

CITY OF COSTA MESA
SINGLE FAMILY REHABILITATION LOAN AND GRANT PROGRAM
POLICIES AND PROCEDURES
(HOME Program)

I. PROGRAM DESCRIPTION

The City of Costa Mesa (“City”) previously established a Single Family Rehabilitation Loan and Grant Program in the 1995-1996 fiscal year to provide financial assistance to qualified property owners (who are also the occupants of the Property) to finance rehabilitation improvements to eligible owner-occupied single family properties and mobilehomes located in the City. In 1997 the City provided and included an additional funding source to expand the program through funds made available pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, *et seq.*, and the implementing regulations thereto set forth in 24 CFR Section 92.1, *et seq.* (together the “HOME Program”). The City intends by these Policies and Procedures to expand the Single Family Rehabilitation Loan and Grant Program by reserving and expending HOME Program funds to carry out single family rehabilitation (the “Program”). The primary objectives of the Program are to correct nonconforming uses, remedy code violations, and generally repair and improve deteriorating properties in an effort to provide decent housing and a suitable living environment for persons and families of Low-Income. In order to qualify for Program assistance, each property owner interested in Program participation must apply for Program assistance through completion of a Program application. The Program application will be reviewed with focus first on verified income eligibility of the applicant household and, second, the subject property must meet Program eligibility criteria, including without limitation financial feasibility evaluation relating to implementation of the LBP Regs, as hereinafter further defined and described.

The City is a participating jurisdiction and grantee of funds under the HOME Program and separately is an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. During fiscal year 2000-2001, the City, as a recipient of federal funds under the HOME Program and the CDBG Program, is required to modify and conform all of its housing programs funded with federal monies, including without limitation this Program, to Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, *et seq.* (Title X) and the new implementing regulations thereto, which are aimed to take advantage of rehabilitation events as a cost-effective opportunity to reduce lead based paint (LBP) in existing housing. The new implementing regulations to Title X are set forth in 24 CFR Part 35 (LBP Regs), were adopted by HUD on September 15, 1999 and become effective for compliance September 15, 2000 (HUD approved the City’s application for extension to a later date in 2001.) The revised LBP Regs establish new and more specific requirements relating to lead based paint (LBP) and the notification, evaluation through inspection and assessment, reduction using safe work practices, and clearance (with ongoing monitoring in certain instances) of LBP in housing receiving federal assistance. Subpart J of the LBP Regs focuses on the requirements for programs that provide assistance for housing rehabilitation, such as this Program.

The LBP Regs provide specific rules requiring specified notice to owners and occupants about the existence of LBP hazards and methods of identification and control of LBP and LBP hazards through evaluation and reduction methods, including abatement, and clearance all using safe work practices. In connection with the implementation of this Program and the application from

property owners for grant(s) and/or loan(s) under the Program, the City requires that each property owner applicant cooperate with the City and assist in evidencing compliance with all applicable requirements of Title X and the LBP Regs, in particular Subpart J relating to rehabilitation of housing in the community.

The Program is implemented by the City's Housing Rehabilitation staff under the supervision of the Housing Rehabilitation Coordinator. Subject to the compliance and conditions precedent set forth in this Program relating to compliance with the LBP Regs and evaluation of financial feasibility of the subject property for rehabilitation, the City intends to make available HOME Program Funds for Deferred Payment Loans to eligible Low-Income persons and families to rehabilitate single family homes currently owned and occupied as the principal residence of such eligible applicant (including mobilehomes currently owned and occupied as the principal residence of such eligible applicant, subject to the financial limitations hereinafter described.) Further, the City intends to make available HOME Program funds toward an Interest Subsidy Loan to lower the cost of a loan provided to eligible Low-Income persons and families through an institutional lender in order to cause the lender to provide Program loans, the proceeds of which will be expended to rehabilitate single family homes currently owned and occupied as the principal residence of such eligible applicant. And, the City intends to make available HOME Program funds available as a Grant on an urgency basis to eligible Low-Income persons and families to rehabilitate single family homes currently owned and occupied as the principal residence of such eligible grant applicant (including mobilehomes currently owned and occupied as the principal residence of such eligible applicant, subject to the financial limitations hereinafter described.) The City may contract with an institutional lender to administer and service Program loans and/or grants. Program assistance is expressly contingent upon the availability of HOME Program funds and financial feasibility of LBP related issues affecting the subject property.

In implementation of Title X and the new LBP Regs for this Program, for each application received and each pending application for which Program funding has not been committed on and after the date HUD promulgates for local jurisdictions' compliance with the LBP Regs, the City will provide to each applicant a copy of the HUD approved pamphlet entitled "Project Your Family From Lead In Your Home", EPA747-K-99-001. A sample of this pamphlet is attached hereto as Attachment No. 1-A and fully incorporated by this reference. Such pamphlet will be provided by City staff to each property owner applicant *concurrent* with receipt of a Program application by each property owner applicant. Each property owner applicant will be required to sign an acknowledgement of receipt of such LBP pamphlet, Attachment No. 1-A. Any subsequent or updated form of informational brochure will be substituted by City staff as and when promulgated by HUD. Assuming receipt of a complete Program application and notice to and acknowledgement of receipt of the LBP pamphlet by a Program applicant, if such property owner applicant meets the initial screening for income eligibility and related eligibility criteria for the subject property, then the City, as a part of this Program may provide a grant of Program funds to conduct a LBP evaluation of the property in compliance with the LBP Regs. The results of the LBP evaluation will be a part of the staff assessment of financial feasibility for funding of rehabilitation improvements under the Program.

II. NOTIFICATION OF AND EVALUATION FOR LBP AND LBP HAZARDS

A. **LBP Evaluation of Subject Property**. Assuming receipt of a complete Program application and notice to and acknowledgement of receipt of the HUD approved LBP pamphlet, Attachment No. 1-A, by a Program applicant, if such property owner applicant meets the initial

screening for income eligibility and related eligibility criteria for the subject property and subject to execution by the property owner/applicant of the City's form of Right of Entry, Attachment No. 2 as hereinafter defined, then the City, as a part of this Program, will cause to be conducted and pay for a LBP evaluation of the subject property in accordance with the LBP Regs.

1. **Evaluation.** LBP evaluation shall be conducted by a qualified inspector under contract with the City in conformity with the LBP Regs. The LBP requirements for rehabilitation work under Subpart J differ based on the level of funding of rehabilitation to the subject property. Assessment for LBP for a proposed federally funded rehabilitation project will include: (1) visual inspection on all properties constructed prior to 1978 to identify defective paint surfaces; (2) for rehabilitation costs estimated at \$5000 or less the painted surfaces that will be disturbed during rehabilitation must be *tested* for LBP, unless a surface is assumed to contain LBP; (3) for rehabilitation costs estimated between \$5000 to \$25,000 the housing unit requires LBP hazard evaluation, including: (i) paint testing: for surfaces to be disturbed by the rehabilitation for LBP and (ii) risk assessment: an assessment of a dwelling to check for the presence of LBP hazards, including visual assessment of dust, soil, and paint with a written report of the results, or (iii) assumption of presence of LBP and/or LBP hazards and directly proceeding with standard treatment of LBP and LBP hazards, and (4) for rehabilitation costs estimated to exceed \$25,000 the housing unit requires a higher level of LBP hazard evaluation, including: (i) paint testing: for surfaces to be disturbed by the rehabilitation for LBP and (ii) risk assessment of dwelling to check for the presence of LBP hazards, including visual assessment of dust, soil, and paint with a written report of the results, or (iii) assumption of presence of LBP and/or LBP hazards and directly proceeding with full abatement of all painted surfaces disturbed during rehabilitation that are presumed to have LBP and all presumed LBP hazards.

(a) The results of the LBP evaluation and estimated costs of standard treatment options and/or abatement through clearance will be a part of the evaluation caused to be conducted by the City to the subject property and said results will be a factor in the assessment by the City staff of financial feasibility of funding the treatment through clearance of the LBP and LBP hazards from the Property and proceeding with all other rehabilitation improvements under the Program.

(b) Each property owner/applicant will be provided HUD approved disclosure form(s) relating to the results of the evaluation, with such disclosure document(s) to be substantially in the form of Attachment No. 1-B and Attachment No. 1-C, each attached hereto and fully incorporated by this reference. At the date of these Guidelines, the HUD approved disclosure form 1-B is entitled "Sample Disclosure Format for Target Housing Sales, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards" and HUD approved disclosure form 1-C is entitled "Sample Summary Risk Assessment Notice Format" Any subsequent or updated form(s) of such disclosure(s) will be substituted by City staff as and when promulgated by HUD.

