

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Seminole County/Seminole County Housing Authority SHIP Program
Subrecipient Agreement

DEPARTMENT: Community Services **DIVISION:** Community Assistance

AUTHORIZED BY: David Medley, Ph.D. **CONTACT:** Buddy Balagia **EXT.** 2389
Director Project Manager I

Agenda Date 2/13/2007 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the Seminole County/Seminole County Housing Authority SHIP Program Subrecipient Agreement.

(District #1– Bob Dallari)

BACKGROUND:

In response to the Community Development Office’s Notice of Funding Availability (NOFA) in January 2006, the Seminole County Housing Authority (SCHA) submitted a proposal requesting \$40,000.00 to replace undersized air conditioning/heating ducts in its thirty-unit (30) public housing campus in Oviedo. During the review of proposals, the Application Review Team (ART) recommended that the project be funded from the rental housing strategy from the SHIP Program. This project will complement the air conditioning system replacements of the same units in 2005.

The attached Agreement has been approved and signed by the SCHA.

Staff Recommendation:

Staff recommends that the Board approve and authorize the Chairman to execute the attached Seminole County/Seminole County Housing Authority SHIP Program Subrecipient Agreement.

Attachment:

Seminole County/Seminole County Housing Authority SHIP Program Subrecipient Agreement.

Reviewed by: [Signature]
Co Atty: [Signature]
DFS: _____
Other: [Signature]
DCM: [Signature]
CM: [Signature]

File No. ccscacd02

**SEMINOLE COUNTY/SEMINOLE COUNTY HOUSING AUTHORITY
SHIP PROGRAM SUBRECIPIENT AGREEMENT**

THIS AGREEMENT is made and entered into this 29th day of November, 2006, by and between **SEMINOLE COUNTY**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida, hereinafter referred to as "COUNTY," and **THE SEMINOLE COUNTY HOUSING AUTHORITY**, a public body corporate and politic created pursuant to Section 421.27, Florida Statutes, whose address is 662 Academy Place, Oviedo, Florida 32765, hereinafter referred to as "SCHA".

W I T N E S S E T H:

WHEREAS, COUNTY has adopted the Seminole County Local Housing Assistance Plan and participates in the Florida SHIP Program to make affordable housing available to citizens of Seminole County, Florida, who are of low income or very low income and/or with special housing needs; and

WHEREAS, SCHA is a duly created public housing agency engaged in the construction, rehabilitation, and administration of affordable rental housing; and

WHEREAS, COUNTY and SCHA wish to collaborate in the rehabilitation of certain public housing facilities for very low income households as discussed herein and in Exhibits A and Exhibit B to this Agreement,

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

Section 1. Recitals. The above recitals are true and form a material part of the Agreement upon which the parties have relied.

Section 2. Definitions.

"Affordability period" shall mean the length of time for which the subject Property must be occupied by Very Low Income families in compliance with SHIP Regulations and Policies.

"CD Administrator" shall mean COUNTY's Community Assistance Division Manager.

"COUNTY approval" shall mean written approval by the Community Services Department Director, the Community Assistance Division Manager, or their designee.

"FHFC" shall mean the Florida Housing Finance Corporation.

"Parties" shall mean SCHA and COUNTY with respect to this Agreement.

"Project" shall mean the rehabilitation of public housing units for very low income households, owned and administered by SCHA, located on the Property and consisting of the installation or upgrading of the HVAC duct work in the thirty (30) rental housing units located on the Property.

"Property" shall mean that certain improved real property owned and administered by SCHA located at 662 Academy Place, Oviedo, Florida 32765 and further as legally described as follows:

LOTS A, B, C, D, E, F, G AND 4, MARTIN'S PLAN, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 7, PAGE 75 OF THE PUBLIC RECORDS OF SEMINOLE COUNTY

Parcel Identification No.: 15-21-31-501-0000-00A0

"Restrictive Use Covenant" shall mean that instrument in the form attached as Exhibit E to this Agreement and which restricts the use of the Property to only housing and related amenities for Very Low Income Families and SCHA offices for a fifteen (15) year period ending June 30, 2022.

"SHIP Program" shall mean the State Housing Initiatives Partnership Program authorized by Part VII, Chapter 420, Florida Statutes.

"SHIP Regulations and Policies" shall collectively mean Chapter 67-37, Florida Administrative Code (F.A.C.), Chapter 420, Florida Statutes and COUNTY's Local Housing Assistance Plan (LHAP) as they may be amended from time to time.

"Very Low Income" shall mean gross household income not to exceed fifty percent (50%) of the area median family income within the Orlando Metropolitan Statistical Area throughout the Affordability Period.

