

**2023-2024 SUBRECIPIENT AGREEMENT
BETWEEN THE CITY OF COSTA MESA AS GRANTEE
OF AMERICAN RESCUE PLAN ACT FUNDS AND
COMMUNITY SENIORSERV, INC.**

Date Approved: **May 2, 2023**

Amount of Grant: **Twenty Thousand Dollars (\$20,000.00)**

Subrecipient: **Community SeniorServ, Inc.**

THIS 2023-2024 SUBRECIPIENT AGREEMENT (“Agreement”) is entered into as of July 1, 2023 (“Effective Date”) by and between the CITY OF COSTA MESA (“CITY”), a California municipal corporation and a grantee of American Rescue Plan Act funds and Community SeniorServ, Inc. a nonprofit corporation (“SUBRECIPIENT”).

WHEREAS, on March 11, 2021, President Joseph R. Biden signed into law the American Rescue Plan Act of 2021 (hereinafter “ARPA”); and

WHEREAS, on May 10, 2021, the United States Department of the Treasury (hereinafter “US TREASURY”) published guidance regarding the allowable usage of the Coronavirus State and Local Fiscal Recovery Funds (hereinafter “SLFRF”) to be disseminated to local governments in accordance with the ARPA; and

WHEREAS, the grand total allocation of SLFRF funds to the CITY, as published by the US TREASURY, is \$26,481,513.00; and

WHEREAS, the RECIPIENT, a non-profit entity, submitted a written request to the CITY for \$20,000.00 in CDBG funds to support a congregate lunch program; and

WHEREAS, during their regular public meeting on May 2, 2023, the City Council of the City of Costa Mesa approved the aforementioned request from the RECIPIENT but instead of funding with CDBG, as requested, seeks to fund SUBRECIPIENT’s request with SLFRF funds, subject to all federal, state, and local guidelines regarding the usage of SLFRF funds, including any contractual guidelines set forth in this agreement, as well as any audit requirements established by the State Auditor's Office; and

WHEREAS, the CITY intends to allocate a portion of its SLFRF funds to assist non-profit organizations within the city that have suffered negative economic impacts as a result of the COVID-19 pandemic in accordance with all federal, state, and local guidelines regarding the usage of SLFRF funds; and

WHEREAS, under section 602(c)(3) of the ARPA, the CITY may transfer funds to a private non-profit entity for the purpose of meeting ARPA’s goals; and

WHEREAS, in an effort to provide additional guidance regarding the eligible uses of SLFRF funds, the US TREASURY published a document containing answers to Frequently Asked Questions

regarding Coronavirus State and Local Fiscal Recovery Funds as of July 19, 2021 (hereinafter “FAQ”); and

WHEREAS, Section 2.8 of the FAQ states that recipients must demonstrate that funding uses directly address a negative economic impact of the COVID-19 public health emergency, including funds used for economic or workforce development; and

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth herein, the parties hereby agree as follows:

A. SUBRECIPIENT OBLIGATIONS.

1. Scope of Services.

- (a) **Activities.** The subgranting of ARPA funds to SUBRECIPIENT shall be used to provide the specific services as described in Attachment 1 attached hereto and incorporated into this Agreement. Such services are summarized as follows:
- (b) **National Objectives.** SUBRECIPIENT certifies that SUBRECIPIENT’s activities will meet the national objective of benefitting low-income and moderate-income persons and addressing the negative impacts of the Covid-19 pandemic.
- (c) **Levels of Accomplishment – Goals and Performance Measures.** SUBRECIPIENT agrees to carry out the activities set forth in this Agreement in accordance with the goals and performance measures set forth in Attachment 1.
- (d) **Performance Monitoring.** CITY will monitor the performance of SUBRECIPIENT against the goals and performance standards set forth in Attachment 1. Substandard performance, as determined by CITY, will constitute noncompliance with this Agreement. If SUBRECIPIENT does not take action to correct such substandard performance within a reasonable period of time after being notified by CITY, CITY may initiate termination or suspension of this Agreement as set forth herein.

2. Non-Profit Status. SUBRECIPIENT represents and warrants that it is a private, not-for-profit corporation, duly organized under the laws of the State of California, and whose officers are recorded in the Articles of Incorporation on file with the State of California.

3. Term of Agreement. Subject to the termination provisions set forth herein, the term of this Agreement is from July 1, 2023 through June 30, 2024, except that SUBRECIPIENT shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to obligations with respect to indemnification, audits, reporting, data retention/data reporting and accounting.

4. Amount of Grant and Quarterly Disbursement. The amount granted to SUBRECIPIENT shall not exceed Twenty Thousand Dollars (\$20,000.00) (“ARPA FUNDS”). SUBRECIPIENT shall expend such funds within a time period not exceeding twelve (12) consecutive months following the Effective Date of this Agreement. CITY will disburse the ARPA FUNDS to SUBRECIPIENT on a quarterly basis subject to, and upon receipt and approval of, a complete quarterly activity report from SUBRECIPIENT.