B. Discretion to Proceed with LBP Treatment and/or Rehabilitation Expressly Reserved to City. The City expressly reserves all reasonable discretion to review the results of the LBP evaluation and recommended course of treatment (by paint repair, LBP hazard reduction, and/or abatement through clearance) and decide whether the cost of treatment through clearance, using safe work practices, of LBP and/or LBP hazards from the subject property in conjunction with the costs of the rehabilitation improvements requested by the property owner/applicant are financially feasible for Program funding.

As to mobilehomes, the City finds under some circumstances it is not practical nor financially feasible to proceed with LBP Treatment and/or Rehabilitation of a mobilehome either through the grant or loan process. Therefore, under this Program it is the City's policy that for a grant or loan for LBP Treatment and/or Rehabilitation of a mobilehome financial assistance is and shall be limited to the *lesser* of (i) the reasonably estimated value of the mobilehome, as rehabilitated, or (ii) \$10,000.

If the City in the exercise of its sole discretion determines the costs of treatment through clearance using safe work practices of LBP and LBP hazards *plus* the costs of the requested rehabilitation improvements to the Property are not financially feasible, then the Program application will be denied and no other loan or grant will be available or provided to the property owner applicant under the Program. If the City in the exercise of its sole discretion determines the costs of treatment through clearance using safe work practices of LBP and LBP hazards plus the costs of the requested rehabilitation improvements are financially feasible, then the Program application will be further processed to provide, as eligible, a grant or loan under the Program.

C. **Right of Entry to Conduct LBP Evaluation.** In order to conduct the LBP evaluation of the subject property, each property owner/applicant is required to execute a right of entry and release and waiver agreement substantially in the form attached hereto as Attachment No. 2 and fully incorporated by this reference ("Right of Entry".) This Right of Entry will provide consent of the owner/applicant to the City and its authorized agent(s), including the LBP testing contractor, to enter the property and conduct the LBP evaluation and releasing the City and its agent(s) from all claims, responsibility, and liability relating in any respect to LBP and/or LBP hazards at or about the property and/or exposure thereto to persons at or about the property. The applicant by submittal of a Program application shall acknowledge receipt of a HUD approved LBP pamphlet and shall acknowledge by signing such application that the City is not, and shall not be, responsible for LBP issues relating to the property or persons exposed to LBP or LBP hazards at or about the property, if any, and after evaluation for LBP the City is not, and shall not be, required to be responsible for and/or cause to be undertaken treatment through clearance of LBP and/or LBP hazards at the subject property.

III. TREATMENT THROUGH CLEARANCE OF LBP AND LBP HAZARDS

A. **Election to Proceed with Treatment through Clearance.** Pursuant to the discretion reserved to the City, as set forth in Section II above (including the policy regarding mobilehomes), the results of the evaluation of the subject property for LBP and LBP hazards and estimated costs of treatment through clearance of LBP and LBP hazards from the subject property will be reviewed by City staff and a determination made whether to proceed with treatment through clearance and with the rehabilitation improvements.

B. **Grant of Funds for Treatment through Clearance.** In the event the City elects to proceed with treatment through clearance of the LBP and LBP hazards at the subject property and the other rehabilitation improvements thereto, then the City will provide a grant of funds to pay for the costs of treatment through clearance of the LBP and LBP hazards at the subject property which grant provisions will be set forth in either the Grant Agreement entered into pursuant to Section IV.A. below if the applicant is provided a grant for the rehabilitation improvements under IV.A below, or the Loan Agreement entered into pursuant to Section IV. B. or C. below, as applicable, if the applicant is provided a loan for the rehabilitation improvements pursuant to Section IV. B or C below, as applicable. As to a mobilehome, the City policy is confirmed that for a grant or loan for

LBP Treatment and/or Rehabilitation of a mobilehome financial assistance is and shall be limited to the lesser of (i) the reasonably estimated value of the mobilehome, as rehabilitated, or (ii) \$7000.

1. **Rehabilitation Grant.** In the event the rehabilitation improvements will be completed through the grant program described in Section IV. A below, then the grant of funds by the City for the treatment through clearance of LBP and LBP hazards will be set forth in the Grant Agreement and other implementing documents thereto entered into between the City and the property owner.

2. **Deferred Payment Loan; Grant of Funds for Treatment Through Clearance.** In the event the rehabilitation improvements will be completed through participation in the deferred payment loan option of the Program for Low Income households as described in Section IV. B below, then the grant of funds by the City for the treatment through clearance of LBP and LBP hazards will be set forth in the Loan Agreement for the deferred payment loan and other implementing documents thereto entered into between the City and the property owner.

3. **Interest Subsidy Loan; Grant of Funds for Treatment Through Clearance.** In the event the rehabilitation improvements will be completed through participation in the interest subsidy loan option of the Program as described in Section IV. C below, then the grant of funds by the City for the treatment through clearance of LBP and LBP hazards will be set forth in the Loan Agreement for the interest subsidy loan and other implementing documents thereto entered into between the City and the property owner.

IV. FINANCIAL ASSISTANCE FOR REHABILITATION

A. **Grants for Rehabilitation Improvements.** If after the LBP notification and evaluation phases the City elects to approve payment for treatment through clearance of LBP and LBP hazards as set forth in Section III. B.1. above and the City also approves the property owner's application for funding of the rehabilitation improvements through the grant option of the Program, then the City may make available Single Family Rehabilitation Grants (HOME Program) in amounts up to Seven Thousand Dollars (\$7,000.00) (exclusive of the costs of treatment through clearance of LBP) to qualifying Low-Income single family property owners and Five Thousand Dollars (\$5,000.00) for mobile home owners to correct existing local and/or state code violations and finance exterior improvements to residential properties satisfying the eligibility criteria set forth in Section VI below. As to mobilehomes, the City policy is confirmed that for a grant (or loan) for LBP Treatment and/or Rehabilitation of a mobilehome financial assistance is and shall be limited to the lesser of (i) the reasonably estimated value of the mobilehome, as rehabilitated, or (ii) \$7000.

The City Manager, or his/her designee, may in his/her sole and absolute discretion approve Program grants in excess of the limits set forth above to complete essential rehabilitation of eligible property. Except as specifically provided below, eligible property owners may qualify for only one grant throughout the life of the Program. Additional grant funds may, however, be made available to previous grant recipients to cover the actual costs of correcting serious code or health and safety defects as determined by the Housing Rehabilitation Coordinator.

B. **Deferred Payment Loans for Rehabilitation Improvements.** If after the LBP notification and evaluation phases the City elects to approve payment for treatment through clearance of LBP and LBP hazards as set forth in Section III. B.2. above and the City also approves the property owner's application for funding of the rehabilitation improvements through the deferred

payment loan option of the Program, then the City may make available Deferred Payment Loans to eligible Low Income property owners, as specifically provided below, in amounts up to Thirty-Five Thousand Dollars (\$35,000.00) (exclusive of the costs of treatment through clearance of LBP.) Deferred Payment Loans are only available to qualifying Low-Income property owners for rehabilitation of single family residential properties satisfying the criteria set forth in Section VI below. If Program participants do not receive the maximum loan amount, they will be allowed to receive a second loan, which when added to the first loan equals or is less than the max loan amount only after waiting on the waiting list. The City Manager, or his/her designee, may approve Deferred Payment Loans in excess of Thirty-Five Thousand Dollars (\$35,000.00) as determined necessary, in his/her sole and absolute discretion, to complete the rehabilitation of eligible property. Actual loan amounts shall in no event exceed the **lesser** of (i) the actual eligible costs of rehabilitation as described in Section VI.D., below, or (ii) such amount when added to the existing encumbrances does not exceed eighty-five percent (85%) of the current fair market value of the property.

Deferred Payment Loans will accrue zero percent (0%) interest and will be fully deferred without principal repayment until the earlier to occur of the (i) sale or transfer of all or any interest in the Property, (ii) refinancing of the Deferred Payment Loan or any lien which the Deferred Payment Loan is subordinate for a loan amount in excess of the then current loan balance secured by such liens plus reasonable and customary closing costs as approved in writing by the Housing Rehabilitation Coordinator in his/her sole and absolute discretion, (iii) non-owner occupancy of the Property by the property owner, or (iv) other default by the property owner of the terms and conditions of the Loan Agreement. In the event of default by the property owner under the Program, interest shall accrue from the date of default at the rate of ten percent (10%) per annum. In any event, upon (i) sale or transfer, (ii) refinancing, or (iii) non-owner occupancy or other default, as described above, the entire principal amount of the loan shall be immediately due and payable. The City Manager may, but is not required to, waive loan acceleration in the event of owner default and establish an amortization and monthly payment schedule and/or adjustment in the interest rate for repayment.