Section 3. Statement of Work. SCHA, in a manner satisfactory to COUNTY, shall perform or cause to be performed the Project as further described or referred to in Exhibit A, Scope of Services and Exhibit B, Project Budget, both exhibits being attached hereto and incorporated herein by reference. Such services shall be performed, except as otherwise specifically stated herein, by persons or instrumentalities solely under the dominion and control of SCHA. SCHA shall also execute a Restrictive Use Covenant in the form of Exhibit E hereto, upon completion of the Project. Execution of this Agreement shall be a condition precedent to any distribution of SHIP funds by COUNTY to SCHA.

Section 4. Term. SCHA shall perform the Project as further described in Exhibits A and B on or before June 30, 2007. Notwithstanding this required date of completion, the Affordability Period of this Agreement and the restricted uses of the Property assisted hereby shall extend to and not expire before June 30, 2022.

Section 5. Payment.

(a) COUNTY shall pay directly to SCHA for Project services related to this Agreement.

(b) In no event shall the total amount paid by COUNTY for the Project under this Agreement exceed FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00).

(c) Payment shall only be rendered by COUNTY to SCHA for services authorized in Exhibits A and B.

(d) Payment by COUNTY shall only be issued upon receipt from SCHA of an original invoice of the materials acquired and services rendered up to but not exceeding the amounts budgeted in Exhibit B. Said invoice must be signed by the party seeking payment and by the Executive Director of SCHA.

(e) Upon acceptable receipt of the documentation required by subsection (d) above and COUNTY approval of the CD Administrator, COUNTY shall initiate the payment process. Payment by COUNTY shall be as soon as practicable.

Section 6. Reporting Requirements.

(a) In addition to the documentation required by Section 5(d) for payment purposes, SCHA shall submit the following financial documentation to COUNTY:

(1) A completed monthly report in the form of attached Exhibit C on or before the fifteenth (15th) day of each month during the term of this Agreement.

(2) A summary of the number of housing units currently under Project rehabilitation;

(3) An End of the Year Report in the form of attached Exhibit D on or before July 30, 2007.

(4) A final cumulative statement of all costs of materials and services rendered pursuant to this Agreement. Said statement shall include any costs and charges not previously invoiced. COUNTY shall not be liable for payment of any costs or charges not included in the final cumulative statement or reported thereafter. Said statement shall be due on or before July 30, 2007.

(b) Failure by SCHA to submit any required report as required by this Section shall allow COUNTY to withhold final payment to SCHA until such report is submitted to COUNTY as required herein.

(c) COUNTY, the State of Florida, FHFC, and the general public shall have access to and be provided copies of any and all of SCHA's records.

Section 7. Compliance With Local And State Laws. During the execution and implementation of this Agreement, SCHA shall comply with

all applicable state and local laws, regulations, and ordinances, including but not limited to, the following:

(a) Chapter 112, Florida Statutes, including particularly Part III thereof entitled "Code of Ethics For Public Officers and Employees."

(b) All written procedures and policies issued by COUNTY regarding implementation of COUNTY's SHIP Program.

(c) Chapter 67-37, F.A.C.

(d) Chapter 420, Florida Statutes.

(e) Section 216.347, Florida Statutes (prohibiting use of monies received via this Agreement for lobbying the legislature, the judicial branch of state government or a state agency).

(f) Section 220.115, Seminole County Code (prohibiting the illegal use of public monies for unethical purposes involving COUNTY personnel). Violations of said Code provision shall be grounds for unilateral termination of this Agreement by COUNTY.

Section 8. Management Assistance. The CD Administrator, or their designee, shall be reasonably available to SCHA to provide guidance on SHIP Program requirements; provided, however, that this provision shall not be deemed to relieve the SCHA of any duties or obligations set forth in this Agreement.

Section 9. Maintenance of Records.

(a) SCHA shall, at a minimum, maintain all records required by state and local laws, rules, regulations, and procedures.

(b) SCHA shall maintain such records, accounts, and property and personnel records as deemed necessary by Florida law and COUNTY or

otherwise typical in sound business practices to assure proper accounting of all project funds and compliance with this Agreement.

(c) SCHA shall cause the Project undertaken pursuant to this Agreement to be audited in conjunction with each regular SCHA audit. Copies of all audits regarding or otherwise relating to the use of SHIP funds shall be provided to the CD Administrator in a timely manner.