- (a) **Quarterly Reports.** SUBRECIPIENT shall cause to be prepared and submitted to CITY on or before October 15, January 15, April 15 and July 15 during the term of this Agreement a quarterly activity report in conformity with CDBG Regulations (“Quarterly Activity Report”).
- (b) **Invoice Submittal.** Concurrently with the submittal of each quarterly report as described in subsection 4(a) above, SUBRECIPIENT shall submit both (i) an original invoice and (ii) true copies of other receipts, agreements, or other documentation supporting and evidencing how the ARPA FUNDS have been expended during the applicable quarter. Drawdowns for the payment of eligible expenses will be made against the budget categories set forth in the Program Budget in Attachment 1.

For example and by way of illustration, if SUBRECIPIENT intends to expend the applicable quarterly disbursement on staff salary, then true copies of the time card(s) and payroll records or other satisfactory evidence of employment of the subject staff member with the SUBRECIPIENT shall be submitted as a part of the quarterly report.

- 5. **Administrative Rules.** SUBRECIPIENT agrees to conduct all activities of the organization, whether funded in whole or in part by ARPA funds from CITY, in accordance with the provisions contained in 2 C.F.R. Part 200.
- 6. **Conflicts.** SUBRECIPIENT agrees that no officer, employee, agent or assignee of CITY having direct or indirect control of any ARPA monies granted to the CITY, inclusive of the subject ARPA FUNDS, shall serve as an officer of SUBRECIPIENT. Further, any conflict or potential conflict of interest of any officer of SUBRECIPIENT shall be fully disclosed in writing prior to the execution of this Agreement; or, in the event a conflict or potential conflict of interest arises after execution of this Agreement, SUBRECIPIENT shall fully disclose the conflict or potential conflict within fifteen (15) days of becoming aware of same.

7. **Use of ARPA FUNDS.**

- (a) **Income Prohibited.** SUBRECIPIENT agrees that it shall not use the ARPA FUNDS in any manner that provides income to SUBRECIPIENT. Any earned interest income on funds generated through the use of investment of funds received from the ARPA FUNDS shall be cause, at the discretion of the CITY, for recapture of such income and/or the full amount of funds originally granted to SUBRECIPIENT.
- (b) **Program Income.** The use of program income by the SUBRECIPIENT shall comply with the requirements of the US Treasury published guidance regarding the allowable usage of the SLFRF. SUBRECIPIENT may use such income during the term of this Agreement for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. SUBRECIPIENT shall report quarterly all program income generated by activities carried out with the ARPA FUNDS made available under this Agreement.
- (c) **Unexpended Program Income.** All unexpended program income shall be returned to the CITY at the end of the term. Any interest earned on cash advances from the United States Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the CITY.

8. Records and Reports. The SUBRECIPIENT shall maintain all records that are pertinent to the activities to be funded under this Agreement and such records as may be required by CITY. Such records shall include but not be limited to the following:

- (a) Records providing a full description of each activity undertaken.
- (b) Records demonstrating that each activity undertaken meets one of the national objectives of SLFRF guidance and the CDBG Program.
- (c) Records required to determine the eligibility of activities.
- (d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with the ARPA FUNDS.
- (e) Records documenting compliance with the ARPA and SLFRF guidance and fair housing and equal opportunity components of the CDBG Program.
- (f) Financial records. Such records shall contain documentation of expenses as identified in the Program Budget set forth in Attachment 1, including evidence of incurring the expense, invoice(s) for goods or services, all other invoices for which the ARPA FUNDS were expended, and payment therefor.
- (g) Records necessary to document compliance with Subpart K of 24 C.F.R. Part 570, as applicable.

Records demonstrating client eligibility for the services provided.
- (h) Any such other related records as CITY may reasonably require or as required to be maintained pursuant to the applicable ARPA or SLFRF guidance.

SUBRECIPIENT shall, upon request of CITY, prepare such reports as may be required for CITY and/or SUBRECIPIENT.

9. Client Data and Other Sensitive Information. SUBRECIPIENT must comply with 2 C.F.R. 200.303 and take reasonable measures to safeguard protected personally identifiable information, as defined in 2 C.F.R. 200.82, and other information designated as sensitive or SUBRECIPIENT considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

10. Retention of Records. All accounting records, reports, and supporting documents pertaining to all costs, expenses and the ARPA FUNDS received by SUBRECIPIENT and all documents related to this Agreement shall be maintained and kept available at SUBRECIPIENT's office or place of business for the duration of the Agreement and thereafter for five (5) years after CITY submits its annual performance and evaluation report to HUD to report the activities assisted under the Agreement for the final time in conformity with the applicable regulations and guidance. Notwithstanding the foregoing, records which relate to (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and expenses of this Agreement to which CITY or any other governmental agency takes exception, shall be retained beyond the five (5) years until complete resolution or disposition of such claims, litigation, appeals, or exceptions.

11. Audit Requirements. If SUBRECIPIENT is granted seven hundred fifty thousand dollars (\$750,000.00) or more in federal funds under this Agreement, SUBRECIPIENT shall comply with and/or cause compliance with all audit requirements established by 2 C.F.R. 200.501 et seq.

12. Uniform Administrative Requirements. SUBRECIPIENT shall comply with applicable uniform administrative requirements as described in 24 C.F.R. 570.502.