B. Interest Subsidy Loans for Rehabilitation Improvements. If after the LBP notification and evaluation phases the City elects to approve payment for treatment through clearance of LBP and LBP hazards as set forth in Section III. B.3. above and the City also approves the property owner's application for funding of the rehabilitation improvements through the interest subsidy loan option of the Program, then the City may make available Interest Subsidy Loans in amounts up to Thirty-Five Thousand Dollars (\$35,000.00) (exclusive of the costs of treatment through clearance of LBP) at five percent (5%) interest through a lender under contract with the City to qualifying Low-Income property owners for rehabilitation of eligible owner occupied property. The City may enter into agreement(s) with lender(s) and provide directly to such lender a payment of HOME Program funds (the "Interest Subsidy"), which causes the lender to provide to a qualifying property owner a fully amortized below market rate interest loan the proceeds of which are for the rehabilitation of the property. Interest Subsidy Loans are made directly by the eligible lender to a qualifying Low-Income property owner. The City Manager, or his/her designee, in his/her sole and absolute discretion, and with the concurrence of the lender, may approve Interest Subsidy Loans in excess of Thirty-Five Thousand Dollars (\$35,000.00) as determined necessary, to complete the rehabilitation of eligible property. Actual loan amounts shall in no event exceed the **lesser** of (1) the actual eligible costs of rehabilitation as described in Section VI.D., below, or (2) such amount when added to the existing encumbrances does not exceed eighty-five percent (85%) of the current fair market value of the property.

Interest Subsidy Loans will accrue interest at the rate of five percent (5%) per annum, fully amortized over fifteen (15) years. Monthly payments of principal and interest shall be due and payable to the lender throughout the amortization period. All amounts outstanding shall be immediately due and payable upon the earlier to occur of the (i) sale or transfer of all or any interest in the property, (ii) refinancing of the Interest Subsidy Loan or any lien which the Interest Subsidy Loan is subordinate for a loan amount in excess of the then current loan balance secured by such liens plus reasonable and customary closing costs as approved in writing by the Housing Rehabilitation Coordinator in his/her sole and absolute discretion, (iii) non-owner occupancy of the property, or (iv) upon other default by the property owner of the terms and conditions of the loan. In the event of default, interest shall accrue from the date of default at the rate of ten percent (10%) per annum. The City Manager may, but is not required to, and with the consent of the lender, waive loan acceleration in the event of owner default and establish an amortization and monthly payment schedule and/or adjustment in the interest rate for repayment.

V. PROGRAM DOCUMENTS

All property owners receiving Program assistance will be required to sign, as applicable, (i) Program application; (ii) acknowledgement of receipt of a HUD approved LBP pamphlet (Attachment No. 1-A); (iii) Right of Entry with release and waiver related to LBP evaluation and presence of LBP and/or LBP hazards; (iv) a Single Family Rehabilitation Grant Agreement (HOME Program) (the "Grant Agreement"), or (v) a Rehabilitation Loan Agreement Single Family Deferred Payment Loan (HOME Program), or (vi) a Loan Agreement with the lender along with a Rider to Loan Agreement Single Family Interest Subsidy Loan (HOME Program), and any and all related attachments (collectively the "Loan Agreement"), as applicable. The Grant Agreement sets forth the terms and conditions of the Grant, inclusive of the grant of funds for LBP treatment through clearance. The Loan Agreement includes, without limitation, a promissory note evidencing the loan, a deed of trust securing the note, and a regulatory agreement setting forth the ongoing obligations of the property owner pursuant to the requirements of the Program, and the grant of funds for LBP treatment through clearance. A deed of trust and regulatory agreement will be recorded against assisted properties for all loans.

VI. ELIGIBILITY CRITERIA FOR PROPERTY OWNERS AND PROPERTIES FOR REHABILITATION IMPROVEMENTS GRANTS AND LOANS

Program eligibility of both the property owner and the property will be evaluated and determined relating to three criteria: (i) LBP notice and, if such occurs, LBP evaluation,; (ii) property owner/household income eligibility and verification; (iii) and scope of rehabilitation improvement to the subject property. A Program applicant must first be determined eligible under the criteria set forth below in Section VI.A., and then the owner's property will be evaluated under the provisions of Section VI.B.

A. Eligible Property Owners.

1. **LBP Notice and, if such occurs, LBP Evaluation.** Consideration for Program assistance to complete rehabilitation improvements, whether by loan or grant, is expressly conditioned upon (i) the property owner/applicant accepting and acknowledging receipt for the LBP pamphlet (Attachment No. 1-A) and, (ii) if LBP evaluation will be conducted, to execute the Right of Entry and release and waiver for LBP evaluation (Attachment No. 2) described in III. above, and

(iii) the property owner/applicant accepting and acknowledging receipt for the LBP disclosure forms (Attachment Nos. 1-B and 1-C) relating to the results of the evaluation.

2. **General Eligibility Criteria for Rehabilitation Improvements Grants and Loans.**

(a) Depending upon the type of Program assistance requested, loans and grants for rehabilitation improvements are available only to property owners whose gross household income does not exceed eighty percent (80%) (Low-Income) of the area median income adjusted for family size as published annually by the United States Department of Housing and Urban Development (“HUD”).

(i) All persons on title to the property, all adults residing on the property, and all adults within the household must be included in the income verification or prove to the satisfaction of the Housing Rehabilitation Coordinator that they do not reside in the property and do not contribute to housing costs associated with the property.

(ii) Qualified property owners must have fee title to eligible properties as set forth in Section VI.B., below.

(iii) Eligible property owners must occupy the property to be rehabilitated as their principal residence, must be of legal age, and must have the capacity to competently enter into binding contractual agreements.

(iv) No member of the City Council of the City of Costa Mesa and no other employee, official or agent of the City who exercises any policy-decision making function in connection with the Program shall directly or indirectly be eligible for Program assistance.

(v) As to mobilehomes, for a grant or loan for LBP Treatment and/or Rehabilitation of a mobilehome financial assistance is and shall be limited to the lesser of (i) the reasonably estimated value of the mobilehome, as rehabilitated, or (ii) \$7000.

3. **Eligibility for Rehabilitation Grants.** Single Family Rehabilitation Grants are available only to (i) owner-occupants with a gross household income does not exceed eighty percent (80%) of the area median income (“Low-Income”), (ii) owner is in immediate need of rehabilitation improvements to eligible property, (iii) the estimated value of the eligible property, after rehabilitation, does not exceed \$598,000 (or such other dollar amount promulgated and approved by HUD), (iv) the eligible property is the principal residence of the eligible owner at the time HOME Program funds are committed to the rehabilitation and the owner meets other applicable requirements of the HOME Program, and (v) owners satisfy the general eligibility criteria set forth above in Section VI.A. 1 and 2 above. Such owner-occupants may qualify to receive Program Grants.

4. **Deferred Payment Loans.** Deferred Payment Loans are available only to (i) owner-occupants of Low-Income (gross household income does not exceed eighty percent (80%) of the area median income) (ii) the estimated value of the eligible property, after rehabilitation, does not exceed does not exceed \$598,000 (or such other dollar amount promulgated and approved by HUD), (iii) the eligible property is the principal residence of the eligible owner at the time HOME Program funds are committed to the rehabilitation and the owner meets other applicable requirements

of the HOME Program, (iv) owners satisfy the general eligibility criteria set forth above in Section VI.A.1 and 2 above, and (v) owners must demonstrate that they have sufficient equity in their property in accordance with Program requirements set forth in Section VI.B., below.

