreement, the Lender shall make available to the Borrower the Loan in the maximum aggregate principal sum of \$1,000,000 for the Projects, in one disbursement to Borrower's account designated to the Lender, within ten (10) business days of the date of closing. The Loan shall be evidenced by the Note pursuant to the terms and conditions set forth herein. The Note shall be in substantially the form attached hereto as Exhibit A.

(b) Interest; Repayment. The principal balance outstanding on the Note from time to time shall not bear interest. Principal of the Loan shall be repaid at the times and in the manner set forth in the Note. Any payments received by the Lender shall be credited to the Borrower on and as of the date received.

2.2 Use of Proceeds. The Borrower may make advances to Developers of Projects in an amount up to a total of \$1,000,000, so long as there shall exist no Default Condition or Event of Default hereunder. Upon the repayment of any outstanding principal amount of the Loan, the Borrower may re-borrow a portion of the principal, so long as the total amount outstanding at any time of the Loan does not exceed \$1,000,000.

2.3 Mortgage/Title. For any Project set forth in Attachment 1 to Exhibit B, as such Attachment may be amended, the Borrower or Developer will provide evidence of title, and with respect to Projects that are not Collateralized Properties (i) provide the Lender with evidence of a mortgage on the real property on which the applicable Project is located and priority of such mortgage acceptable to the Lender in its sole discretion, and (ii) execute an assignment of each mortgage, in favor of the Lender. Upon repayment of the amount pursuant to Section 2.5 herein, the Lender will execute and record a Satisfaction of Mortgage, if applicable, in the form as provided in Exhibit D, attached hereto.

2.4 Escrow Deposit. If Attachment 1 to Exhibit B is at any time comprised of Collateralized Properties, the Borrower or Developer shall provide the Lender collateral of One Million 00/100 Dollars (\$1,000,000.00). The Borrower shall enter into an Escrow Deposit Agreement with the Escrow Agent ("Escrow Deposit Agreement"), for the deposit of such collateral into an irrevocable escrow account (the "Escrow Account") for the benefit of the Lender. The return of the collateral shall be addressed in any Escrow Deposit Agreement.

2.5 Repayment.

(a) No later than five (5) business days after the closing date of the sale of the home at a Project Location, the Borrower shall repay into the Borrower's account designated to the Lender the Loan proceeds that were allocated to the Project Location. If the proceeds from the sale of the home at the Project Location are not sufficient to repay the amount of Loan proceeds advanced to the Developer for the Project at a Project Location, then such amount shall be paid from the Escrow Account, with respect to the Collateralized Properties or other funds of the Borrower from any source whatsoever.

(b) The outstanding principal amount of the Loan due on the Maturity Date shall be repaid by the Borrower from any source and the balance of the Loan brought down to \$0 no later than the Maturity Date. To the extent reimbursement to the Borrower's account designated to the Lender has not been made, the Borrower pledges and grants a lien in favor of the Lender on all sale proceeds of the homes at the Project Locations. With respect to the Collateralized Properties, the Lender shall request a withdrawal from the Escrow Account to the extent reimbursement to the Lender has not been made.

2.6 Sales Contract. For each Project, the Borrower shall make available and deliver promptly upon request by the Lender (i) a copy of the Sales Contract between the owner of each Project Location and the purchaser of the home at the Project Location and (ii) a copy of the settlement statement. The purchaser of the home at the Project Location must be an Eligible Person.

### ARTICLE III

#### Conditions Precedent to Closing

3.1 Closing. The Lender shall not be obligated to close on the Loan until all of the following conditions below and contained in this Agreement have been satisfied, all in form and substance reasonably satisfactory to the Lender and the Lender's counsel:

(a) Formal action of the Borrower authorizing the transaction contemplated herein and approving the form of the Loan Documents and the execution thereof certified by an officer of the Borrower.

(b) Copies of all financial statements required to be provided to the Lender on or before the date of closing.

(c) Execution of the Note.

(d) Copy of Escrow Deposit Agreement.

(e) Opinion of Borrower's Counsel.

(f) Any other documents as may be requested by the Lender.

### ARTICLE IV

#### Borrower's Covenants and Agreements

4.1 Payment. The Borrower will pay when due all sums owing to the Lender under the Note, this Agreement, and the other Loan Documents and all sums advanced to the Borrower.

4.2 Further Assurances. On demand of the Lender, the Borrower will do any act, or execute any additional documents reasonably required by the Lender to secure the Loan or to comply with the Loan Documents, including, but not limited to, additional financing statements or continuation statements, a new or replacement note, and/or mortgages, if applicable, and agreements supplementing, extending, or otherwise modifying the Note and certificates as to the amount of the indebtedness evidenced by the Note from time to time, to the extent that said demand does not place the Borrower in default of any of its existing notes, mortgages, if applicable, or agreements relating to the properties, and as otherwise only permitted by law.

4.3 Construction and/or Equipping. The Borrower will or will ensure the Developers to whom funds are lent, (i) continue conscientiously the construction and/or equipping of the Projects which construction and/or equipping will be in compliance with all applicable laws at all

times, (ii) not discontinue or permit the discontinuance of work on the Projects for more than twenty (20) consecutive business days, except for Force Majeure causes, in which event construction of the Projects may be discontinued for the length of such Force Majeure, but in no event for more than ninety (90) days; (iii) complete the Projects, including installation of any required items of personalty in substantial compliance with the plans and specifications therefor, free and clear of liens or claims of liens for material supplied or for labor services performed in connection with the construction of the Projects, and (iv) maintain records evidencing compliance with (i) through (iii) above.

4.4 Quarterly Report. The Borrower will deliver to Lender a quarterly report (the "Quarterly Report") within thirty (30) days after each January 1, April 1, July 1, and October 1 while the Loan remains outstanding. Each Quarterly Report shall include: (1) a description of each Project currently under construction, including the address of the Project Location, the progress of construction, amount of Loan proceeds lent to Developer for the Project, and anticipated closing date; (2) a certification of Borrower that no Default Condition or Event of Default exists under the Agreement; (3) a list of completed Projects and confirmation that the initial funds advanced were repaid and re-borrowed; (4) certification that Borrower has not received any notice, written or oral, from any Vendor to the effect that said Vendor has not been paid for any services provided to the Borrower in connection with the Projects; and (5) any other information requested by the Lender relating to this Agreement or any Project. In addition to the Quarterly Report, Borrower will deliver to Lender any additional information regarding the Loan or the Projects reasonably promptly upon request by Lender.