13. Separation of Accounts. All ARPA FUNDS received by SUBRECIPIENT from CITY pursuant to this Agreement shall be maintained in an account in a federally insured banking or savings and loan institution with recordkeeping of such accounts maintained pursuant to applicable requirements set forth in 2 C.F.R. 200 et seq. SUBRECIPIENT is not required to maintain separate depository accounts for the ARPA FUNDS; provided, however, that SUBRECIPIENT must be able to account for receipt, obligation and expenditure of the ARPA FUNDS pursuant to applicable requirements of 2 C.F.R. 200.302 et seq. and any other applicable law.

14. Compliance with Applicable Laws. SUBRECIPIENT shall comply with all applicable federal, state and local laws, ordinances, regulations, and permits, including but not limited to all regulations and published guidance relating to financial and contractual procedures, and 2 C.F.R. 200 et seq. and as set forth in 24 C.F.R. 570.502(b), which are on file in the City of Costa Mesa, 77 Fair Drive, Costa Mesa, California 92626, and are fully incorporated herein by reference. If applicable, SUBRECIPIENT shall further comply with the requirements of Part 570 of Title 24 of the Code of Federal Regulations, including Subpart K of Part 570, except that SUBRECIPIENT does not assume CITY's environmental responsibilities described in 24 C.F.R. 570.604 or CITY's responsibility for initiating the review process under 24 C.F.R. Part 52.

(a) SUBRECIPIENT shall maintain all presently required permits and shall secure any new permits required by any authority herein with jurisdiction over the work, project, or services provided by SUBRECIPIENT with the ARPA FUNDS.

(b) SUBRECIPIENT shall ensure that the requirements of the National Environmental Policy Act and California Environmental Quality Act are met for any permits, discretionary approvals, or other entitlement required to carry out the terms of this Agreement.

15. Non-Discrimination; Civil Rights Compliance.

(a) **Compliance.** SUBRECIPIENT shall comply with the Unruh Civil Rights Act, and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063 and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

(b) **No Discrimination in Any Program or Activity.** In the performance of this Agreement, SUBRECIPIENT shall not under any program or activity funded in whole or in part with ARPA FUNDS on the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, familial status, age, mental disability, physical disability, medical condition, genetic information, marital status or sexual orientation:

(i) Subject an individual to unlawful discrimination.

- (ii) Deny any facilities, services, financial aid or other benefits provided under the program or activity.
 - (iii) Provide any facilities, services, financial aid or other benefits that are different or are provided in a different form from that provided to others under the program or activity.
 - (iv) Segregate or separate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under the program or activity.
 - (v) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.
 - (vi) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership or other requirement or condition that the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.
 - (vii) Deny an opportunity to participate in a program or activity as an employee.
- (c) **Non-Discrimination in Administration of Services.** SUBRECIPIENT may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, religion or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, religion, or sex.
- (d) **Non-Discrimination in Site Selection.** SUBRECIPIENT, in determining the site or location of housing or facilities provided in whole or in part with the ARPA FUNDS, may not make selections of such site or location which will have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, national origin, religion, sex, disability or familial status, or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Civil Rights Act of 1964 and amendments thereto.
- (e) **Overcoming Effects of Prior Discrimination.** If SUBRECIPIENT has previously discriminated against persons on the grounds of race, color, national origin, religion, sex, disability or familial status, SUBRECIPIENT must take affirmative action to overcome the effects of prior discrimination, pursuant to applicable requirements of the ARPA Regulations and other applicable federal laws and regulations.
- (i) Even in the absence of prior discrimination, SUBRECIPIENT should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin, religion, sex, disability or familial status. Where previous discriminatory practice or usage tends, on the grounds of race, color, national origin, religion, sex, disability or familial status, to exclude individuals from participation in, to deny them the benefits of or to subject them to discrimination under any program or activity to which ARPA funding applies, SUBRECIPIENT shall take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Civil Rights Act of 1964.

- (ii) SUBRECIPIENT shall not be prohibited by this part from taking any eligible action to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction where the purpose of such action is to overcome prior discriminatory practice or usage.
 - (f) **Exceptions.** Notwithstanding the foregoing non-discrimination provisions, nothing contained herein shall be construed to prohibit SUBRECIPIENT from maintaining or constructing separate living facilities or restroom facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when only a member of the same sex can properly perform institutional or custodial services for the recipients of the services.
 - (g) **Non-Discrimination in Employment.** SUBRECIPIENT shall comply with 24 C.F.R. 570.607, including the non-discrimination in employment and contracting opportunities laws, regulations, and Executive Orders set forth therein.
 - (i) SUBRECIPIENT shall, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that SUBRECIPIENT is an equal opportunity employer.
 - (ii) SUBRECIPIENT shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by CITY's contracting officers advising the labor union or workers' representative of SUBRECIPIENT commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.
 - (h) SUBRECIPIENT shall include the provisions of this Section 15 (Non-Discrimination; Civil Rights Compliance) in every subcontract or purchase order unless exempted by rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor.
- 16. Ineligibility of SUBRECIPIENT or Contractors.** SUBRECIPIENT shall not use the ARPA FUNDS directly or indirectly in its operations or to employ, award contracts to or otherwise engage the services of or fund any contractor during any period of debarment, suspension or placement in ineligibility status of the SUBRECIPIENT or such contractor under the provisions of the ARPA Regulations.
- 17. Conflict of Interest in Procurement.** SUBRECIPIENT shall comply with all applicable conflict of interest provisions set forth in 2 C.F.R. Part 200 and 24 C.F.R. 570.611 in the procurement of supplies, equipment, construction and services by SUBRECIPIENT.
- 18. Condition for Religious Organization.** SUBRECIPIENT shall comply with all applicable conditions prescribed by the US Treasury or other governing agency for the use of the ARPA FUNDS by religious organizations if SUBRECIPIENT is a religious organization.
- 19. Termination of Agreement.**
- (a) In accordance with 2 C.F.R. 200.340, this Agreement may be terminated as follows:

- (i) By CITY, if SUBRECIPIENT fails to comply with the terms and conditions of this Agreement;
- (ii) By CITY, if it determines the award no longer effectuates the program goals or the CITY's priorities;
- (iii) By CITY, with SUBRECIPIENT's consent, provided that the parties agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- (iv) BY SUBRECIPIENT, by sending written notice to the CITY setting forth the reasons for the termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the CITY determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made to SUBRECIPIENT, CITY may terminate award and this Agreement in its entirety; or
- (v) By CITY, to the extent authorized by termination provisions included in its federal award of ARPA funds.

The parties shall comply with 2 C.F.R. 200.341 in providing notices of termination.

- (b) In the event this Agreement is terminated in whole or in part, the parties shall comply with 2 C.F.R. 200.344 and 2 C.F.R. 200.345.
- (c) **Repayment of Funds by SUBRECIPIENT.** In the event this Agreement is terminated, as provided in this section, SUBRECIPIENT shall immediately return to CITY any and all unexpended and unencumbered ARPA FUNDS. Further, SUBRECIPIENT shall comply with the provisions of the section of this Agreement relating to Reversion of Assets.
- (d) **Additional Payment after Notice of Termination at Discretion of CITY.**

In the event of early termination of the Agreement (except when due to the non-performance or breach by SUBRECIPIENT), at CITY's sole discretion, SUBRECIPIENT may be compensated for all services rendered through the date of notice of termination and necessarily incurred costs performed in good faith in accordance with the terms of this Agreement that have been previously eligible for reimbursement, to the extent that ARPA funds are available.

20. Defaults; Remedies. If either party materially fails to comply with any term of this Agreement, said noncompliance shall be considered a breach or default hereunder and a basis for termination for cause as provided herein.

- (a) **Enforcement by CITY Due to Default by SUBRECIPIENT.** In the event of default by SUBRECIPIENT, in addition to any other remedies available at law or in equity, CITY may take one or more of the actions provided under applicable statute or regulations, including, but not limited to, 2 C.F.R. 200.339 relating to enforcement for breach of this Agreement.
 - (i) The remedies available to the CITY under 2 C.F.R. 200.339 include, without limitation, temporarily withholding cash payments, disallowing non-compliant costs, wholly or partly suspending or terminating the award, recommending the initiating of suspension or debarment proceedings and withholding future awards.

(ii) If the CITY finds that SUBRECIPIENT has violated a term or condition of this Agreement, CITY, in its sole discretion, may require the SUBRECIPIENT to:

(1) Repay all monies received from the CITY under this Agreement; and/or

(2) Transfer possession of all materials and equipment purchased with grant money to the CITY.

(b) **Recapture.** SUBRECIPIENT shall have the affirmative obligation to repay, and CITY shall have the affirmative right (but not the obligation) to recapture from SUBRECIPIENT, all (or any portion of) the ARPA FUNDS disbursed to SUBRECIPIENT hereunder in the event of SUBRECIPIENT's default hereunder or in the event SUBRECIPIENT refuses to accept or fails to comply with any conditions which may subsequently be imposed for the operation of the Subrecipient program.

21. Reversion of Assets.

(a) **Unencumbered or Unexpended Funds.** Upon the termination or expiration of the term of this Agreement, SUBRECIPIENT shall transfer to CITY any unexpended and unencumbered ARPA FUNDS on hand at the time of such termination or expiration and any accounts receivable attributable to the use of subject funds.

(b) **Real or Personal Property Assets.** Any real property or moveable or immovable personal property under SUBRECIPIENT's control or ownership that is acquired or improved in whole or in part with the ARPA FUNDS disbursed under this Agreement, the original cost of which exceeds five thousand dollars (\$5,000.00), shall either be, at the election of CITY: (1) used by SUBRECIPIENT for the eligible program services meeting the purposes of the ARPA program for a period of five (5) years after termination or expiration of this Agreement; or (2) disposed of and proceeds paid to CITY in a manner that results in CITY being reimbursed in the amount of the current fair market value (assuming depreciation in accordance with customary business practices) of the real or personal property less any portion of the current value attributable to SUBRECIPIENT's out of pocket expenditures using non- ARPA funds for acquisition of, or improvement to, such real or personal property and less any direct and reasonable costs of disposition, including a reasonable and customary broker's fees incurred in listing and completion of sale of such asset.