5. **Interest Subsidy Loans.** Interest Subsidy Loans are available only to (i) owner-occupants whose gross household income does not exceed eighty percent (80%) of the area median income (“Low-Income”), (ii) the estimated value of the eligible property, after rehabilitation, does not exceed does not exceed \$598,000 (or such other dollar amount promulgated and approved by HUD), (iii) the eligible property is the principal residence of the eligible owner at the time HOME Program funds are committed to the rehabilitation and the owner meets other applicable requirements of the HOME Program, (iv) owners satisfy the general eligibility criteria set forth above in Section VI.A.1 and 2 above, and (v) owners must demonstrate that they have sufficient equity in their property in accordance with Program requirements set forth below in Section VI.B. In addition, property owners applying for an Interest Subsidy Loan must demonstrate to the satisfaction of the Housing Rehabilitation Coordinator and the lender a good credit history, credit worthiness, as well as the financial capability to make monthly amortized payments on the Interest Subsidy Loan. These determinations may be based upon a Standard Data Factual Credit Report or other report prepared by a reputable credit reporting agency, third party verifications, such as employment, social security, banks, and tax return verifications as well as applicant affidavits, and such other documentation as deemed necessary and appropriate. Credit history, income to debt ratio, and employment status may be evaluated by the Housing Rehabilitation Coordinator and/or by the institutional lender contracted by the City in connection with Interest Subsidy Loans.

B. **Property Eligibility for Rehabilitation Improvements.** Following determination of property owner eligibility pursuant to Section VI.A., above, the owner must demonstrate property eligibility for the rehabilitation improvements in order to qualify for Program assistance. Real property will be evaluated and must meet **each** of the minimum requirements set forth below to be considered eligible property.

1. **Location.** All assisted properties must be located in the City of Costa Mesa.
2. **Single Family Residence.** The owner must hold record fee simple title to the property. The property must be an owner-occupied single family residence, including condominiums, townhomes, and mobilehomes (registered with the State Housing and Community Development Department, and subject to the financial feasibility policy described herein), and the principal residence of the income eligible owner.
3. **LBP Evaluation.** A LBP evaluation in conformity with the LBP Regs shall have been conducted on the subject property.
4. **LBP Treatment Through Clearance, Using Safe Work Practice.** As set forth in Sections II and III above, if after the LBP evaluation it has been determined by the City, through its staff and agents, that there are no LBP hazards or LBP that require treatment through clearance, using safe work practices, or that LBP hazards exist at the subject property and it is financially feasible to cause LBP treatment through clearance, using safe work practices, of the subject property, then the City will fund the treatment through clearance, using safe work practices. All LBP treatment through clearance, using safe work practices, shall be conducted in conformity with the applicable LBP Regs and shall be completed prior to commencement of any eligible rehabilitation improvements that are a part of the Work Write-Up for the subject Property.

(a) **Treatment.**

(i) For rehabilitation work to the subject property of less than \$5000 LBP treatment option is paint repair by repair of surfaces that are to be disturbed by rehabilitation in a safe manner.

(ii) For rehabilitation work to the subject property between \$5000 to \$25,000 LBP treatment option is lead hazard reduction work. Any LBP or LBP hazards found during the risk assessment must be controlled using interim controls or abatement methods. Standard treatments must be performed when no evaluation is conducted and the presence of LBP hazards is assumed.

(iii) For rehabilitation work to the subject property in excess of \$25,000 LBP treatment option is abatement. Any LBP hazards or LBP found in units and any common areas, as applicable, must be controlled using full abatement methods. LBP hazards on exterior surfaces that are not disturbed during rehabilitation must be controlled using either interim controls or abatement.

(b) **Safe Work Practices.** Rehabilitation work that disturbs surfaces known or assumed to contain LBP or LBP hazards must be performed using safe work practices.

(i) Safe work practices are not required for work that disturbs surfaces below the *de minimis* levels set forth in the LBP Regs.

(ii) The LBP Regs include a list of prohibited methods of treatment and exclusions from safe work practices.

(iii) The LBP Regs include additional safety precautions for occupant protection, worksite preparation, and cleanup activities.

(c) **Clearance.** Once LBP hazard and LBP treatment work is complete using safe work practices, a clearance examination must be performed by a certified professional to ensure that not LBP or LBP hazards remain.

(i) Clearance is *required* for all categories of rehabilitation activities.

(1) For rehabilitation assistance less than \$5000, clearance is required only for the worksite.

(2) For rehabilitation assistance greater than \$5000, clearance is required for the housing unit, common areas, if any, and exterior areas where rehabilitation work occurred.

(ii) Clearance involves a visual assessment and dust testing after cleanup of treatment activities is complete. A clearance report must be prepared by a certified professional.

(iii) If abatement is the treatment method conducted, an abatement report is required in place of a clearance report prepared by a certified professional.

5. **Condition.** The property must be in need of repairs to (i) correct existing nonconforming development standards, (ii) correct existing nonconforming local and/or state code requirements, (iii) correct existing local and/or state code violations, (iv) protect the structural integrity of the property, (v) promote neighborhood safety, (vi) improve energy efficiency, (vii) refurbish exterior and/or interior improvements, or (viii) aid the mobility of the physically disabled and/or elderly. All eligible repairs must meet the Building and Property Rehabilitation Standards adopted by the City and available for review and/or copying at the Housing Rehabilitation offices in City Hall. After LBP notice, evaluation, treatment through clearance, using safe work practices pursuant to the LBP Regs and these Program Policies and Procedures, as applicable, Program Grant funds must first be expended to correct such code violations with the balance, if any, available to finance exterior improvements.

6. **After Improved Value of Property.** The estimated value of the eligible property, after rehabilitation, does not exceed \$598,000 (or such other dollar amount promulgated and approved by HUD), and the property meets other applicable requirements of the HOME Program. The following methodology is used to determine market value of the property: The Housing Rehabilitation Coordinators utilize an on-line property value data source to access similar recently sold properties which have been recorded in the county recorder's office to get a price range of surrounding properties with similar characteristics as the property in questions. A minimum of three similar properties is compared to the subject property to determine a range of value. The Housing Rehabilitation Coordinators then determine if the after rehab value of the property in question will be at or below the amount promulgated and approved by HUD. If the opinion is that it is at or below this amount, then the property is approved for rehabilitation. If not, then the property is not eligible for the HOME Rehabilitation Program.

7. **Occupancy Standards.** The property must be owner-occupied and must not be overcrowded. For purposes of the Program, the maximum occupancy permitted for eligible properties shall not exceed federal Housing Quality Standards ("HQS") (24 CFR 882.109). These standards require that the residence contain at least one (1) bedroom or living/sleeping room of appropriate size for each two persons residing on the property.

8. **Equity.** For Deferred Payment and Interest Subsidy Loans, only, the property shall not be encumbered in excess of eighty-five percent (85%) of its current fair market value at the time of Program application. For purposes of this calculation, encumbrances must include the proposed principal amount of the Program loan requested by the eligible owner. The owner must demonstrate that his/her equity in the property equals or exceeds fifteen percent (15%) of the property's current fair market value as determined by comparable sales data submitted by the property owner for sales within the twelve (12) months prior to the date of the owner's application. If such comparable sales data is not available, fair market value shall be determined by an appraisal conducted by a City approved appraiser. If the Program assistance is approved, the cost of the appraisal shall be included in the loan amount. If the Program assistance is not approved, the applicant shall pay for the appraisal. There is no minimum equity requirement for Program Grants.

9. **Hazard Insurance.** Properties must be insured with an all-risk property insurance policy in an amount equal to the full replacement value of the structures on the property, as provided for and required in the Loan Agreement. [This requirement, No. 9., Hazard Insurance, does not apply to Grants.]

10. **No Criminal Activity.** Properties that have been the site of repeated or ongoing drug-related arrests or arrests for other felonious criminal activity as evidenced by police records/reports shall not be eligible for Program assistance unless and until the property owner demonstrates that such activities have been fully abated.

11. **No Property Tax Delinquency or Liens.** Property taxes and assessments must be paid current and eligible properties shall not have any recorded tax liens or outstanding mechanics liens, except for tax deferment lien allowed for eligible senior property owners as permitted by law.

12. **Annual Certification of Owner-Occupancy.** Throughout the term of the Agency Loan, the subject single family residence of Participant shall be and shall continue to be owned in fee by and occupied as the primary residence of Participant and his/her household. Participant shall be obligated to prepare, execute, and deliver to City an annual certification of ownership and occupancy of the subject property during the term of the Agency Loan, substantially in the form attached to the loan agreement for the applicable loan program.