4.5 Fees and Expenses. The Borrower agrees to pay all expenses (pre- and post-closing) reasonable in amount incurred by the Lender, or by the Borrower in order to meet the Lender's requirements, in connection with the Loan, including (without limitation) fees for appraisal, reappraisal, environmental assessments, survey, recording, filing, and title insurance, builder's risk and other insurance premiums, brokerage commissions and claims of brokerage, property taxes, intangible taxes, architect's fees, and such legal fees as are reasonable in amount charged at attorneys' normal hourly rates without regard to the statutory presumption, incurred by the Lender in connection the enforcement of the Lender's rights under the Loan Documents. Notwithstanding the foregoing, each party shall be responsible for payment of its own attorneys' fees in connection with consummation of this Agreement.

4.6 Preservation of Contracts. The Borrower will not, without prior written notification to the Lender, terminate or cancel its contracts or agreements with its Vendors for the providing of labor, services or materials in connection with the construction of the Projects.

4.7 Use of Loan Funds. The Borrower shall use or cause to be used all Loan proceeds advanced to the Borrower to pay or reimburse Costs incurred by a Developer related to a Project Location, in accordance with the Costs as provided on Exhibit C hereto or pursuant to a subsequent certificate provided to the Lender certifying Costs in connection with the Projects.

4.8 Insurance. The Borrower shall ensure any Developers or Vendors providing services for a Project ("Contractor") comply with the following:

(a) For the duration of this Agreement, the Borrower shall ensure any Contractor, at its sole expense, maintain the minimum insurance coverages stated in Exhibit E in accordance with the terms and conditions of this article. All Contractors shall maintain insurance coverage against claims relating to any act or omission by the Contractor, its agents, representatives, employees, in connection with this Agreement. The Lender reserves the right at any time to review and adjust the limits and types of coverage required under this article.

(b) The Borrower shall cause the Contractor to ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit E on all policies required under this article. Any proceeds received by the Lender as additional insured from the Projects shall be applied to the Borrower's outstanding principal and any losses which may result therefrom.

(c) On or before the date hereof or at least fifteen (15) days prior to commencement of Projects, the Borrower shall cause the Contractor to provide the Lender with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by the Lender, the Borrower shall cause the Contractor to provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after the Lender's request.

(d) The Borrower shall cause the Contractor to ensure that all insurance coverages required by this article shall remain in full force and effect for the duration of the relevant Project. The Borrower shall cause the Contractor's insurer to provide notice to the Lender of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide the Lender with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s). The Borrower shall cause the Contractor to ensure that there is no lapse of coverage at any time during the time period for which coverage is required by this article.

(e) The Borrower shall cause the Contractor to ensure that all required insurance policies are issued by insurers: (1) assigned an A. M. Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by the Lender.

(f) If the Contractor maintains broader coverage or higher limits than the minimum insurance requirements stated in Exhibit E, the Borrower shall cause the Contractor to ensure the Lender shall be entitled to any such broader coverage and higher limits maintained by the Contractor. All required insurance coverages under this article shall provide primary coverage and shall not require contribution from any Lender insurance, self-insurance or otherwise, which shall be in excess of and shall not contribute to the insurance required and provided by the Contractor.

(g) The Borrower shall cause the Contractor to declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit E and submit to the Lender for approval at least fifteen (15) days prior to the date hereof or commencement of a Project. The Borrower shall cause the Contractor to be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against the Lender. The Lender may, at any time, require the Borrower to cause the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The Borrower agrees that any deductible or self-insured retention may be satisfied by either the named insured or the Lender, if so elected by the Lender, and the Borrower agrees to cause the Contractor to obtain same in endorsements to the required policies.

(h) Unless prohibited by the applicable policy, the Borrower shall cause the Contractor to waive any right to subrogation that any of the Contractor's insurer may acquire against the Lender or the Borrower and agrees to cause the Contractor to obtain same in an endorsement of the Contractor's insurance policies.

(i) If any Contractor fails to maintain the insurance required by this Agreement, then, at Lender's request, Borrower shall pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to the Contractor. The Borrower shall not disburse any funds to a Developer or permit any Contractor to provide services unless and until the requirements of this article are satisfied. If requested by the Lender, the Borrower shall provide, within one (1) business day, evidence of each Contractor's compliance with this section.

(j) If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the date hereof; (2) the required coverage must be maintained after termination or expiration of this Agreement for at least the duration stated in Exhibit E, and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the date hereof, the Borrower must cause the Contractor to obtain and maintain or cause to be obtained and maintained "extended reporting" coverage that applies after termination or expiration of this Agreement for at least the duration stated in Exhibit E.

4.9 Taxes and Insurance. Upon the request of the Lender, the Borrower shall submit to the Lender such receipts and other statements which shall evidence, to the satisfaction of the Lender, that all taxes, assessments, and insurance premiums for a Project have been paid in full.

4.10 Availability of Utilities. The Borrower will ensure all utility services necessary for the construction of a Project and the operation thereof for their intended purposes are presently available, or will be available when needed, through presently existing public or unencumbered private easements or rights-of-ways, including but not limited to, water supply, storm and sanitary sewer, gas, electric, and telephone facilities, and all such utilities are non-interruptible.



4.11 Hazardous Substances. The Borrower warrants and represents to the Lender that (i) any real property on which the Projects are or will be located has not been, is not now being used and will not be used in violation of any federal, state or local environmental law, ordinance or regulation, (ii) no proceedings have been commenced, or notice(s) received, concerning any alleged violation of any such environmental law, ordinance or regulation, and (iii) any real property on which the Projects are or will be located is and will be free of hazardous or toxic substances and wastes, contaminants, oil, radioactive or other materials (including without limitation any asbestos containing materials) the removal of which is required or the maintenance of which is restricted, prohibited, or penalized by any federal, state or local agency, authority, or governmental unit. Except for materials necessary for the normal routine maintenance of the Projects, which such materials shall be used in accordance with all applicable governmental laws, ordinances, and regulations, the Borrower covenants that it shall not permit any such materials to be brought on to any real property on which the Projects are or will be located, or if so brought or found located thereon, shall be immediately removed, with proper disposal, and all required environmental cleanup procedures shall be diligently undertaken pursuant to all such laws, ordinances and regulations.