(d) All records and contracts, of whatsoever type or nature, required by this Agreement shall be available for audit, monitoring, inspection, and copying at any time during normal business hours and as often as the CD Administrator, COUNTY, FHFC, or other federal or state agency may deem necessary. SCHA shall retain all records and supporting documentation applicable to this Agreement for a minimum of five (5) years after resolution of the final audit and in accordance with Florida law. If any litigation or claim is commenced prior to expiration of the five (5) years and extends beyond such time, the records shall be maintained until resolution of the litigation or claim and any person duly authorized by COUNTY shall have full access to and the right to examine the records during such time.

(e) SCHA shall perform or cause to be performed an annual audit and provide copies of such audits to the CD Administrator within thirty (30) days of its completion.

Section 10. Non-Expendable Property. Any non-expendable personal property acquired by SCHA to perform the Project anticipated herein and approved by COUNTY in accordance with this Agreement shall be subject to all state and local regulations including, but not limited to, provisions on use and disposition of such property. At the termination

of this Agreement, any grant funded, non-expendable personal property shall be made available to COUNTY in accordance with the aforesaid provisions.

Section 11. Liability. Except for payment as specifically set forth herein, COUNTY shall not be liable to any person, firm, entity, or corporation who contracts with or who provides goods or services to SCHA in connection with the services to be performed hereunder or for debts or claims accruing to such parties against SCHA. This Agreement shall not create a contractual relationship, either express or implied, between COUNTY and any other person, firm, or corporation supplying any work, labor, services, goods, or materials to SCHA as a result of services to COUNTY hereunder. Section 768.28, Florida Statutes shall be deemed as controlling with respect to any actions in tort naming COUNTY as a defendant and nothing in this Agreement or in this Section shall be construed as constituting a waiver of the sovereign immunity conferred on COUNTY by said Statute.

Section 12. Indemnification.

(a) SCHA shall defend, hold harmless and indemnify COUNTY, its officers, employees, and agents from and against any and all liability, loss, claims, damages, costs, attorney's fees, and expenses of whatsoever kind, type, or nature which COUNTY may sustain, suffer, or incur or be required to pay by reason of the loss of any monies paid to SCHA, or whomsoever, resulting out of fraud, defalcation, dishonesty, or failure of SCHA to comply with applicable laws, rules or regulations; or by reason or as a result of any act or omission of SCHA in the performance of this Agreement or any part thereof; or by reason of a

judgment over and above the limits provided by the insurance required hereunder; or by any defect in the construction of the Project; or by failure to pay vendors due to failure by SCHA to supply required reports; or as may otherwise result in any way or instance whatsoever.

(b) In the event that any action, suit, or proceeding is brought against COUNTY upon any alleged liability arising out of this Agreement, or any other matter relating to this Agreement, COUNTY shall provide notice in writing thereof to SCHA by registered or certified mail addressed to SCHA at its address herein provided. Upon receiving notice, SCHA, at its own expense, shall diligently defend against the action, suit, or proceeding and take all action necessary or proper therein to prevent the obtaining of a judgment against COUNTY.

Section 13. Insurance. SCHA shall ensure that its insurance coverage or self-insurance program, or the insurance coverage of its contracted agents, building contractors, subcontractors, and/or vendors is adequate and sufficient for the activities performed pursuant to this Agreement. SCHA shall ensure that the insurance requirements imposed on all contractors conform to and comply with all applicable federal, state and local regulations.

Section 14. Assignment and Subcontracts. Neither Party shall assign this Agreement nor any interest herein, without the prior written consent of the other. SCHA may subcontract certain services as set forth in Exhibit A upon the written approval of the subcontract by COUNTY.

Section 15. Headings. All articles and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation thereof.

Section 16. Program Income and Unused funds.

(a) In the event that any program income or returned funds are received by SCHA during or after the term of this Agreement, such monies shall be returned to COUNTY to be placed in COUNTY's Affordable Housing Trust Fund.

(b) In the event that COUNTY issues any funds to SCHA or its vendors which are not expended pursuant to the terms of this Agreement, such funds shall be returned to COUNTY on or before June 30, 2007.

Section 17. Availability of Funds. SCHA acknowledges that the funding for this Agreement is from the FHFC through the SHIP Program. SHIP Program payments into COUNTY's Trust Fund from the FHFC occur on a monthly basis. SCHA further acknowledges that COUNTY has entered into similar agreements with other organizations for the award and allocation of SHIP Program funds. Although COUNTY has not over obligated its SHIP funds for the period over which this Agreement extends, it is possible that because of a large number of requests in any particular month, COUNTY may not have sufficient funds to meet all demands in that month. Therefore, COUNTY's obligation to make payment hereunder in any particular month is specifically subject to and limited by: (1) FHFC's disbursement of SHIP funds for that month to COUNTY; and (2) payment by COUNTY to other various subrecipient organizations pursuant to separate agreements, all of said payments, including those to SCHA, being in chronological order based on receipt of all required information and

documentation requested in the respective subrecipient agreements, including this Agreement, and otherwise dependent upon the various subrecipients being in compliance therewith.