13. **Property Held in Trust.** Property that is part of a trust and which has been included in a trust for estate planning purposes may be eligible for Program participation so long as the City's policy regarding property held in trust is satisfied after review and approval by the Housing Rehabilitation Coordinator and counsel. Criteria for review of property held in a trust include: (a) submittal by Program applicant of obtain a true copy of the fully executed trust agreement, including all amendments thereto (note: Program application will not be further reviewed or processed until copy received), and (b) Housing Rehabilitation Coordinator will review trust agreement to verify and determine the following: (i) subject property is expressly referenced to be a part of the trust property, i.e., held/owned by the trust and vesting matches the lot/book report description, (ii) Program applicant is the trustee with power to act, and if the trustees are husband and wife, just as with property held in joint tenancy or as community property, both husband and wife, as trustees, must be signatories to all Program loan documents, (iii) the trustee must have the express power in the trust agreement to buy, sell, encumber, borrow against, and enter into contracts relating to the subject property, (iv) review the signature block and certification of trust, and prepare a correct signature block for all subsequent Program documents, and (v) evaluate the income/total assets eligibility of the Program applicant based on both the assets and income of the individual(s) and the trust. If a loan is approved and processed under the Program for property held in trust, an ALTA policy of title insurance is required as a condition to loan closing to be paid from the loan proceeds.

C. **Eligible Improvements.** In addition to LBP evaluation and treatment through and clearance, if such occur, eligible improvements to the property shall include only those physically attached to the property and be permanent in nature. In order to be eligible for Program assistance, proposed improvements must be approved by the Housing Rehabilitation Coordinator, or his/her designee, following an inspection of the property in accordance with Program requirements. All rehabilitation work must be completed by qualified, licensed, and insured contractors selected in accordance with Program procedures.

1. Subject to the requirements of Section VI.B.3., concerning the permissible expenditure of Program funds, **eligible improvements** include, but are not limited to, the following:

(a) LBP hazards and LBP and the evaluation and treatment through clearance, using safe work practices, thereof pursuant to applicable LBP Regs.

- (b) Correction of existing or incipient health and safety code violations.
- (c) Repairs, restoration or replacement of building components and mechanical structural systems, such as heating systems, plumbing systems, septic tanks, electrical wiring and service, and built-in residential appliances.
- (d) Structural and foundation repairs and qualified building additions or alterations to increase the health, safety, and livability of existing structures, such as porches, stairways, closets, cabinets, bathrooms, kitchens and entrances. Garages may also be considered eligible, particularly where off-street parking standards are not satisfied.
- (e) Exterior work to help preserve or protect structures, such as painting, roofing, siding, and property enhancements, such as landscaping, sidewalks, and fences. Defensible fencing improvements may be required as a condition of loan approval.
- (f) Interior work to make a structure more livable, such as painting, plastering, new flooring, and tile work.
- (g) Fumigation and treatment of termites and pest control.
- (h) Energy and water conservation improvements and devices such as solar heating, insulation, window caulking.
- (i) Access improvements, special safety features, and, any modifications or additions to aid the physically disabled and the elderly.
- (j) Limited landscaping work, including the construction of walls and fences and walkways and drives, but only when related to other rehabilitation work and in accordance with defensible fencing concepts. Landscape work must include the installation of an automatic irrigation system.
- (k) Room additions may be allowed if the following criteria are met: The property must be owner-occupied and should not be overcrowded. For purposes of the Program, the maximum occupancy permitted for eligible properties shall not exceed federal Housing Quality Standards ("HQS") (24 CFR 882.109). The dwelling unit shall contain a living room, kitchen area, and bathroom. The dwelling unit shall also contain at least one bedroom or living/sleeping room of appropriate size for each two persons. Persons of opposite sex, other than husband and wife or very young children, shall not be required to occupy the same bedroom or living/sleeping room.

2. **Ineligible improvements** include, without limitation, improvements that are (i) cosmetic in nature and/or accessory use improvements, including, but not limited to, greenhouses; barbecue pits and outdoor fireplaces; bathhouses, swimming pools, saunas and hot tubs; valances, cornice boards and drapes and indoor or outdoor home furnishings; and (ii) any improvements **not** approved by the Housing Rehabilitation Coordinator or his/her designee.

D. **Eligible Costs.** Program Grant and Loan proceeds may be used only for eligible costs which shall include:

1. The actual reasonable costs of LBP evaluation, treatment through clearance, using safe work practices, as applicable, and the actual reasonable costs of the materials and services

necessary to complete the rehabilitation work approved by the Housing Rehabilitation Coordinator as set forth in the Work Write-Up.

2. Building permit, inspection and other related fees necessary for the completion of the approved LBP work and the rehabilitation work.
3. Costs of loan processing, including without limitation, credit reports; property appraisals, if necessary; preliminary title reports; and recording fees, if any.
4. Costs of temporary relocation, if any, required by applicable local, state and federal laws, regulations, and policy in connection with the rehabilitation work.

E. **Ineligible Costs.** Specific costs **not** eligible for payment from Program assistance include, but are not limited to, the following:

1. Work, improvements, or repairs undertaken by persons who are not properly licensed and certified for LBP evaluation and/or LBP or LBP hazards treatment through clearance, using safe work practices, pursuant to the LBP Regs.
2. Materials, fixtures, or equipment of a type or quality which exceeds that customarily used in properties of the same general type as the property to be rehabilitated.
3. Free-standing appliances other than stoves, unless the need is justified, as determined by the Housing Rehabilitation Coordinator.
4. Purchase, installation, or repair of home furnishings.
5. Compensation/reimbursement for owner's personal labor.
6. Compensation/reimbursement for ineligible improvements or any work not within the Work Write-Up or Change Orders approved in accordance with Program procedures.

VII. TERMS AND CONDITIONS OF PROGRAM ASSISTANCE

A. **Maintenance Requirements.** Assisted properties shall be maintained in good repair and working order and property owners shall make all necessary and proper repairs, renewals, and replacements in order to keep the property in a decent, safe, and sanitary condition in accordance with community standards and as set forth in the applicable Program documents and subject to Costa Mesa Municipal Code, Title I, Chapter II, Section 1-34, *et seq.* relating to citations and civil fines for violations of the Costa Mesa Municipal Code. Property owners shall not permit criminal activities to occur on the property or permit property improvements to suffer deterioration or decline, or maintain, cause to be maintained, or permit to be maintained any public or private nuisance on or about the property.

B. **Hazard Insurance.** Property owners receiving Program loan assistance shall maintain, throughout the term of the loan, an all-risk property insurance policy, including flood insurance if the property is located in a flood zone, insuring the property in an amount equal to the full replacement value of the structures on the property. The policy shall name the City of Costa Mesa as additional insured/loss payee.

C. **Title Insurance.** All Program loans over \$2500 will require a policy of title insurance pertaining to the subject property which is current as of the date of the Program loan. No title insurance is required in connection with Program Grants.

D. **Nondiscrimination.** There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the selection of contractors to complete the rehabilitation work financed with Program assistance, or in the sale, leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of assisted properties and compliance with the HOME Program non-discrimination and equal opportunity provisions is required.

E. **Records.** Participating property owners shall keep such records as may be required with respect to the rehabilitation work financed with Program assistance.

F. **Compliance with Program Policies and Procedures.** Throughout the applicable term of Program assistance, Program participants shall comply with all Program requirements and procedures as set forth in these Policies and Procedures, and as required by the Housing Rehabilitation Coordinator, and as set forth in Grant Agreements and Loan Agreements and related attachments.

VIII. PROGRAM PROCEDURES

A. **Pre-Screening and Application.**

1. **Pre-Screening.** Housing Rehabilitation Staff shall maintain a list of property owners interested in participating in the Program. Interested property owners may call the Housing Rehabilitation Coordinators at (714) 754-5049 or (714) 754-5023 and complete a short pre-screening questionnaire. The pre-screening questionnaire shall include information and advisement that each applicant will be and is required to accept receipt of the LBP pamphlet. Property owners who would be eligible for Program assistance based upon such pre-screening evaluation shall be included on the interest list and contacted by staff upon funding availability. Except as specifically provided below regarding known conditions relating to Qualified Emergency Repairs, including LBP and LBP Hazards, and subject to evaluation of financial feasibility for Program funding due to LBP issues, Program assistance shall be offered on a first-come, first-serve basis.