The Borrower further represents and warrants that the Borrower will promptly transmit to the Lender copies of any citations, orders, notices or other material governmental or other communications received with respect to any hazardous materials, substances, wastes or other environmentally regulated substances affecting any of the Projects. The Borrower agrees to permit the Lender, its agents, contractors, and employees to enter and inspect any Project or any other of the Borrower's places of business or any other property of the Borrower at any reasonable time upon three (3) days prior notice for the purposes of conducting an environmental investigation and audit (including taking physical samples) to ensure that the Borrower is complying with its obligations under the within covenants and the Borrower shall reimburse the Lender on demand for the cost of any such environmental investigation and audit. The Borrower shall provide the Lender, its agents, contractors, employees and representatives with access to and copies of any and all data and documents relating to or dealing with any hazardous material used, generated, manufactured, stored, or disposed of by the Borrower's business operations within five (5) days of the request therefor.

To the maximum extent permitted by law and in the terms hereof, the Borrower agrees that it will reimburse the Lender for and hereby holds the Lender harmless from all fines or penalties made or levied against the Lender by any governmental agency or authority as a result of or in connection with (i) the use of any real property on which the Projects are or will be located, (ii) the use of the facilities thereon, or (iii) the use, generation, storage, transportation, discharge, release or handling of any hazardous or toxic materials, wastes or substances (as such terms are defined by any applicable federal, state or local law), or any other material the use, generation, storage, transportation, discharge, release or handling of which is regulated by any federal, state or local statute, law, rule, regulation, ordinance or order at any time, or as a result of any release of any nature onto the ground or into the water or air from or upon the such real property at any time, and also agrees that it will reimburse the Lender for and indemnify and hold the Lender harmless from any and all costs, expenses, (including all reasonable attorneys' fees) and for all civil judgments or penalties incurred, entered, assessed, or levied against the

Lender as a result of the Borrower's use of the Land or as a result of any release of any nature onto the ground or into the water or air by the Borrower from or upon such real property ("Environmental Indemnity"). Such reimbursement or indemnification shall include but not be limited to any and all judgments or penalties to recover the cost of cleanup of any such release by the Borrower from or upon such real property and all expenses incurred by the Lender as a result of such a civil action, including but not limited to reasonable attorneys' fees at trial and all appellate levels.

The Environmental Indemnity shall survive the repayment of the Loan.

4.12 Indebtedness. Except for indebtedness previously disclosed to the Lender, the Borrower shall not contract, create, incur, assume, or permit to exist any indebtedness secured by any Project or by real property on which the Projects are or will be located unless said indebtedness is approved by the Lender in writing.

4.13 Transfer of Assets. The Borrower shall not sell, lease, assign, or otherwise dispose of or transfer any assets, except in the normal course of its business, or enter into any merger or consolidation, or transfer control or ownership of the Borrower.

4.14 Liens. The Borrower shall not grant, suffer or permit any contractual or non-contractual lien, on or security interest (other than Permitted Exceptions) in any of its assets which serve as collateral for any of the Borrower's obligations to the Lender, or fail to promptly pay when all due all lawful claims, whether for labor, materials or otherwise.

4.15 Good Standing. The Borrower shall maintain its existence, good standing and qualification to do business, where required and comply with all laws, regulations and governmental requirements including, without limitation, environmental laws applicable to it or any of its property, business operations and transactions.

4.16 Adverse Condition. The Borrower shall promptly advise the Lender in writing of (i) any condition, event or act that comes to its attention that would or might materially adversely affect the Borrower's financial condition or operation or the Lender's rights under the Loan Documents, (ii) any litigation filed by or against the Borrower that would materially adversely affect the Borrower's financial condition or operation or the Lender's rights under the Loan Documents, (iii) any event that has occurred that would constitute an Event of Default under any of the Loan Documents, and (iv) any material uninsured or partially uninsured loss through fire, theft, liability or property damage.

4.17 Tangible Personal Property. The Borrower shall maintain all of its tangible property in good condition and repair and make all necessary replacements thereof; and preserve and maintain all licenses, trademarks, privileges, permits, franchises, certificates and the like necessary for the operation of its business.

4.18 Financials. So long as the Loan is outstanding, the Borrower shall provide the Lender with a copy of (a) the Borrower's budget for each fiscal year, within thirty (30) days of its

adoption, and (b) the audited annual financial statements of the Borrower, within thirty (30) days of the completed audit of each fiscal year of the Borrower, but not later than 270 days after the end of each fiscal year, commencing with the fiscal year ending September 30, 2021.

4.19 Small and County Business Participation. The Lender desires to provide companies designated by the Broward County Office of Economic and Small Business Development as small business enterprises ("SBE") and county business enterprises ("CBE") an equal opportunity to participate in the performance of its contracts. The Borrower is requested to assist the Lender in implementing this policy by providing equal opportunities for SBE and CBE firms to participate in the construction of the Projects. The Borrower and all Developers shall make a good-faith effort to employ small businesses and county businesses evenly on each of the Projects, which includes contacting the Broward County Office of Economic and Small Business Development to request a list of certified SBE and CBE firms that are available to participate in the performance of contracts.

The Borrower shall submit a written report to the Lender of the SBE and CBE firms that participated in the Project, within thirty (30) days of the completion of each Project.

4.20 Guaranty. Notwithstanding any provision in this Agreement, the Loan Documents, or any resolution or document to the contrary, the Borrower agrees to pay the Note and all other fees in connection with the transaction contemplated under this Agreement, including, but not limited to, any costs and expenses in connection with any litigation that may at any time be instituted involving the Borrower, the Note, this Agreement, or any of the other documents contemplated thereby and any reasonable expenses incurred related to enforcing such agreement. This section shall survive the payment of the Note and/or the disposition of the Projects.