(i) In furtherance of the foregoing, if CITY selects continued use of the capital asset, then SUBRECIPIENT hereby agrees that it shall be subject to an ongoing operating and use covenant relating to the subject real or personal property. The foregoing covenant shall survive the termination or expiration of this Agreement and shall be actionable at law or in equity by CITY against SUBRECIPIENT and its successors in interest.

(ii) In the event CITY selects disposition of the subject real or personal property, then SUBRECIPIENT shall exercise due diligence to dispose of such property in conformity with applicable laws and regulations and in accordance with customary business practices. The net proceeds of such disposition shall be disbursed directly to and be payable to CITY upon the close of the applicable disposition transaction, such as close of escrow for the sale of real property, transfer of a motor vehicle "pink slip" in accordance with applicable California Vehicle Code requirements, or completion of sale of personal property by bill of sale in accordance with Uniform Commercial Code (UCC) requirements.

- 22. Independent Contractor.** SUBRECIPIENT is and shall be acting at all times as an independent contractor and not as an employee or agent of CITY. Neither CITY nor any of its employees shall have any control over the conduct of SUBRECIPIENT, its agents or employees, except as set forth in this Agreement.
- 23. Licensing.** SUBRECIPIENT shall obtain and maintain all required licenses, registrations, accreditation and inspections from all agencies governing its operations. SUBRECIPIENT shall ensure that its staff also obtains and maintains all required licenses, registrations, accreditations, and inspections from all agencies governing SUBRECIPIENT's operations and work hereunder.
- 24. Inspection of Records.** CITY and the United States government and/or their representatives shall have access, for purposes of monitoring, auditing and examining SUBRECIPIENT's activities and performance, to books, records, reports, documents and papers, and the right to examine comparable records of SUBRECIPIENT's subcontractors, bookkeepers and accountants, employees and participants in regard to said program.
- (a) Monitoring.** CITY and the United States government and/or their representatives may schedule on-site monitoring at their discretion. Monitoring activities may also include, but are not limited to, questioning employees and participants in said program and entering any premises or any site in which any of the services or activities funded hereunder are conducted or in which any of the records of SUBRECIPIENT are kept. Nothing herein shall be construed to require access to any privileged or confidential information.
- (b) Failure to Provide Records.** In the event SUBRECIPIENT does not make the above-referenced records available within the City of Costa Mesa, California, SUBRECIPIENT shall pay all necessary and reasonable expenses incurred by CITY in conducting any audit at the location where said records and books of account are maintained.
- 25. Assignability.** SUBRECIPIENT shall not assign or transfer any interest in this Agreement, whether by assignment, delegation or novation, without the prior written consent of CITY, except that claims for money due or to become due to SUBRECIPIENT from CITY under this Agreement may be assigned to a bank, trust company or other financial institution, or to a trustee in bankruptcy, without such approval. Any assignment delegation or novation other than as provided above shall be void and inoperative. Written notice of any request for an assignment or transfer shall be promptly furnished to CITY and CITY shall exercise reasonable diligence in reviewing and approving or disapproving such request.
- 26. Prohibition on Expending ARPA FUNDS to Obtain Other Funding.** SUBRECIPIENT shall not expend the ARPA FUNDS granted hereunder to fund another service provider, to pay a contractor for services outside the scope of this Agreement, to apply for other public agencies' program funds or to supplant another funding source, unless expressly approved in writing by CITY.
- 27. Indemnification.** SUBRECIPIENT shall indemnify, defend, with counsel of CITY's choosing and hold harmless CITY, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, actions, suits or other legal proceedings brought against CITY, its elected officials, officers, employees, agents and volunteers, arising out of or relating to the SUBRECIPIENT's performance of this Agreement or use of ARPA Funds by SUBRECIPIENT, its officers, employees, agents, volunteers and/or subcontractors.

SUBRECIPIENT shall further indemnify, defend, and hold harmless CITY, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, suits,

actions or proceedings arising from or relating to any failure of SUBRECIPIENT to comply with any applicable laws or regulations.

28. Insurance.

- (a) **Minimum Scope and Limits of Insurance.** SUBRECIPIENT shall obtain, maintain and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:
- (i) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
 - (ii) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
 - (iii) Workers' compensation insurance as required by the State of California. SUBRECIPIENT agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the CITY, its officers, agents, employees, and volunteers arising from work performed by SUBRECIPIENT and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (b) **Endorsements.** The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:
- (i) **Additional insureds:** "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the SUBRECIPIENT pursuant to its contract with the CITY; products and completed operations of the SUBRECIPIENT; premises owned, occupied or used by the SUBRECIPIENT; automobiles owned, leased, hired or borrowed by the SUBRECIPIENT."
 - (ii) **Notice:** "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to CITY."
 - (iii) **Other insurance:** "SUBRECIPIENT's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
 - (iv) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

- (v) SUBRECIPIENT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (c) **Deductible or Self Insured Retention.** If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by CITY. No policy of insurance issued as to which the CITY is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.
- (d) **Certificates of Insurance.** SUBRECIPIENT shall provide to CITY certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by CITY, prior to performing any services under this Agreement.
- (e) **Non-Limiting.** Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which SUBRECIPIENT may be held responsible for payments of damages to persons or property.