2. **Preference on Waiting List to Certain Categories of Eligible Property Owners.** Subject to compliance with the all Program requirements and all LBP requirements hereunder and pursuant to the LBP Regs, eligible property owners in the following categories may be provided preference on, and prioritized to move to the top of, a waiting list for Program participation and funding:

(a) Property residence at which a child or children resides who has been tested for and with results of elevated blood levels;

(b) Property residences where LBP and LBP Hazards have been confirmed;

(c) Property residences participating in the “Neighbors for Neighbors” qualifying process;

(d) Property residences requiring Qualified Emergency Repairs from the Qualified Emergency Repairs hereinafter listed; and

(e) Property residences referred by City Code Enforcement.

Housing Rehabilitation staff shall be vested with discretion to evaluate and establish priority from among the above described categories for preference and priority on a waiting list.

3. Qualified Emergency Repairs are listed below and also defined to include such other repairs relating to health and safety as approved by the Housing Rehabilitation Coordinator.

- | | |
|--------------------------|--|
| Mechanical: | No heating unit or an inoperative heating unit |
| Plumbing: | No hot or cold running water
Inoperative water heater
Broken or clogged waste line
Deteriorated interior water lines resulting in damage caused by leakage
Broken gas line |
| Electrical: | Systems or wiring which constitutes a fire hazard, are unsafe or are otherwise dangerous to human life |
| Security: | Lack of standard operating door locks |
| Roofing: | Visible signs of leakage with evidence of extensive interior water damage |
| Medical Emergency | Alteration to dwelling deemed necessary due to medical need as noted in a letter from Property Owner's physician. |

4. **Applications.** Upon funding availability Housing Rehabilitation staff shall contact interested property owners and send Program applications to those who express continued interest in Program participation. Property owners must return completed applications, including notice and acknowledgement of receipt of the LBP pamphlet, within thirty (30) days to the Housing Rehabilitation Coordinator at City Hall located at 77 Fair Drive, Costa Mesa, California 92626. Applicants are requested to carefully read these Program Policies and Procedures and will be required to sign a statement on the Program application that he/she has read the Policies and Procedures and based on the requirements hereof believes that he/she is eligible for Program assistance and, in the event assistance is awarded, shall comply with the procedures and requirements set forth herein.

Each application must be completed in its entirety, including signature(s) by all fee owner(s) of record, and submitted together with **all** of the required documentation to be considered complete and eligible for review by the Housing Rehabilitation Coordinator.

All complete applications will be date stamped when received and processed in that order. Incomplete applications will not be processed until all requested information is submitted and the notice and acknowledgement of receipt of the LBP pamphlet is executed and received by staff.

All applications will be subject to review by the Housing Rehabilitation Coordinator in two steps, first to determine the eligibility of the applicant/owner pursuant to Section VI.A., above; and, second to determine property eligibility pursuant to Section VI.B., above, with each component having an overlay of compliance with the LBP Regs as condition to such eligibility criteria. Housing Rehabilitation Coordinators use the Technical Guide for Determining Income and Allowances for the HOME Program – Calculating Adjusted Gross Income published by the U.S. Department of Housing and Urban Development. The property owner shall submit all documentation required for a complete application, including the following:

- Notice and Acknowledgement of Receipt of LBP Pamphlet
- Authorization For Release of Information
- A prioritized and itemized list of requested rehabilitation work.
- Such other documentation as may be requested by the Housing Rehabilitation Coordinator.

Complete applications of eligible owners with eligible property will be maintained in the Program's active case file and will continue to be processed in accordance with Program procedures. Such eligible owners will be notified of their eligible status by letter and a property inspection will be scheduled in accordance with Section VI.B., below. Additional documentation, including without limitation, verification of title (copy of Grant Deed or other evidence that title to the property is vested in the applicant) and verification of personal income (including but not limited to applicant's two most recent pay stubs and federal income tax returns), and information relating to the estimated value of the property, shall be required from eligible applicants prior to approval of Program assistance. Unqualified applicants shall be notified by letter of their ineligible status.

Failure by eligible applicants to comply with Program procedures as set forth the application and in this Section VI. will result in disqualification. The award of Program assistance shall **not** be final and the rights to such assistance shall **not** vest until the property owner and the City, or its authorized designee, have executed a Grant Agreement or Loan Agreement and related loan documents, as applicable, in accordance with Section VI.D., below, specifying, among other things, the amount and terms of Program assistance, scope of LBP evaluation, treatment through clearance, using safe work practices, as and if applicable, and the Work Write-Up.

B. Property Inspection/Work Write-Up. After an applicant has been notified in writing that such owner and the property meet the eligibility criteria, staff shall schedule an appointment with the owner at the subject property to review the rehabilitation work requested, to inspect the premises, and to arrange for LBP evaluation. Inspection may include any tests deemed necessary and appropriate by the staff inspector, including, without limitation, LBP evaluation, treatment through clearance, using safe work practices, pursuant to the LBP Regs. The property owner must accompany staff during the initial inspection. As a part of the initial inspection staff will document existing code violations, incipient code violations, and other owner requested improvements on a Preliminary Work Write-Up. Failure by staff to identify any existing or incipient code violations shall not in any way relieve the owner of liability to correct such violations in accordance with applicable state and/or local codes. Following the inspection, staff will (i) itemize eligible and ineligible improvements, (ii) prioritize eligible work and prepare a preliminary estimate of such work to be completed, and (iii) assess whether the deficiencies can be corrected within the

maximum dollar limitation of the type of Program assistance applied for by the property owner/applicant. Notwithstanding the foregoing, the LBP Regs and this Program require LBP notice to each owner and occupant, and if such occurs, LBP evaluation, prior to commencement of any work of improvement set forth in a Preliminary Work Write-Up.

After the LBP evaluation has been conducted, if such occurs, and after the evaluation of the financial feasibility of completion of treatment through clearance, using safe work practices, of LBP hazards and LBP, if any, a second meeting will be scheduled by staff with the property owner to review and complete the final Work Write-Up. The property owner must sign the Work Write-Up and, from that time, no changes or additions to the Work Write-Up will be accepted, except as permitted in accordance with the Program's change order procedures. The property owner will be provided a copy of the final Work Write-Up with Bid Proposal describing the (i) scope of work, (ii) construction method, (iii) quantity of materials, and (iv) property location. This form will be used during the contractor selection process.

C. **Contractor Selection.**

1. ***Preliminary Requirements.*** After LBP notice and LBP evaluation, if such occurs, City Staff shall be responsible for selecting a qualified general contractor in accordance with applicable federal requirements and the procedures set forth herein. A minimum of three (3) bids will be sent out. Qualified contractors, including all subcontractors performing work on the property, for both the LBP treatment through clearance and for the rehabilitation improvements, must have a current California state contractor's license and City business license and submit evidence of workers' compensation insurance and general liability insurance in amounts deemed adequate by the Housing Rehabilitation Coordinator. The selected general contractor or the selected subcontractor(s) completing the LBP treatment through clearance shall meet all certification and qualifications set forth in the LBP Regs and California Administrative Code, Title 17, for certified LBP contractors. The selected general contractor must add the City of Costa Mesa as additional insured/loss payee under its general liability policy. The contractor(s) or subcontractor(s) conducting the LBP treatment through clearance shall also meet all insurance and indemnification requirements established by the City's risk manager for such work and substantially in the form set forth in the Owner/Contractor agreement for the LBP and rehabilitation improvements. No agreements, written or otherwise, with a contractor, or any other vendor, will be binding for Program funding unless they are first approved by the Housing Rehabilitation Coordinator. No property owners will be permitted to serve in the capacity of contractor for the rehabilitation of their property, without prior approval of the HR Coordinator.

Property owners requesting rehabilitation work involving a significant alteration of the existing structure(s) may be required under state and local codes to apply for and obtain approval from the Building and Planning Division of the City of Costa Mesa. Such approval will require submittal of a preliminary site plan or drawing of the proposed improvements to the property in order to determine compliance with applicable code requirements. Upon approval of the proposed improvements by the Building and Planning Division, the property owner may proceed with contractor selection. However, for any rehabilitation work for which a building permit or other permit is required under applicable state and/or local codes, the property owner is solely responsible and obligated to obtain or cause to be obtained any and all permits and approvals necessary to commence and undertake the work of rehabilitation prior to a contractor commencing work and prior to disbursement of Program funds.