4.21 Borrower Indemnification. To the extent permitted by law, the Borrower shall indemnify, hold harmless, and defend the Lender and all of the Lender's current, past, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of the Borrower, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, the Borrower shall, upon written notice from the Lender, defend each Indemnified Party against each such Claim by counsel satisfactory to the Lender or, at the Lender's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Director of the Housing Finance Division and the County Attorney any sums due Borrower under this Agreement may be retained by the Lender until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by the Lender. To the

extent permitted by applicable law, this provision shall not be deemed a waiver of the Borrower's sovereign immunity.

## ARTICLE V

### Representations and Warranties

5.1 The Borrower makes the following representations and warranties:

(a) Good Standing. The Borrower is duly organized, validly existing and in good standing under the laws of the State of Florida and has the power and authority to own and manage property, including all properties that constitute the Projects, and to carry on business in each jurisdiction in which the Borrower does business.

(b) Authority. The Borrower has full power and authority to execute and deliver the Loan Documents and to incur and perform the obligations provided for therein, all of which have been duly authorized by all proper and necessary action of the governing body of the Borrower. No consent or approval of any public authority or other third party is required as a condition to the validity of any Loan Document, and the Borrower is in compliance with all laws and regulatory requirements to which it is subject.

(c) Enforceability. This Agreement and the other Loan Documents executed by the Borrower constitute valid and binding obligations of the Borrower, as the case may be, enforceable in accordance with their terms, subject to the effect of bankruptcy, insolvency and general principles of equity.

(d) Litigation. There is no proceeding involving the Borrower pending or, to the best knowledge of the Borrower, threatened before any court or governmental authority, agency or arbitration authority that would materially adversely affect the Borrower's financial condition or operation or the Lender's rights under the Loan Documents, except as disclosed to the Lender in writing and acknowledged by the Lender prior to the date of this Agreement.

(e) No Conflicting Agreements. There is no statute, ordinance, resolution, bylaw, or other document pertaining to the organization, power or authority of the Borrower and no provision of any existing agreement, mortgage, indenture or contract binding on the Borrower or affecting its property, which would conflict with or in any way prevent the execution, delivery or carrying out of the terms of this Agreement and the other Loan Documents.

(f) Assets. The Borrower will show evidence of title or mortgage on the property related to the Projects, and such assets are or will be free and clear of liens, except those granted to the Lender or the Borrower and except for Permitted Exceptions. With respect to the Collateralized Properties, the Borrower will show evidence of the executed Escrow Deposit Agreement.

(g) Taxes. Any taxes and assessments due and payable on the Projects have been paid or are being contested in good faith by appropriate proceedings.

(h) Place of Business. The Borrower's chief executive office is located at 1 Oakwood Boulevard, Suite 250, Hollywood, Florida 33020.

(i) Environmental Compliance. The conduct of the Borrower's business operations and the condition of the Project does not and will not violate any federal laws, rules or ordinances for environmental protection, regulations of the Environmental Protection Agency and any applicable local or state law, rule, regulation or rule of common law and any judicial interpretation thereof relating primarily to the environment or hazardous materials.

(j) Public Entity Crimes Act. Borrower represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes ("Act"), and represents that its entry into this Agreement will not violate that Act. Borrower further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Borrower has been placed on the convicted vendor list.

(k) Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Borrower represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Borrower represents and certifies that it is not, and during the term of the Loan will not be, ineligible to contract with Lender on any of the grounds stated in Section 287.135, Florida Statutes. Borrower represents that it is, and during the term of the Loan will remain, in compliance with Section 286.101, Florida Statutes.

(l) Investment Company Act, Etc. Borrower is not (a) an "investment company," as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended, or (b) otherwise subject to any other regulatory schedule limiting its ability to incur debt.

(m) Prohibited Telecommunications Equipment. Borrower represents and certifies that Borrower, its General Contractor, and its subcontractors, do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Borrower represents and certifies that Borrower, its General Contractor, and its subcontractors, shall not provide or use such covered telecommunications equipment, system, or services during the term of the Loan.

(n) Affirmation of Representations. Any representations and warranties made hereunder shall be deemed to be made at and as of the date hereof, and as of the date any disbursement of Loan proceeds is made.

## ARTICLE VI

### Events of Default

6.1 Default. The occurrence of any of the following (time being of the essence as to this Agreement and all of its provisions) constitutes an Event of Default by the Borrower under this Agreement and, at the option of the Lender, under the other Loan Documents:

(a) Scheduled Payment. The Borrower's failure to make any payment required by the Note within fifteen (15) days of the date such payment is due.

(b) Monetary Default. The Borrower's failure to make any other payment required by the Loan Documents within fifteen (15) days of the date such payment is due.

(c) Other. The Borrower's failure to perform any other obligation imposed upon the Borrower under the Loan Documents which is not cured within any applicable grace period provided or, with respect to such breaches, failures or violations of this Agreement, the Note, or the other Loan Documents within thirty (30) days following written notice of such breach or violation from the Lender provided, however, that if such breach, failure or violation cannot be cured with the exercise of reasonable diligence within such thirty (30) day period, then the period for curing may be extended for up to an additional ninety (90) days, but not beyond, provided the Borrower commences such cure within fifteen (15) days after such notice and thereafter proceeds diligently to complete the curing of same.

(d) Representation. Any representation or warranty of the Borrower contained herein or in any certificate delivered pursuant hereto, or in any other instrument or statement furnished in connection herewith, proves to be incorrect or misleading in any material, adverse respect as of the time when the same shall have been made, including, without limitation, any and all financial statements, operating statements, or schedules attached thereto, furnished by the Borrower to the Lender or pursuant to any provision of this Agreement or the other Loan Documents.

(e) Bankruptcy. The Borrower (i) files a voluntary petition in bankruptcy or a petition or answer seeking or acquiescing in any reorganization or for an arrangement, composition, readjustment, liquidation, dissolution, or similar relief for itself pursuant to the United States Bankruptcy Code or any similar law or regulation, federal or state, relating to any relief for debtors, now or hereafter in effect; or (ii) makes an assignment for the benefit of creditors or admits in writing its inability to pay or fails to pay its debts as they become due; or (iii) suspends payment of its obligations or takes any action in furtherance of the foregoing; or (iv) consents to or acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator or other similar official of the Borrower, for all or any part of the Premises or other assets of such party, or either; or (v) has filed against it an involuntary petition, arrangement, composition, readjustment, liquidation, dissolution, or an answer proposing an adjudication of it as a bankrupt or insolvent, or is subject to a reorganization pursuant to the United States Bankruptcy Code, an action seeking to appoint a trustee, receiver, custodian, or conservator or liquidator, or any

similar law, federal or state, now or hereafter in effect, and such action is approved by any court of competent jurisdiction and the order approving the same shall not be vacated or stayed within sixty (60) days from entry; or (vi) consents to the filing of any such petition or answer, or shall fail to deny the material allegations of the same in a timely manner.