B. CITY OBLIGATIONS.

1. **Payment of Funds.** CITY shall disburse to SUBRECIPIENT from ARPA funds, if and to the extent actually received by CITY, amounts expended by SUBRECIPIENT in carrying out said program pursuant to this Agreement in quarterly installments determined by CITY. Payment shall be made to SUBRECIPIENT based on the submission of quarterly invoices, in a form prescribed by CITY, detailing such expenses. Invoices must include documentation of expenses by receipts, time records, invoices, canceled checks, or other appropriate documentation that fully and completely discloses the amount(s) and nature(s) of the expenditures. CITY shall pay such invoices within forty-five (45) days after receipt thereof, provided CITY is satisfied that such expenses have been incurred and documented within the scope and provisions of this Agreement and in conformity with the applicable regulations and that SUBRECIPIENT is in compliance with the terms and conditions of this Agreement.
2. **Sole Source of Funding is ARPA Funds.** SUBRECIPIENT expressly acknowledges and agrees that the sole source of funding available to CITY to meet its funding obligation to SUBRECIPIENT under this Agreement is from ARPA funds allocated to and paid to CITY and that no other source of revenues or funding is made available, offered, or construed to be provided hereunder by CITY to SUBRECIPIENT. To the extent CITY is not allocated and/or does not receive the ARPA funds necessary to pay SUBRECIPIENT pursuant to the terms of this Agreement, then SUBRECIPIENT acknowledges and agrees there is no other funding source available or committed to meet CITY's funding described hereunder and no payment obligation of the CITY shall exist or be construed to exist.
3. **Audit of Account.** CITY will include an audit of the records and accounts maintained by SUBRECIPIENT pursuant to this Agreement in CITY's annual audit of all ARPA funds pursuant to applicable regulations, Title 24 of the Code of Federal Regulations, and other applicable federal laws and regulations.

C. MISCELLANEOUS PROVISIONS.

1. **Notices.** All notices to the parties required by this Agreement shall be in writing and shall be sent by certified mail, addressed as follows:

TO CITY: City of Costa Mesa
Housing & Community Development Department
77 Fair Drive
Costa Mesa, CA 92626
Attn: Grant Administrator

TO SUBRECIPIENT: Holly Hagler, President & CEO
Community SeniorServ, Inc.
1200 N. Knollwood Circle
Anaheim, CA 92801

2. **No Disposition of Assets Acquired with ARPA FUNDS.** SUBRECIPIENT shall not dispose of any real or personal property acquired in full or in part with the ARPA FUNDS through sale, use or relocation without the express and prior written permission of the CITY.
3. **Disbursement Pursuant to Agreement.** SUBRECIPIENT acknowledges that the CITY shall disburse funds to SUBRECIPIENT only upon execution of this Agreement and CITY is empowered to provide funds to SUBRECIPIENT only pursuant to the provisions of this Agreement.
4. **Drug-Free Workplace Policy.** SUBRECIPIENT shall establish a Drug-Free Awareness Program to inform employees of the dangers of drug abuse in the work place, the penalties that may be imposed upon employees for drug abuse violations occurring in the work place, and the employee assistance programs available to employees. Each employee engaged in the performance of a SUBRECIPIENT contract must be notified of this Drug-Free Awareness Program, and must abide by its terms. SUBRECIPIENT shall conform to all the requirements of CITY's Council Policy No. 100-5, attached hereto as Attachment 2. Failure to establish a program, notify employees or inform the CITY of a drug-related workplace conviction will constitute a material breach of contract and cause for immediate termination of this Agreement by CITY.
5. **No Use of ARPA FUNDS for Lobbying.** SUBRECIPIENT shall not expend any of the ARPA FUNDS for the purpose of influencing or attempting to influence any officer or employee of any agency, a member of Congress, any officer or employee of Congress or any employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant or loan, the entering into of any cooperative federal agreement and/or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

SUBRECIPIENT shall complete and submit Standard Form LLL (Disclosure of Lobbying Activities) if it expends any funds other than grant funds for the purpose of influencing or attempting to influence the persons listed in the above paragraph.

6. **Constitutional Use of Funds.** As an express condition to this Agreement, SUBRECIPIENT agrees that the funds provided by CITY to SUBRECIPIENT hereunder shall not be used to promote any religion, religious creed or cult, denomination, sectarian organization or religious belief or to fund any proselytizing activities. The parties agree the foregoing covenant is intended to and shall be construed for the limited purpose of assuring compliance with respect to the use of CITY funds by SUBRECIPIENT with applicable constitutional limitations respecting the establishment of religion as set forth in the establishment clause under the First Amendment of the United States Constitution and Article I, Section 4 of California Constitution, and is not in any manner intended to restrict other activities of SUBRECIPIENT.

7. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance.
8. **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.
9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.
10. **Entire Agreement; Modification.** This Agreement contains the entire agreement of the parties and supersedes all other prior negotiations, understandings or agreements. This Agreement may be modified only upon mutual written agreement of the parties. Notwithstanding the foregoing, SUBRECIPIENT shall agree to any amendment necessary to conform with federal, state or local governmental regulations, guidelines or policies.

[SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, CITY and SUBRECIPIENT have caused this Agreement to be executed by their duly authorized officers on the day and year first above written.

SUBRECIPIENT

**Community SeniorServ Inc. DBA lunch
s on Wheels OC**

Federal Tax ID Number: [REDACTED]

Unique Entity ID: [REDACTED]

[Signature]
Signature

Date: 8/29/2023

President - CEO / Holly Hagler
Name Title

[Signature]
Signature

Date: 8/29/2023

Jane Roth / CFO
Name and Title

CITY OF COSTA MESA

[Signature]

Lori Ann Farrell Harrison
City Manager

ATTEST:

Brenda Green 9/20/2023
Brenda Green
City Clerk



APPROVED AS TO FORM:


[Signature]
Kimberly Hall Barlow
City Attorney

APPROVED AS TO CONTENT:



Jennifer Le
Economic and Development Services
Director

APPROVED AS TO PURCHASING:



Carol Molina
Finance Director

APPROVED AS TO INSURANCE:



Ruth Wang
Risk Management

ATTACHMENT 1
SCOPE OF WORK

Attachment 1 - Scope of Work
CITY OF COSTA MESA
2023-2024 American Rescue Plan Act (ARPA) Funded Public Services

Activity: <u>Select one</u> from the below that best describes your program.	Primary Objective: <u>Select one</u> from the below that best describes your program.	Primary Outcome Measurement: <u>Select one</u> from the below that best describes your program.	National Objective: <u>Select one</u> objective from the list below that will be addressed by your program.
<input checked="" type="checkbox"/> Senior Service <input type="checkbox"/> Youth Service <input type="checkbox"/> Homeless Service <input type="checkbox"/> Disabled Service <input type="checkbox"/> Low/Moderate-Income Service <input type="checkbox"/> Fair Housing Services <input type="checkbox"/> Housing Services	<input checked="" type="checkbox"/> <u>Create a suitable living environment</u> : Activity that benefits communities, families, or individuals by addressing issues in their living environment. <input type="checkbox"/> <u>Provide decent affordable housing</u> : Housing activity that meets family or community needs. This objective should not be used if the housing activity is an element of a larger effort, e.g., transitional housing. <input type="checkbox"/> <u>Create economic opportunities</u> : Activity related to economic development, commercial revitalization & job creation.	<input checked="" type="checkbox"/> <u>Availability/Accessibility</u> : Activity that makes services, infrastructure, housing and/or shelter available and accessible. (Note: accessibility does not refer only to physical barriers.) <input type="checkbox"/> <u>Affordability</u> : Activity provides affordability in a variety of ways including the creation or maintenance of affordable housing, basic infrastructure hookups, or services (e.g., transportation or daycare) <input type="checkbox"/> <u>Sustainability</u> : Activity promotes livable or viable communities and neighborhoods by providing services or by removing slums or blighted areas.	<input checked="" type="checkbox"/> Benefit low/moderate income persons <input type="checkbox"/> Meet community development needs having a particular urgency

I. Description of Work

- A. Provide a concise description of the activity to be undertaken with ARPA funds during the 12-month contract period including the services to be performed, length of services, who will benefit from the services, and how ARPA funds will be used. **The Lunch Café program seeks to alleviate poor nutrition among the elderly residents of Costa Mesa by providing nutritional lunch meals, based on funding availability. All meals are based on voluntary contributions and no individual is turned away due to their inability to contribute. The overall goal of the problem is to improve the quality of life for participants and their families by creating a safety net of health, nutrition, and supportive services to enhance their overall well-being, independence and dignity. All Costa Mesa CDBG funds will help offset the raw food costs of the program.**
- B. Describe the general administrative services to be performed in support of activities noted above and list the amount of ARPA funds (if any) that will be utilized to support these general administrative services. General administrative services include tracking outcomes and services through our tracking systems which compile all unduplicated participant data. Participants complete a Registration or Reassessment Form to ensure they meet eligibility criteria and required demographic information is provided. Meals on Wheel OC reports all required information to the City of Costas Mesa. No CDBG funds will be used to support administrative services.

II. Output Measurements

- A. Total number of unduplicated clients anticipated to be served by the ARPA-funded during the program 12-month contract period (**regardless** of community of residence) = 130 Persons
- B. Number of **unduplicated Costa Mesa** residents to be served with ARPA funds during the 12-month contract period = 130 Persons
- C. Of the **Costa Mesa** residents to be assisted with ARPA funds (should not exceed persons listed in II.B.):
 - How many will have **new or continued access** to this service or benefit? 130 Persons
 - How many will have **improved access** to this services or benefit? _____ Persons
- D. Provide a "break-down" of the Costa Mesa residents to be served by the activities listed above. Each resident obtaining services should only be counted once even if they receive multiple services. See the example below.