Section 18. Entire Agreement and Effect On Prior Agreement. This instrument constitutes the entire Agreement between the parties and supersedes all previous discussions, understandings, and agreements, if any, between the parties relating to the subject matter of this Agreement. Amendments to and waivers of the provisions herein or changes in the Project's scope or cost shall only be made by the Parties in writing by formal amendment hereto.

Section 19. Notice. Whenever either party desires to give notice unto the other, notice shall be sent to:

FOR COUNTY:

Community Assistance Division Manager
Community Development Office
534 W. Lake Mary Blvd.
Sanford, Florida 32773

FOR SCHA:

Executive Director
662 Academy Place
Oviedo, Florida 32765

Either of the parties may change, by written notice as provided herein, the address or person for receipt of notice. Mere change of the person(s) to whom notices are sent may be done by a written letter sent via first class, U.S. Mail and without need for formal amendment to this Agreement. Any such change of the person(s) shall be attached to both Parties' copies of this Agreement.

Section 20. Termination, Breach and Remedies.

(a) SCHA may terminate this Agreement for good cause upon thirty (30) days prior written notice of intent to terminate delivered to COUNTY by certified mail with a return receipt requested or by hand delivery with proof of delivery.

(b) COUNTY may terminate this Agreement with or without good cause immediately upon written notice sent to SCHA.

(c) In the event of termination, SCHA shall:

(1) Prepare all necessary reports and documents required under the terms of this Agreement up to the date of termination, including a final report due at the end of the Project, if any, without reimbursement for services rendered in completing said reports beyond the termination date.

(2) Take any other reasonable actions related to the termination of this Agreement as directed in writing by COUNTY.

(3) Immediately return any unexpended SHIP funds to COUNTY.

(4) Decease from making any further commitments of COUNTY SHIP funds.

(d) In the event of termination, COUNTY shall pay for all Project services and materials rendered or contracted for prior to the date of termination.

(e) The following actions shall constitute a breach of this Agreement by SCHA:

(1) Unauthorized or improper use of SHIP funds;

(2) Failure to comply with any requirements of this Agreement;

(3) Unauthorized changes in the scope, components, or costs of the Project;

(4) Submission of negligently or fraudulently prepared invoices or reports to COUNTY.

(f) Waiver by COUNTY of breach of one (1) provision of this Agreement shall not be deemed to be a waiver of any other subsequent breach of the same or another provision of this Agreement and shall not be construed to be a modification of the terms of this Agreement.

(g) In the event SCHA breaches this Agreement, COUNTY shall have the immediate right to withhold future payments and to terminate this Agreement. COUNTY may also send a written demand for refund of all monies previously paid to SCHA or its vendors and contractors. If said demand is not satisfied, COUNTY may record said written demand in the official records of Seminole County and it shall constitute a lien upon all real and personal property of SCHA.

(h) COUNTY reserves all rights afforded by law and equity to enforce the terms of this Agreement and to recover damages in the event of a breach by SCHA.

(i) COUNTY shall retain the right to enforce the Restrictive Use Covenant past the term of this Agreement or the termination thereof for the duration of the Affordability Period.

Section 21. Severability. If any one or more of the covenants or provisions of this Agreement shall be held to be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever, be held invalid, then such covenants or provisions shall be

null and void and deemed separable from the remaining covenants or provisions of this Agreement, and in no way, affect the validity of the remaining covenants or provisions of this Agreement.

Section 22. Alternative Dispute Resolution. The Parties shall use their best efforts to resolve any disputes arising under this Agreement in an amicable fashion and without resort to litigation. Should any portion of this Agreement appear ambiguous or in possible conflict with any other provision, the parties shall cooperate and use their best efforts to interpret and apply the document as a harmonious whole. In no event shall either party commence litigation until all efforts at good faith, alternative dispute resolution have been exhausted. If alternative dispute resolution (ADR) becomes necessary, the parties agree to apply the terms of Chapter 164, Florida Statutes and to commence litigation only after exhaustion of the ADR procedures enumerated in that chapter.

Section 23. Disclaimer of Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue to or for the benefit of any other third party.

Section 24. Effective Date. This Agreement shall become effective immediately upon its execution by both Parties.

Signature Page Follows

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

ATTEST:

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

For the use and reliance
of Seminole County only.

Approved as to form and
legal sufficiency.