(f) Judgments. (1) A final judgment, other than a final judgment in connection with any condemnation, is entered against the Borrower that (i) materially and adversely affects the value, use or operation of any of the Projects, or (ii) materially and adversely affects, or reasonably may materially and adversely affect, the validity, enforceability or priority of the lien or security interest created by the Loan Documents, or both; or (2) execution or other final process issues thereon with respect to any collateral for the Note; and (3) the Borrower does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereon, in any event within thirty (30) days from entry, or the Borrower shall not, within such period or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered, and cause its execution to be stayed during such appeal, or if on appeal such order, decree or process shall be affirmed and the Borrower shall not discharge such judgment or provide for its discharge in accordance with its terms within sixty (60) days after the entry of such order or decree or affirmance, or if any stay of execution on appeal is released or otherwise discharged.

(g) Liens. Any federal, state, or local tax lien or any claim of lien for labor or materials or any other lien or encumbrance of any nature whatsoever is recorded against the Borrower or any real estate on which the Projects are located and is not removed by payment or transferred to substitute security in the manner provided by law, within twenty (20) days after it is recorded in accordance with applicable law.

(h) Other Notes or Mortgages. The Borrower's default in the performance or payment of the Borrower's obligations under any other note, or under any other mortgage whatsoever which continues beyond any applicable notice or grace period set forth therein.

(i) Borrower Default Under the Loan Documents. The Borrower's default in the payment or performance of any of the Borrower's obligations under any of the Loan Documents, which continues beyond any applicable notice or grace period set forth therein.

(k) Transfer of Property or Ownership. Any sale, conveyance, transfer, assignment, or other disposition of all or any part of the Projects or any real estate on which any of the Projects are located, other than leases to individual tenants in the ordinary course of business, unless the sale or transfer of such real property is contemplated as part of the Projects or the financing documents between the Borrower and parties to whom the Borrower lends money. Notwithstanding the above, the sale or disposition of real estate to the ultimate homeowner following the construction and completion of a Project shall not be considered an Event of Default hereunder, provided the ultimate homeowner is an Eligible Person.

(j) False Statement. Any statement or representation of the Borrower contained in the materials furnished to the Lender or any other lender prior or subsequent to the making of the Loan are discovered to have been false or incorrect or incomplete in any material respect.

(k) Failure to Use Loan Proceeds. In Lender's sole determination, the Borrower fails to expend any Loan proceeds to make advances to Developers for Projects in accordance with Section 2.2 within the first year of the term of this Agreement.

## ARTICLE VII

### Lender's Rights and Remedies

The following rights and remedies are available to the Lender:

7.1 Acceleration. Upon the occurrence of an Event of Default, the entire unpaid principal balance of the Loans shall, at the option of the Lender and without advance notice to the Borrower, become immediately due and payable. In addition, upon acceleration, any and all other obligations of the Borrower to the Lender shall be immediately due and payable.

7.2 Disputes. Where disputes have arisen which, in the opinion of the Lender, may endanger timely completion of any of the Projects or fulfillment of any condition precedent or covenant herein, the Lender may agree to advance Loan proceeds for the account of the Borrower without prejudice to the Borrower's rights, if any, to recover said proceeds from the party to whom paid. Such agreement or agreements may take the form which the Lender, in its sole discretion deems proper, including, but without limiting the generality of the foregoing, agreements to indemnify (on behalf of the Borrower and/or for the Lender's own account) any title insurer against possible assertion of lien claims, agreements to pay disputed amounts and the like. All sums paid or agreed to be paid pursuant to such undertaking shall be advances of Loan proceeds.

7.3 Remedies Cumulative; Nonwaiver. Upon the occurrence of an Event of a Default under this Agreement or any of the other Loan Documents, the Lender shall have all remedies at law and/or in equity. All remedies of the Lender provided for herein or in the other Loan Documents are cumulative and shall be in addition to any and all other rights and remedies provided for or available under the other Loan Documents, at law or in equity. The exercise of any right or remedy by the Lender hereunder shall not in any way constitute a cure or waiver of a Default Condition or an Event of Default hereunder or under the Note or any Loan Document, or invalidate any act done pursuant to any notice of the occurrence of a Default Condition or Event of Default, or prejudice the Lender in the exercise of any of its rights hereunder or under the Note or any Loan Document, unless, in the exercise of said rights, the Lender realizes all amounts owed to it under the Note and other Loan Documents.

7.4 No Liability of the Lender. Whether or not the Lender elects to employ any or all remedies available to it in the event of an occurrence of a Default Condition or an Event of Default, the Lender shall not be liable for the construction of or failure to construct or complete



or protect any of the Projects or for payment of any expense incurred in connection with the exercise or any remedy available to the Lender or for the construction or completion of any of the Projects or for the performance or nonperformance of any other obligation of the Borrower.

7.5 Security Interest. It is understood and agreed that the Lender shall have and enjoy and is hereby granted a lien on and a security interest in, any and all materials (stored on-site or off-site), reserves, deferred payments, deposits or advance payments for materials (stored on-site or off-site), unadvanced Loan proceeds, insurance refunds, impound accounts, refunds for overpayment of any kind, and any surplus of withheld funds resulting from the invalidity of “stop notice” claims or the failure of claimants to prosecute their claims to judgment, to the extent the same arise out of or occur in connection with the construction of a Project, and such lien and security interest shall constitute additional security for the indebtedness of the Borrower evidenced by the Note, and the Lender shall have and possess any and all rights and remedies of a secured party provided by law with respect to enforcement of and recovery on its security interest on such items and amounts.