2. **Bid Solicitation.** Staff shall maintain a list of contractors interested in bidding on rehabilitation work under the Program. Staff shall prepare and distribute an invitation to bid to all such interested contractors and to any contractors identified by the property owner (minimum three). The invitation to bid shall include the property address, Work Write-Up, Bid Proposal form specifying a required contingency, and Contractor Information form, together with the date and time of a mandatory job walk-through. Only those contractors attending the mandatory job walk-through and submitting a completed Bid Proposal, including the specified contingency, and Contractor Information form by the specified bid deadline shall be eligible. Following the bid deadline, staff shall meet with the property owner to review the Bid Proposals and Contractor Information forms. The property owner must select a qualified contractor whose bid for the proposed rehabilitation work is within ten percent (10%) of staff's final Work Write-Up estimate.

The Bid Proposal selected by the property owner, Contractor Information form, and proposed Rehabilitation Contract between the owner and the selected contractor must be transmitted to the Housing Rehabilitation Coordinator for review and determination of cost reasonableness and compliance with Program requirements. Upon approval of the contractor documentation by the Housing Rehabilitation Coordinator and execution of the Program Grant Agreement or Loan Agreement, as applicable, by and between the City and the property owner, the property owner may sign the Rehabilitation Contract. All Rehabilitation Contracts must include, among other provisions, the specific work to be completed (conforming with the Work Write-Up), the contract price and schedule of payment, the time for commencement and completion of the work, and a contractor guarantee of work for one full year.

3. **Scope of Work Limitation.** **Property owners shall not contract independently with the selected contractor to concurrently perform additional work on the property beyond the scope of the final Work Write-Up until a Notice of Completion is issued by staff and acknowledged by the property owner evidencing satisfactory completion of the improvements identified in the final Work Write-Up and Rehabilitation Contract and final inspection has been obtained and approved for all outstanding building or other permits for the work. Until such Notice of Completion is issued and final inspection has been approved for the permits, property owners shall not contract independently with any other contractor to undertake any other improvements or work on the property during the term the selected contractor is doing work.**

D. **Document Signing for Program Loans.** For Program Loans, upon final determination by the Housing Rehabilitation Coordinator of property and property owner eligibility, as well as completion of the LBP evaluation and the preparation of the final Work Write-Up and contractor selection, the Housing Rehabilitation Coordinator or Program Administrator will schedule a closing meeting to sign the Loan Agreement and related documents. The property owner must attend the document signing meeting. Upon execution of a loan agreement by the property owner and the City, the property owner is afforded the legal right to review the documents and to cancel the loan within three (3) days of signing. Upon expiration of the property owner's three-day right to cancel, and only then, are the property owner's rights to receive Program assistance vested.

E. **Document Signing for Program Grants.** For Program Grants, after the Housing Rehabilitation Coordinator has determined that a property is eligible and property owner(s) have qualified and been selected for a Program Grant, then all documents relating to provision of a Program Grant shall be presented to and executed by the Applicant. The property owner(s) must attend a document signing meeting for the applicable Program Grant.

F. **Contract Management and Disbursement of Program Funds.** Contract management begins with LBP evaluation and commences with signing of the Rehabilitation Contract between the contractor and property owner and continues through the actual construction work, job inspections, Loan or Grant disbursement, building and other permit finals, and payment of the retention amount in accordance with paragraph 5, below.

1. **Pre-LBP Abatement and Clearance Conference.** The Housing Rehabilitation Coordinator will conduct a pre- LBP treatment through clearance, using safe work practices, conference with the property owner and the certified LBP treatment and clearance contractors to discuss the LBP treatment and clearance work to the property. Every item on the LBP evaluation scope of work for treatment through clearance, using safe work practices, should be read and discussed to ensure that the owner and contractors each fully understand the scope of work and work schedule, inspection and permit requirements, and City payment schedule, so that all parties will be aware of the time line and order of progression to completion of LBP treatment through clearance pursuant to the LBP Regs.

2. **Pre-Construction of Rehabilitation Improvements Conference.** The Housing Rehabilitation Coordinator will conduct a pre-construction conference with the property owner and the contractor to discuss the Rehabilitation Contract. Every item on the Rehabilitation Contract should be read and discussed to ensure that the owner and contractor each fully understand the scope of work and work schedule, inspection and permit requirements, and payment schedule, so that all parties will be aware of the time line and order of job progression. Work shall not commence until the Housing Rehabilitation Coordinator has issued a Notice to Proceed.

3. **Change Order Procedures.** Change orders are discouraged and will be reviewed carefully by the Housing Rehabilitation Coordinator. Subject to the restrictions of Section VI.C.3. herein, change orders will be permitted only where required by job conditions or as reasonably requested by the property owner with a statement of explanation. **All change order requests must be in writing, including detailed scope of work and price, and agreed to by the property owner, contractor, and Housing Rehabilitation Coordinator before the additional work is commenced. Work completed without such approval shall not be compensated with Program assistance.**

4. **Loan and Grant Funds Disbursement.** Program Loans shall be disbursed in progress payments.

(a) Grant funds for LBP treatment through clearance, using safe work practices, shall be disbursed in progress payments or in a single lump sum, as solely determined by the City staff, upon satisfactory completion of the LBP treatment through clearance, using safe work practices, in conformity with the LBP Regs.

(i) Program funds will not be disbursed for LBP treatment through clearance, using safe work practices, without all necessary permits and required inspections, including without limitation, building permits, or which does not meet the approval or standards of the LBP Regs, Building and Planning Division, applicable state and local codes, applicable permits, and the Program. The Housing Rehabilitation Coordinator will visit the job site and verify that (i) the work included for payment is satisfactorily completed and within the scope of eligible work as outlined for LBP treatment through clearance, using safe work practices, and (ii) all necessary inspections by the Building Division or other responsible department or entity have been

satisfactorily accomplished. Upon such determinations, the Housing Rehabilitation Coordinator will process payment to the certified LBP contractor through a Payment Authorization Form, which includes the amount of disbursement, name and address of property owner and LBP contractor, and a description of the LBP treatment through clearance work completed, using safe work practices.

(b) Grant funds for rehabilitation improvements included within the Work Write-Up shall be disbursed in a single payment upon satisfactory completion of the work, inspection and approval by the Housing Rehabilitation Coordinator and the property owner, recordation of a Notice of Completion and submittal of lien waivers from all material suppliers and subcontractors in accordance with the requirements set forth below.

(i) The property owner or contractor, as designee, is responsible for contacting the Housing Rehabilitation Coordinator to arrange a job site inspection and payment. The property owner or contractor, as designee, is also responsible to call for permit inspections. Program funds will not be disbursed for work completed without all necessary permits and required inspections, including without limitation, building permits, or which does not meet the approval or standards of the Building and Planning Division, applicable state and local codes, applicable permits, and the Single Family Rehabilitation Loan and Grant Program. The Housing

(ii) The Housing Rehabilitation Coordinator will visit the job site and verify that (A) the work included for payment is satisfactorily completed and within the scope of eligible work as outlined in the Work Write-Up, and (B) all necessary inspections by the Building Division or other responsible department or entity have been satisfactorily accomplished. Upon such determinations, the Housing Rehabilitation Coordinator will process a Payment Authorization Form, which includes the amount of disbursement, name and address of property owner and contractor, and a description of the work completed. The property owner must also approve the work completed and authorize payment.

(1) For disbursement of Program loan proceeds, all checks shall be made payable jointly to the property owner and the contractor, except as determined by the Housing Rehabilitation Coordinator in his/her sole discretion that a check made payable only to the rehabilitation contractor may be necessary.

(2) For Program grant proceeds, all checks shall be made payable to and issued to directly the contractor performing rehabilitation work at the Property, except as determined by the Housing Rehabilitation Coordinator in his/her sole discretion that a joint check to the property owner and the contractor may be necessary.

5. ***Final Inspection.*** The Housing Rehabilitation Coordinator, property owner, and contractor shall make a final inspection of the completed work of improvements set forth in the Work Write-Up together. When the improvements are completed and all permits have been signed off with final inspections the job is considered complete, except for a one-year guarantee on labor and materials which is a required provision of the Rehabilitation Contract. The Housing Rehabilitation Coordinator will issue a Notice of Completion upon satisfactory completion of the work and final permits. All material suppliers and subcontractors will be required to execute and deliver to the property owner lien release(s) or lien waiver(s) with a copy to the Housing Rehabilitation Coordinator prior to release of the 10% Retention for the rehabilitation work.

6. **Retention Amount.** The City will retain from final payment of the Program assistance, ten percent (10%) of the loan/grant proceeds until thirty-five (35) days from the date the Housing Rehabilitation Coordinator determines that the work has been completed in a satisfactory manner and a Notice of Completion is recorded. The retention amount shall be disbursed at that time, provided all building and other required permits have been finalized and no mechanic's liens or stop notices have been filed in connection with the rehabilitation work. If such liens or notices have been filed, the City will withhold and subsequently disburse Program proceeds in an amount necessary to satisfy such liens or notices in accordance with applicable laws.

G. **Conflict Resolution.**

1. **Property Owner/Contractor Disputes.** In the event of any dispute between the property owner and the contractor concerning the contracted work, either one, or both, shall submit in writing the fact and nature of such dispute(s) to the Housing Rehabilitation Coordinator. Within thirty (30) days of such notice, the contractor and the owner shall either resolve the dispute or shall seek a resolution of the dispute pursuant to binding arbitration in accordance with the provisions of the Rehabilitation Contract.

2. **Program Concerns.** Complaints concerning the Single Family Rehabilitation Loan Program (HOME Program) must be in writing and addressed to the Housing Rehabilitation Coordinator. The Housing Rehabilitation Coordinator will contact the complainant and attempt to resolve the problem. A written response will be made within thirty (30) days of receipt of a written complaint. If the complainant is not satisfied after the written response, a complaint may be filed with the City's Project Manager who will schedule a meeting with the Housing Rehabilitation Coordinator. A written response by the City's Project Manager will be made within fifteen (15) working days of the receipt of the complaint. Disputes between the City and the property owner that are not resolved in accordance with these procedures shall be submitted to binding arbitration in accordance with the provisions of the Program Grant Agreement or Loan Agreement, as applicable.

ATTACHMENT NO. 1-A

HUD Brochure

“Project Your Family From Lead In Your Home”, EPA747-K-99-001

(to be attached)

ATTACHMENT NO. 1-B

HUD Form Disclosure

“Sample Disclosure Format for Target Housing Sales, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards”

(to be attached)

ATTACHMENT NO. 1-C

HUD Form Disclosure

“Sample Summary Risk Assessment Notice Format”

(to be attached)

ATTACHMENT NO. 2

RIGHT OF ENTRY AGREEMENT

**(Right of Entry and Consent for LBP Assessment and Reduction Work
for Participants in City of Costa Mesa
Single Family Rehabilitation Loan and Grant Program,
Including Neighbors for Neighbors)**

This **RIGHT OF ENTRY AGREEMENT** (“Right of Entry Agreement”) is made and entered into as of _____, 200__ by and between the CITY OF COSTA MESA, a municipal corporation (the “City”), and _____, (“Owner”) with respect to the following:

RECITALS

A. The City is a municipal corporation which has received funds from the United States Department of Housing and Urban Development (“HUD”) pursuant to the federal HOME Investment Partnerships Act and HOME Investment Partnerships Program, 42 U.S.C. Section 12701, *et seq.*, and the implementing regulations thereto set forth in 24 CFR § 92.1, *et seq.* (together the “HOME Program”).

B. The City has established a HOME Program Single Family Rehabilitation Loan and Grant Program (the “Program”) to provide HOME Program funds assistance for rehabilitation improvements to eligible single-family owner occupied properties. A component of the Program includes the City’s Neighbors for Neighbors program, a community effort volunteer rehabilitation of selected homes coordinated and carried out by the City each fall and spring. The Policies and Procedures for the Program establish the criteria and requirements for application, eligibility and selection of for a grant or loan, including the discretion of the City to deny participation for a grant, loan, or the Neighbors for Neighbors program.

C. Title X of the 1992 Housing and Community Development Act (Title X) established requirements relating to lead based paint (LBP) in housing receiving federal assistance, in particular requirements relating to (i) notification (including pamphlet distribution, disclosure to purchasers and lessees, notice of lead hazard presumption or results of evaluation, and/or lead hazard reduction), (ii) lead hazard evaluation, including visual assessment, paint testing, and/or risk assessment, (any and all evaluation activities are referred to as “Assessment”), (iii) lead hazard reduction, including paint stabilization, interim controls, standard treatments, or abatement depending on the requirements for housing activity type (any and all reduction activities are referred to as “Reduction”), (iv) ongoing maintenance, if required, and (v) response to children with environmental intervention blood lead levels, as required.

D. The Owner has applied to participate in the Program seeking a grant, loan, or participation in Neighbors for Neighbors to rehabilitate their home located at _____, Costa Mesa, California (“Property”). As a part of the evaluation of the Owner’s application, evaluation of the financial feasibility of Owner’s eligibility to receive a grant or loan of Program funds and participate in the Program, including Neighbors for Neighbors, it is necessary for the City

(and its designated agents/contractors, together "City") to obtain the Owner's consent to enter upon the Property to inspect the Property as described herein.

H. The purpose of this Right of Entry Agreement is for the Owner to permit the City to enter the Property and conduct the Assessment work for LBP and LBP hazards ("Assessment Work"). The Assessment Work will provide the City information about the condition of the Property and information for the City to determine, in its sole discretion, if the Property will be selected for a rehabilitation loan or grant pursuant to the Program Policies and Procedures or for rehabilitation through Neighbors for Neighbors. Thereafter, if the Property is selected for rehabilitation, in the sole discretion of the City, this Right of Entry Agreement shall permit the City to enter the Property to conduct the Reduction Work, if necessary. The Owner desires to allow the City to perform the Assessment Work prior to the City deciding if the Owner will be selected for participation in Neighbors for Neighbors and/or a grant or loan under the Program by granting a right of entry to City subject to and upon certain terms and conditions as set forth in this Right of Entry Agreement.

NOW, THEREFORE, based on the foregoing Recitals, which are a substantive part of this Right of Entry Agreement and for good and valuable consideration, the City and the Owner hereby agree as follows:

1. **Right of Entry.** Provided that all of the terms and conditions of this Right of Entry Agreement are fully satisfied, the Owner hereby grants to City the non-exclusive right to enter upon the Property to perform the Assessment Work. If Owner is selected to participate in Neighbors for Neighbors and/or for a loan or grant under the Program (as determined in the sole discretion of the City,) then Owner also grants to City the non-exclusive right to enter upon the Property to complete the Reduction Work, if any. All use of and entry upon the Property shall be at the sole expense of the City.

a. **Term of Right of Entry.** This Right of Entry Agreement shall commence on the date this Right of Entry Agreement is executed by the parties and shall automatically terminate and expire upon the completion of the Assessment Work and/or Reduction Work, if such occurs.

b. **No Property Rights Granted.** It is expressly understood this Right of Entry Agreement does not in any way whatsoever grant or convey any rights of possession, easement or other interest in the Property to the City.

2. **Additional Conditions and Representations.** By execution of this Right of Entry Agreement City agrees as follows:

a. **Compliance with LBP Regs and All Applicable Governmental Requirements.** All acts and work done by City at the Property will be done in a careful and reasonable manner, in accordance with the LBP Regs and all applicable federal, state and local laws.

b. **No Mechanics Liens.** City shall not permit or suffer any mechanics', materialmen's or other liens of any kind or nature to be filed or enforced against the Property.

3. **Indemnity.** Except as to the negligence and/or intentional acts of the Owner, the City hereby agrees to indemnify and hold harmless the Owner from and against any and all damage to property or persons (but not consequential damages) arising from or attributable to conducting the

Assessment Work and/or Reduction Work at the Property pursuant to this Right of Entry Agreement and to pay for or repair such damage.

4. **Miscellaneous.**

a. **Attorneys' Fees.** In the event either party hereto brings an action or proceeding under this Right of Entry Agreement for an alleged breach or default hereof or the work contemplated hereby ("action"), the prevailing party in any such action shall be entitled to an award of reasonable attorneys' fees and costs and expert witness fees, if any, incurred in such action or proceeding, in addition to any other damages or relief awarded.

b. **Choice of Law; Forum.** This Right of Entry Agreement is to be governed by, and construed in accordance with, the laws of the State of California. The Municipal and Superior Courts of the State of California in the County of Orange shall have jurisdiction of any litigation between the parties arising out of or related to this Right of Entry Agreement.

c. **Non-Liability of Public Officials.** No officer, employee, member, agent or representative of the City of Costa Mesa shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount which may become due to Owner or its successor, or for any breach of any obligation of the terms of this Right of Entry Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this Right of Entry Agreement as of the date and year first set forth above.

OWNER

By: _____
Printed Name: _

By: _____
Printed Name: _

CITY OF COSTA MESA, a municipal corporation

By: _____
Its: _____

ATTEST:

By: _____
Assistant City Clerk