SAMPLE PROGRAM SERVICE GOALS	
Costa Mesa Residents	Type of Service Provided * If a resident receives multiple services, only count once. <i>Example: Resident receives food bank, rent & utility assistance - resident only counted once under "Direct Assistance"</i>
20	Phone Referrals
50	Counseling Services
10	Food Bank
5	Direct Financial Assistance (rent, mortgage, utility assistance)
85	TOTAL UNDUPLICATED

Program Service Goals	
Costa Mesa Residents	Type of Service Provided * If a resident receives multiple services, only count once.
130	Lunch Café meals
	TOTAL UNDUPLICATED

- E. Estimate the number of unduplicated Costa Mesa residents to be served with ARPA funds during the 12-month contract period per quarter:

Quarter 1: July 1 – September 30	34Persons
Quarter 2: October 1 – December 31	32Persons
Quarter 3: January 1 – March 31	32Persons
Quarter 4: April 1 – June 30	32Persons
Total	130Persons

F. Summarize the program outcomes and how outcomes will be measured, tracked & reported. **Meals on Wheels OC will provide Lunch Café meal services to 130 seniors residing in Costa Mesa. The meals are analyzed by a registered dietitian. Participant information will be gathered through completed Registration and Reassessment Forms. The unduplicated outcomes will be tracked in our CDBG spreadsheet and tracking system. These measured outcomes will be reported by submitting the Quarterly Performance Report to the City of Costa Mesa**

III. 2023-2024 Program Budget

Estimate the amount of grant funds to be requested during the 12-month contract period on a quarterly basis:

Quarter 1: July 1 – September 30	\$5,000.00
Quarter 2: October 1 – December 31	\$5,000.00
Quarter 3: January 1 – March 31	\$5,000.00
Quarter 4: April 1 – June 30	\$5,000.00
Total	\$20,000.00

BUDGET CATEGORY	PROPOSED USE OF ARPA FUNDS	PROPOSED USE OF OTHER PROGRAM FUNDS	TOTAL PROGRAM COSTS
Agency Administration Staff Salaries & Benefits	\$	\$2,577,888	\$2,577,888
Program Staff Salaries & Benefits	\$	\$	\$
Program Supplies	\$	\$252,348	\$252,348
Agency Rent/Lease	\$	\$	\$
Communications	\$	\$130,811	\$130,811
Agency Utilities	\$	\$92,127	\$92,127
Professional Services (Specify) Consultants/Prof. Se	\$	\$658,732	\$658,732
Insurance	\$	\$76,182	\$76,182
Other (Specify) Raw Food	\$20,000	\$608,932	\$628,932
Other (Specify) Training/Conference/Travel	\$	\$38,775	\$38,775
Other (Specify) Other Costs	\$	\$279,609	\$279,609
Other (Specify)	\$	\$	\$
TOTAL	\$20,000	\$4,715,404 *	\$4,735,404

List Source of "Other" Program Revenue Already Committed to Program

SOURCE OF OTHER PROGRAM REVENUE	AMOUNT OF OTHER PROGRAM FUNDS
Title III	\$ 4,834,404
Other City Funds	\$ 174,376
Senior Donations	\$ 129,139
Safety Net Grants	\$ 187,668
In Kind	\$ 100,000
TOTAL	\$ 5,425,587 *

*** Note: your program must demonstrate financial viability. At a minimum, the total of "Other" Program Revenue Already Committed To Program "must equal the "PROPOSED USE OF OTHER PROGRAM FUNDS"**

IV. ARPA Funded Personnel:

ONLY list personnel that will be paid with ARPA funds and that are listed as part of the 2023-2024 Program Budget.

CHECK BOX IF NOT APPLICABLE

AGENCY ADMINISTRATION

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	ARPA FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO CM ARPA ACTIVITY
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%

PROPOSED PROGRAM STAFF

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	ARPA FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO CM ARPA ACTIVITY
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%

PROPOSED PROGRAM CONTRACT STAFF

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	ARPA FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO CM ARPA ACTIVITY
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%
	\$	\$	\$	\$	%

FY 2023-2024 Costa Mesa ARPA Program Outcomes

A minimum of one (1) program goal and outcome is required.

(If funds will be used for more than one program, then each program must have a corresponding goal and outcome.)

Program Goal	Program Activities	Program Output	Indicator	Program Outcome	Outcome Measurement
<i>Goal:</i> The overarching objective(s) of the program.	<i>Activities:</i> Describe the tasks/activities that will be carried out in pursuit of the desired goal.	<i>Outputs:</i> List the quantifiable outputs your team will undertake in pursuit of the outcome (e.g. # of classes held, # of participants engaged, # of meals served).	<i>Indicators:</i> Measures or benchmarks used to track how/if outcome(s) will be reached.	<i>Outcome:</i> The end result and impact on the target population as a result of the efforts (e.g. change in knowledge, behavior or community).	<i>Results:</i> What is the "success" threshold for outcomes (e.g., % of clients meeting planned outcome).
Goal 1: Provide nutritious meals to Lunch Café participants	Provide nutritious meals to Lunch Café participants that have been analyzed by a Registered Dietitian	Serve 130 unduplicated participants through the Lunch Café Program	Data tracking of number of seniors served through the Lunch Café Program improve nutrition of seniors	Improve nutrition of seniors	130 unduplicated participants will be served through the Lunch Café Program
Goal 2: N/A	N/A	N/A	N/A	N/A	N/A
Goal 3: N/A	N/A	N/A	N/A	N/A	N/A

ATTACHMENT 2

COUNCIL POLICY NO. 100-5