## ARTICLE VIII

### General Conditions

The following conditions shall be applicable throughout the term of this Agreement:

8.1 Waivers. No waiver of any Default Condition or Event of Default or breach by the Borrower hereunder shall be implied from any delay or omission by the Lender to take action on account of such Default Condition or Event of Default, and no express waiver shall affect any Default Condition or Event of Default other than the Event of Default specified in the waiver and it shall be operative only for the time and to the extent therein stated. Waivers of any covenants, to or conditions contained herein must be in writing and shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the Lender to or of any act by the Borrower requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent or similar act. No single or partial exercise of any right or remedy of the Lender hereunder shall preclude any further exercise thereof or the exercise of any other or different right or remedy.

8.2 Benefit. This Agreement is made and entered into for the sole protection and benefit of the Lender and the Borrower, their successors and assigns, and no other person or persons shall have any right to action hereon or rights to the Loan proceeds at any time, nor shall the Lender owe any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of any of the Projects, or to apply any unadvanced portion of the Loan to the payment of any such claim, or to exercise any right or power of the Lender hereunder or arising from any Default Condition or Event of Default by the Borrower.

8.3 Assignment. The terms hereof shall be binding upon and inure to the benefit of the heirs, successors, assigns, and personal representatives of the parties hereto; provided, however, that the Borrower shall not assign this Agreement or any of its rights, interests, duties

or obligations hereunder or any Loan proceeds either in whole or in part without the prior written consent of the Lender, which consent may be withheld at the Lender's sole discretion, and that any such assignment (whether voluntary or by operation of law) without said consent shall be void. It is expressly recognized and agreed that the Lender may assign this Agreement, the Note, and any other Loan Documents, in whole or in part to any other person, firm, or legal entity provided that all of the provisions hereof shall continue in full force and effect and, in the event of such assignment, the Lender shall thereafter be relieved of all liability hereunder and any Loan advances made by any assignee shall be deemed made in pursuance and not in modification hereof and shall be evidenced by the Note and secured by this Agreement and any other Loan Documents.

8.4 Amendments. This Agreement shall not be amended except by a written instrument signed by all parties hereto. County Administrator is hereby authorized to execute an amendment for the purpose of extending the term of this Agreement pursuant to Section 8.6 herein. Amendments to this Agreement solely for the purpose of amending the Project list set forth in Attachment 1 to Exhibit B shall be made in accordance with the process set forth in Exhibit B to this Agreement.

8.5 Terms. Whenever the context and construction so require, all words used in the singular number herein shall be deemed to have been used in the plural, and vice versa, and the masculine gender shall include the feminine and neuter and the neuter shall include the masculine and feminine

8.6 Term; Termination. This Agreement shall be for a two (2) year term, beginning on the date hereof and expiring on the Maturity Date. The Lender may extend this Agreement for an additional one (1) year term by amending this Agreement in the manner set forth in Section 8.4. This Agreement may be terminated by either party, with or without cause, by giving sixty (60) days' notice to the other party.

8.7 Governing Law and Jurisdiction. This Agreement and the other Loan Documents and all matters relating thereto shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. The Borrower hereby submits to the jurisdiction of the State and Federal courts located in Broward County, Florida and agrees that the Lender may, at its option, enforce its rights under the Loan Documents in such courts.

8.8 Savings Clause. Invalidation of any one or more of the provisions of this Agreement shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

8.9 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same instrument, and in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

8.10 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement nor the intent of any provision hereof.

8.11 Notices. All notices, consents, rejections, requests and other communications required to be given hereunder or under the Note shall be in writing and shall be deemed to have been sufficiently given or served for all purposes (i) when delivered in person, (ii) upon receipt after being sent by express mail or delivery service guaranteeing overnight delivery, or (iii) by registered or certified mail, postage prepaid, with return receipt requested, (in which case notice shall be deemed effectively made when the receipt is signed or when the attempted initial delivery is refused or cannot be made because of a change of address of which the sending party has not been notified) to any party hereto at its address listed below or at such other address of which written notification has been given to the other party, as provided herein:

If to the Borrower: Southeast Florida Community Development Fund, Inc.  
1 Oakwood Boulevard, Suite 250  
Hollywood, Florida 33020  
Attn: Executive Director

With a copy to: Goren, Cherof, Doody & Ezrol, P.A.  
3099 E. Commercial Blvd., #200  
Fort Lauderdale, Florida 33308  
Attn: Samuel S. Goren, Esq.

If to the Lender: Broward County  
Housing Finance Division  
110 NE 3<sup>rd</sup> St, Suite 300  
Fort Lauderdale, Florida 33301  
Attn: Ralph Stone, Director

With a copy to: Broward County  
115 South Andrews Ave, Room 409  
Fort Lauderdale, Florida  
Attn: County Administrator

Notices given or made to any officer, partner, agent or employee of either party or if given or made to the counsel of such party, at its address herein shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Notwithstanding the foregoing, no notice of change of address shall be effective until the date of receipt thereof.

8.12 WAIVER OF JURY TRIAL. BY ACCEPTANCE HEREOF, THE PARTIES MUTUALLY AGREE THAT NEITHER PARTY, NOR ANY PARTNER, ASSIGNEE, SUCCESSOR, HEIR, OR LEGAL REPRESENTATIVE OF THE PARTIES (ALL OF WHOM ARE HEREINAFTER REFERRED TO AS THE

“PARTIES”) SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM, OR ANY OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY INSTRUMENT EVIDENCING, SECURING, OR RELATING TO THE INDEBTEDNESS AND OTHER OBLIGATIONS EVIDENCED HEREBY, ANY RELATED AGREEMENT OR INSTRUMENT, ANY OTHER COLLATERAL FOR THE INDEBTEDNESS EVIDENCED HEREBY OR THE DEALINGS OR THE RELATIONSHIP BETWEEN OR AMONG THE PARTIES, OR ANY OF THEM. NONE OF THE PARTIES WILL SEEK TO CONSOLIDATE ANY SUCH ACTION, IN WHICH A JURY TRIAL HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL HAS NOT BEEN WAIVED. THE PROVISIONS OF THIS PARAGRAPH HAVE BEEN FULLY NEGOTIATED BY THE PARTIES. THE WAIVER CONTAINED HEREIN IS IRREVOCABLE, CONSTITUTES A KNOWING AND VOLUNTARY WAIVER, AND SHALL BE SUBJECT TO NO EXCEPTIONS. THE LENDER HAS IN NO WAY AGREED WITH OR REPRESENTED TO ANY OF THE PARTIES THAT THE PROVISIONS OF THIS PARAGRAPH WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

8.13 Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by Lender nor shall anything included herein be construed as consent by Lender to be sued by third parties in any matter arising out of this Agreement.

8.14 Public Records. To the extent Borrower is acting on behalf of Lender as stated in Section 119.0701, Florida Statutes, Borrower shall:

- a. Keep and maintain public records required by Lender to perform the Services;
- b. Upon request from Lender, provide Lender with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to Lender; and
- d. Upon completion or termination of this Agreement, transfer to Lender, at no cost, all public records in possession of Borrower or keep and maintain public records required by Lender to perform the services. If Borrower transfers the records to Lender, Borrower shall destroy any duplicate public records that are exempt or confidential and exempt. If Borrower keeps and maintains the public records, Borrower shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Lender upon request in a format that is compatible with the information technology systems of Lender.

A request for public records regarding this Agreement must be made directly to Lender, who will be responsible for responding to any such public records requests. Borrower will provide any requested records to Lender to enable Lender to respond to the public records request.

Any material submitted to Lender that Borrower contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Borrower must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to Lender for records designated by Servicer as Trade Secret Materials, Lender shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Borrower. Borrower shall indemnify and defend Lender and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF BORROWER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO BORROWER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-4900, RSTONE@BROWARD.ORG, 110 NE 3<sup>rd</sup> STREET, SUITE 300, FORT LAUDERDALE, FLORIDA 33301.**

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Borrower and the Lender hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator authorized to execute same by Board action on \_\_\_\_\_ 2022, (Agenda Item No. \_\_\_\_), and SOUTHEAST FLORIDA COMMUNITY DEVELOPMENT FUND, INC., through its \_\_\_\_\_, duly authorized to execute same.

LENDER

WITNESSES:

BROWARD COUNTY, by and through  
its County Administrator

\_\_\_\_\_  
Signature of Witness 1

By: \_\_\_\_\_  
Monica Cepero  
County Administrator

\_\_\_\_\_  
Print Name of Witness 1

\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Signature of Witness 2

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

\_\_\_\_\_  
Print Name of Witness 2

By: \_\_\_\_\_  
Alicia C. Lobeiras (Date)  
Assistant County Attorney

By: \_\_\_\_\_  
Annika E. Ashton (Date)  
Deputy County Attorney

**SOUTHEAST FLORIDA COMMUNITY  
DEVELOPMENT FUND, INC.**

By: \_\_\_\_\_  
Name:  
Title:

WITNESSESS:

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

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

**EXHIBIT A  
FORM OF PROMISSORY NOTE**

**PROMISSORY NOTE**

**Principal Amount:**

**Date of Issuance:**

**Maturity Date:**

Southeast Florida Community Development Fund, Inc., a not-for-profit corporation under the laws of the State of Florida (the "Borrower") promises to pay to the order of Broward County, a political subdivision of the State of Florida (the "Lender"), at its office at 115 South Andrews Avenue, Fort Lauderdale, Florida 33301 (or at such other place as the Lender hereof may designate), the sum of ONE MILLION DOLLARS (\$1,000,000) ("Loan") or so much thereof as from time to time may be disbursed by the Lender to the Borrower pursuant to the terms of that certain Line of Credit Agreement dated \_\_\_\_\_, 2022 (the "Agreement").

The Borrower may borrow, repay, and re-borrow hereunder, provided that the aggregate principal amount outstanding shall not exceed One Million Dollars (\$1,000,000).

This Note shall not bear interest. All unpaid principal and unpaid costs shall be due and payable on the Maturity Date and principal may be prepaid at any time in whole or in part, without premium or penalty.

As used in this instrument, the term "Obligations" shall refer to the indebtedness represented by this Note and all modifications, renewals and substitutions hereof, all obligations of the Borrower under the documents (the "Loan Documents") which evidence and secure the obligations of the loan evidenced by this Note and all other claims of every nature and description of the Lender against the Borrower whether present or future, contracted with or acquired by the Lender, and whether joint, several, absolute, contingent, matured, unmatured, liquidated, unliquidated, or direct or indirect.

Upon the happening of an Event of Default (as defined in the Agreement): (1) the entire amount of this Note remaining unpaid shall, at the option of the Lender and without notice or demand, become due and payable forthwith or thereafter; (2) the Lender may at its option, thereupon or thereafter declare all other Obligations, or any of them selected by the Lender (notwithstanding any provisions thereof), immediately due and payable without demand or notice of any kind; and (3) the Lender shall have and may exercise without demand any and all of the rights and remedies at law or in equity available to the Lender (including those available under any written instrument in addition to this Note relating to any of the Obligations or any security thereof).



In no event and under no circumstances shall there be due hereunder, nor shall the Lender be entitled hereunder to receive at any time, any charges not allowed or permitted by law or any interest or interest rate in excess of the maximum allowed by law. In the event that the amount of any charge or payment due hereunder shall create or shall be deemed to create an interest charge in excess of the maximum permissible legal rate, then the charge of any such excess amount shall be deemed unenforceable and void and its collection shall be waived, without affecting the remainder of the Obligations evidenced hereby, and any such excess amount which may have been paid to the Lender shall be refunded.

In the event the Lender shall be required at any time to pay any documentary stamp tax, intangible tax, or other taxation with respect to all or part of the Loan or any other transaction contemplated or evidenced by this Note or other Loan Documents, the Borrower shall reimburse the Lender immediately for all such costs, including any interest and penalties with respect thereto.

With respect to any and all Obligations, the Borrower waives the following: (1) demand, presentment, protest, notice of dishonor, suit against any party and all other requirements necessary to charge or hold the Borrower liable on any Obligation; (2) the right to interpose any set-off or counterclaim of any nature or description in any litigation in which the Lender and the Borrower shall be adverse parties, however, nothing contained in this paragraph shall limit or prohibit the Borrower from filing a mandatory counterclaim against the Lender in any such litigation. The Borrower agrees to pay all taxes and assessments levied on or with respect to the Obligations and this Note, including but not limited to intangible and documentary stamp taxes, and all filing fees and taxes and all costs of collecting or securing or attempting to collect or secure any Obligations, including attorneys' fees, whether or not involving litigation and/or appellate proceedings.

The Lender shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies, and no waiver of any kind shall be valid, unless in writing and signed by the Lender. All rights and remedies of the Lender under the terms of this Note and under any statutes or rules of law shall be cumulative and may be exercised successively or concurrently. This Note shall be governed by and construed in accordance with the laws of the State of Florida. Any provision of this Note which may be unenforceable or invalid under any law shall be ineffective to the extent of such unenforceability or invalidity without affecting the enforceability or validity of any other provision hereof. The Lender shall have the right unilaterally to correct patent errors in this Note and to fill in any blank spaces herein so as to conform to the terms upon which the loan evidenced hereby is made.

This Note and the other Loan Documents constitute and evidence the complete understanding between the Lender and the Borrower. Any modification thereof hereafter which is not in writing and signed by the Lender and the Borrower shall be void.

All notices and other communications under this Note shall be in writing and shall be given in accordance with the Agreement.

Except where the laws of the United States are applicable (including, without limitation, any federal laws pertaining to maximum permitted rates of interest), this Note shall be governed by and construed under the laws of the state of Florida.

In addition to and without limitation of any remedies of the Lender, and in addition to all other sums due hereunder, the Lender may collect a late charge not to exceed an amount equal to five percent (5.0%) of any installment of principal or other sums which is not paid within fifteen (15) days of the due date thereof. Said late charge may be included as part of the Obligations and recouped by the Lender in connection with any action by the Lender upon a default by the Borrower.

THE BORROWER. AND, BY ITS ACCEPTANCE HEREOF, THE LENDER, EACH HEREBY WAIVES (1) ALL RIGHTS TO RELY ON OR ENFORCE ANY ORAL STATEMENTS MADE PRIOR TO, CONTEMPORANEOUSLY WITH OR SUBSEQUENT TO THE SIGNING OF THIS NOTE; AND (2) THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, OR WITH RESPECT TO DEALINGS BETWEEN THE LENDER AND THE BORROWER CONCERNING ANY COURSE OF CONDUCT, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE LENDER TO MAKE THE LOAN TO THE BORROWER.

**BORROWER:**

**By:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_

**EXHIBIT B  
PROJECT CRITERIA**

The initial Projects to be funded with the disbursement of Loan proceeds are set forth in Attachment 1 to this Exhibit B. The Borrower may request that Projects be added or removed from Attachment 1 to Exhibit B by submitting a written request (“Project List Amendment Request”) to the Director of the Housing Finance Division of the Lender (“HFD Director”) or a person designated by the HFD in writing with a revised Project list and a certification that all Projects set forth in the revised Attachment 1 meet the criteria of this Exhibit B. If the HFD Director does not object to the Project List Amendment Request within [ten (10) business days after receipt], the Project List Amendment Request shall be deemed effective and incorporated into Attachment 1 to Exhibit B of this Agreement.

Project Criteria

The Borrower may only use Loan proceeds to finance Projects included in Attachment 1 to this Exhibit B, as may be amended. All Projects must comply with the following criteria:

- a. The Projects are located within Broward County.
- b. The Projects are owned by a governmental entity or non-profit corporation and are part of a governmental infill housing program.
- c. The Projects are sold to Eligible Persons (as defined in this Agreement).
- d. Interest rate charged by the Borrower on loans to agencies or contractors shall not to exceed 7%, unless approved in writing by the HFD Director.
- e. The sale price on a Project shall not exceed 90 percent of the median area purchase price in the area wherein the single-family home is located, as established by the United States Department of Treasury.
- f. The Borrower must provide written notification to the Lender prior to commencement of the Project.
- g. Evidence of title satisfactory to the Lender, showing the Borrower or Developer to be the fee simple owner of the property or has site control of the property, on which the Projects will be constructed.
- h. With respect to properties that are not Collateralized Properties, evidence that the Borrower will acquire a mortgage on the property on which the Projects will be constructed.
- i. With respect to Collateralized Properties, evidence of an Escrow Account funded in accordance with Section 2.4.

**Attachment 1 to Exhibit B**

<b>Project Location Address</b>	<b>Property Owner</b>	<b>Developer</b>	<b>Estimated Funding Amount</b>	<b>Type of Collateral</b>

**EXHIBIT C**  
**COSTS/BUDGET OF THE PROJECTS**

[To be Provided]

**EXHIBIT D**  
**FORM OF SATISFACTION OF MORTGAGE**

This Instrument Prepared by:

[Insert name and address]

**SATISFACTION OF MORTGAGE**

KNOW ALL MEN BY THESE PRESENTS that \_\_\_\_\_, whose address is \_\_\_\_\_ is the owner and holder of that certain Mortgage executed by \_\_\_\_\_, dated \_\_\_\_\_ and recorded \_\_\_\_\_ in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_ of the Public Records of Broward County, State of Florida, securing that said Note in the original principal sum of \_\_\_\_\_ AND \_\_\_/100 (\$\_\_\_\_\_) DOLLARS and certain promises and obligations set forth in said mortgage, upon the property situate in the aforesaid State and County described as follows, to-wit:

*SEE ATTACHED ATTACHMENT A*

I hereby acknowledge full payment and satisfaction of said mortgage, and surrender the same as canceled, and hereby direct the Clerk of the said Circuit Court to cancel the same of record.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its name, and its seal to be hereunto affixed, by its proper officers thereunto duly authorized this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed, sealed and delivered  
in our presence:

\_\_\_\_\_

Witness

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

\_\_\_\_\_

Witness

**STATE OF FLORIDA**  
**COUNTY OF BROWARD**

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, as County Administrator of Broward County, a political subdivision of the State of Florida, on behalf of Broward County. He/she is personally known to me or has produced a Florida Driver's License as identification.

\_\_\_\_\_

\_\_\_\_\_

Signature

Printed Name:

\_\_\_\_\_

Title: Notary Public

Stamp:

**ATTACHMENT A TO SATISFACTION OF MORTGAGE  
LEGAL DESCRIPTION**



**EXHIBIT E**  
**INSURANCE**