County Attorney

By: _____
_____, Chairman

Date: _____

As authorized for execution
by the Board of County Commissioners
at their _____, 20____
regular meeting.

Attachments:

- Exhibit A - Scope of Services
- Exhibit B - Project Budget
- Exhibit C - Monthly Report
- Exhibit D - SHIP Program End of Year Report
- Exhibit E - Restrictive Covenant

AWS:jjr
11/21/06
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EXHIBIT A

GENERAL SCOPE OF SERVICES

**THE SEMINOLE COUNTY HOUSING AUTHORITY
SHIP FUNDED PROJECT**

The terms used herein shall have the same meanings ascribed to them in Section 2 of the Agreement to which this Exhibit is attached.

SCHA shall specifically provide the following Project services:

1) Rehabilitation of the Property to provide a minimum of thirty (30) affordable housing units for Very Low Income households. Said rehabilitation Project shall consist of the installation and/or upgrade of HVAC duct work in thirty (30) rental housing units on SCHA's Property.

Said Project shall further include all necessary inspections, preparation of cost estimates, preparation of work specifications, and bid documents.

2) Obtaining bids by qualified contractors for the construction activities set forth herein as required by law. All contractor bids shall be provided to and approved by COUNTY. No contractor shall be employed until written approval is provided by COUNTY.

3) Submission of payment requests to be paid to SCHA by COUNTY on behalf of contractors and vendors and verification of the information provided in said payment requests.

4) Upon completion of the Project, administer and rent the units to Very Low Income households in Seminole County for a period ending not earlier than June 30, 2022. Such administration shall include:

- (a) Advertising;
- (b) Income verification of prospective renters;
- (c) Maintenance of a waiting list; and
- (d) Assessment of rental fees in accordance with SHIP rules and regulations.

EXHIBIT B

**PROJECT BUDGET
THE SEMINOLE COUNTY HOUSING AUTHORITY**

Implementation Expenses	
ACTIVITY	SHIP FUNDS
Installation and/or upgrade of HVAC duct work in thirty (30) rental public housing units.	\$40,000.00
Total	\$40,000.00

EXHIBIT C

SUBRECIPIENT MONTHLY REPORT

Status Report for Month of _____

SUBRECIPIENT: SEMINOLE COUNTY HOUSING AUTHORITY

Contact Person(s): _____

Telephone: _____

I. NARRATIVE DESCRIPTION OF ACTIVITY STATUS/MILESTONES:

III. BUDGET STATUS

ACTIVITY	BUDGET	EXPENSES PAID THIS MONTH	TOTAL EXPENSES PAID TO DATE	OUTSTANDING OBLIGATIONS	BUDGET BALANCE	Expected Completion Date
Installation/Upgrade of HVAC Duct Work in 30 Rental Housing Units	\$40,000					
TOTAL	\$40,000					

Any other special accomplishments:

Signed: _____

This document was prepared by:
County Attorney's Office
Seminole County Government
1101 East First Street
Sanford, FL 32771

Please return it to:
Community Development Office
Seminole County Government
534 W. Lake Mary Blvd.
Sanford, FL 32773

EXHIBIT E

RESTRICTIVE USE COVENANT

THIS RESTRICTIVE USE COVENANT is made and entered into this _____ day of _____, 20____, by the **Seminole County Housing Authority**, 662 Academy Place, Oviedo, Florida 32765 ("GRANTOR"), in favor of **Seminole County**, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771 (the "COUNTY").

W I T N E S S E T H:

WHEREAS, GRANTOR and COUNTY entered into that certain SHIP Program Subrecipient Agreement (the "Agreement") for the benefit of GRANTOR, whereby GRANTOR has agreed to rehabilitate up to thirty (30) Very Low Income household residential units on its property located at 662 Academy Place, Oviedo, Florida 32765, the legal description and property identification for which is as follows:

LOTS A, B, C, D, E, F, G AND 4, MARTIN'S PLAN, ACCORDING
TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 7, PAGE 75
OF THE PUBLIC RECORDS OF SEMINOLE COUNTY

Parcel Identification No.: 15-21-31-501-0000-00A0

(the "Property") and;

WHEREAS, GRANTOR has agreed to use the rehabilitated housing structures exclusively for rental to and the benefit of Very Low Income households; and

WHEREAS, pursuant to the Agreement, COUNTY has paid or will pay to GRANTOR the sum of FORTY THOUSAND AND NO/100 DOLLARS (\$40,000.00) for the purpose of rehabilitating up to thirty (30) of the residential units on the Property;

NOW, THEREFORE, in consideration of the financial assistance from COUNTY with respect to the rehabilitation of the Property, GRANTOR hereby covenants as follows:

