2013-2014 SUBRECIPIENT AGREEMENT

(With Provisions Relating to Compliance with Title X and 24 CFR Part 35 Relating to Lead Based Paint)

CITY OF COSTA MESA, AS GRANTEE, UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Date Approved: **June 11, 2013**

Amount of Grant: **$15,000.00**

Subrecipient: **Mercy House Transitional Living Centers**

This **SUBRECIPIENT AGREEMENT** (Agreement) is entered into as of **July 1, 2013** (Date of Agreement) by and between the **CITY OF COSTA MESA**, a California municipal corporation (CITY) and a Grantee under the Community Development Block Grant Program, and **Mercy House Transitional Living Centers**, a nonprofit corporation (SUBRECIPIENT).

WHEREAS, the CITY, as an entitlement recipient and grantee of the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program, desires to enter this Agreement with the SUBRECIPIENT for the expenditure of CDBG funds in accordance with Title 24, Part 570 of Code of Federal Regulations 24 CFR 570.000, *et seq.* (CDBG REGS); and

WHEREAS, the CITY has applied for and received CDBG funds from the United States Government under Title I of the Housing and Community Development Act of 1974, Public Law 93-383; and

WHEREAS, the SUBRECIPIENT is a private nonprofit agency that has been selected by the CITY to receive CDBG FUNDS and administer such financial assistance; and

WHEREAS, the CITY wishes to engage the SUBRECIPIENT to assist the CITY in utilizing such funds in accordance with applicable CDBG REGS; and

WHEREAS, 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), (iii) lead hazard reduction (including paint stabilization, interim controls, standard treatments, or abatement depending on the requirements for housing activity type), (iv) ongoing maintenance, if required, and (v) response to children with environmental intervention blood lead levels, as required,; and

WHEREAS, on September 15, 1999 HUD adopted implementing regulations to Title X that were effective September 15, 2000 as set forth in 24 CFR Part 35, *et seq.* (LBP Regs.), which

establish specific rules regarding notification to owners and occupants about the existence of LBP hazards, identification of LBP hazards, and control of LBP hazards; and

WHEREAS, Subpart K - Acquisition, Leasing, Support Services, and Operation of the LBP Regs, sets forth specific requirements relating to housing providers, such as SUBRECIPIENT, who administer local programs that provide supportive housing for special needs populations and are funded by HUD Office of Community Planning and Development (CPD) programs, including CDBG funds, as provided to SUBRECIPIENT under this Agreement; and

WHEREAS, in connection with the grant of funds under this Agreement, CITY requires that SUBRECIPIENT comply and provide evidence of compliance with all applicable requirements of Title X and the LBP Regs, in particular Subpart K relating to acquisition, leasing, support services, or operations and Subpart J relating to rehabilitation, as and when applicable; and

WHEREAS, in connection with the grant of funds under this Agreement, CITY requires that SUBRECIPIENT comply and provide evidence of compliance with all applicable requirements of Title X and the LBP Regs, in particular Subpart M relating to tenant based rental assistance, as and when applicable; and

WHEREAS, attached and hereby fully incorporated to this Agreement are the following notification attachments: Attachment No. 3-A entitled "Project Your Family From Lead In Your Home", EPA747-K-99-001, Attachment No. 3-B entitled "Sample Disclosure Format for Target Rental Leasing and Housing Sales, Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards", and Attachment No. 3-C entitled Contents of Abatement and Clearance Reports"; provided however, that such attachments are not intended to modify or limit SUBRECIPIENT'S obligation to fully comply with all applicable provisions of Title X and the implementing regulations in the LBP Regs; and

WHEREAS, by the Agreement SUBRECIPIENT will accept assignment from the CITY of all responsibilities set forth in Subpart K of the LBP Regs; and

WHEREAS, the CITY and SUBRECIPIENT have duly executed this Subrecipient Agreement for the expenditure of such funds; and

WHEREAS, the CDBG REGS mandate that a Subrecipient Agreement be executed.

IT IS HEREBY RESOLVED that the foregoing Recitals are a substantive part of this Subrecipient Agreement and the following provisions are approved and together shall constitute the Agreement between the CITY and SUBRECIPIENT in its entirety:

A. SUBRECIPIENT OBLIGATIONS.

1. Provision of Services. The subgranting of CDBG funds to SUBRECIPIENT shall be used to provide the specific services as described in Attachment 1, attached hereto and fully incorporated to this Agreement by this reference. Such services are summarized as follows: **homelessness prevention assistance such as back rent and/or utility payments to prevent eviction or utility shut-off. Funds will also be used to provide rapid re-housing assistance by helping homeless individuals secure permanent housing. CDBG funds will be utilized for direct program staff salaries, agency administration, and direct client assistance.** CDBG regulations require that a minimum of 51% of clients served by the SUBRECIPIENT'S program must be defined by HUD guidelines as persons of low and moderate-income. However, CITY requires that at least 70% of

SUBRECIPIENT's clients served by the CDBG funded program be in the low and moderate income categories as established by HUD.

2. **Non-Profit Status and Representations and Warranties**.

(a) SUBRECIPIENT acknowledges that its operations and the services it provides to the community are subject to Subpart K (and, in some instance(s) Subpart J and/or Subpart M) of the LBP Regs.

(b) SUBRECIPIENT acknowledges that its operations and the services it provides include (i) acquisition, leasing, or ownership of residential property for the purpose of providing affordable housing for persons with special needs, such as transitional housing, or (ii) housing for persons with special needs, such as the disabled, or (iii) financial assistance to assist transitional housing participants to move to permanent housing by paying for the first month's rent or security deposit, or (iv) tenant-based rental assistance to program participants who choose their own housing units, and by provision of such services such housing is subject to the requirements of the LBP Regs.

(c) Representations.

(i) Authority. SUBRECIPIENT is a duly organized and existing non-profit corporation in good standing and authorized to do business under the laws of the State of California. SUBRECIPIENT has full right, power and lawful authority to accept the funding hereunder and to undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by SUBRECIPIENT has been fully authorized by all requisite actions on the part of SUBRECIPIENT.

(ii) Experience. SUBRECIPIENT is a qualified provider of the services to be provided hereunder.

(iii) Familiarity With Services Required. By executing this Agreement, SUBRECIPIENT warrants that (a) it has thoroughly investigated and considered the services to be performed and provided hereunder, (b) it has carefully considered how the services should be performed, and (c) it fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement, inclusive of compliance with the LBP REGS. Should SUBRECIPIENT discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of such fact and shall not proceed except at SUBRECIPIENT'S risk until written instructions are received from CITY'S representative.

(iv) No Conflict. To the best of SUBRECIPIENT'S knowledge, SUBRECIPIENT'S execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which SUBRECIPIENT is a party or by which it is bound.

(v) No Bankruptcy. SUBRECIPIENT is not the subject of any current or threatened bankruptcy proceeding.

(vi) No Pending Legal Proceedings. SUBRECIPIENT is not the subject of a current or threatened litigation that would or may materially affect SUBRECIPIENT'S performance under this Agreement.

(vii) **Application Veracity**. All provisions of and information provided in SUBRECIPIENT'S application for funding submitted to CITY including any exhibits are true and correct in all material respects.

(viii) **No Pending Investigation**. SUBRECIPIENT is not aware that it is the subject of any current or threatened criminal or civil action investigation by any public agency, including without limitation a police agency or prosecuting authority, that would relate to or affect performance of the Agreement or provision of services hereunder.

3. **Term of Agreement**. Subject to Section 22 hereof, the term of this Agreement is from **July 1, 2013** through **June 30, 2014** provided, however, 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/reporting, and accounting.

4. **Amount of Grant and Quarterly Disbursement**. The amount granted to SUBRECIPIENT is **$15,000.00** (CDBG FUNDS) and such funds shall be expended by SUBRECIPIENT within a time period not exceeding twelve (12) consecutive months following the date of this Agreement. The CDBG FUNDS shall be disbursed by CITY to SUBRECIPIENT on a quarterly basis subject to and upon receipt and approval of a complete SUBRECIPIENT'S quarterly activity report, with the final payment subject to the satisfaction of the condition precedent of submittal of complete reporting information due on or before April 15 of the applicable funding year, as hereinafter more fully set forth.

(a) **Quarterly Reports**. SUBRECIPIENT shall cause to be prepared and submitted to CITY on or before each October 15, January 15, April 15, and July 15 of each year of this Agreement a quarterly activity report in conformity with applicable CDBG REGS.

(i) **Tracking Report**. If the SUBRECIPIENT has provided, or is providing, rental assistance payments directed to a housing unit or housing units for more than 100 days, or it is anticipated that during the last quarter of funding that such rental assistance payment will be for more than 100 days, then the April 15 quarterly report shall contain information and evidence of compliance with the requirements herein relating to tracking of housing units, cumulative days of rental assistance, proper notifications to occupants and owners, HQS inspection, visual assessment, work write-up, stabilization and clearance of LBP and LBP hazards, if any. The proposed form of such tracking information is attached hereto as Attachment No. 4 and fully incorporated by this reference. In the event such April 15 quarterly report does not fully satisfy the reporting requirements set forth herein and in the LBP Regs, then the final installment payment of the CDBG FUNDS shall be withheld from disbursement to SUBRECIPIENT.

(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 invoices, other receipts, agreements, or other documentation supporting and evidencing how the CDBG FUNDS have been or will be expended during the applicable quarter.

(i) For example and by way of illustration, if SUBRECIPIENT intends to expend the applicable quarterly disbursement on staff salary, then copies of the time card(s) 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. **Compliance with Subpart K of LBP Regs**. Subpart K – Acquisition, Leasing, Support Services, or Operation

(a) The SUBRECIPIENT acknowledges and agrees that it shall comply with and implement the requirements set forth in Title X and the LBP Regs to eliminate, as far as practicable, LBP hazards in all residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT.

(b) SUBRECIPIENT shall provide a notice to all residents/occupants of residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT in accordance with Section 35.125 of the LBP Regs.

(i) SUBRECIPIENT acknowledges that in connection therewith a visual assessment is not considered an evaluation for purposes of the LBP Regs.

(c) **Notification (24 CFR 35.130)**. SUBRECIPIENT shall provide the LBP hazard information pamphlet in accordance with Section 35.130 of the LBP Regs to all occupants, owners, and purchasers of housing.

(i) The pamphlet shall be the EPA/HUD/Consumer Product Safety Commission lead hazard information pamphlet or an EPA-approved equivalent. The current form and version of the pamphlet is attached as Attachment No. 3-A to this Agreement.

(ii) SUBRECIPIENT shall cause to be disclosed to all purchasers and lessees available information and knowledge regarding the presence of LBP and LBP hazards prior to selling or leasing a housing unit in accordance with 24 CFR 35, Subpart H. The current form and version of such notice is attached as Attachment No. 3-B to this Agreement.

(iii) SUBRECIPIENT shall ensure that all occupants, owners, and purchasers of housing be notified in writing of the results of the presumption of LBP and/or LBP hazards, and results of any lead hazard evaluation, and any lead hazard reduction work in accordance with 24 CFR 35, Subpart H. The current form and version of such notice is attached as Attachment No. 3-C to this Agreement.

(d) **Lead Hazard Evaluation (24 CFR 35.125)**. SUBRECIPIENT shall conduct all activities described in Section 35.1015 relating to visual assessment, paint stabilization, risk assessment, and maintenance with regard to all residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT, except for the exemptions described below in section 5 (d)(i)(1).

(i) SUBRECIPIENT shall cause a visual assessment to identify deteriorated paint in all residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT.

1 Section 35.115(a) provides exemptions from Subparts B through R of the LBP Regs. including without limitation, (a) short term emergency assistance lasting less than 100 days cumulatively is exempted from compliance with Subpart K as to such short term rental assistance units, and (b) exemption for zero-bedroom units, including SRO units, for which occupancy by a recipient of SUBRECIPIENT'S services is for less than 100 days, and (c) exemption for residential housing units constructed after January 1, 1978.

(ii) To the extent that the assistance provided by SUBRECIPIENT to persons or households meets one or more of the exemptions set forth in the LBP Regs, then compliance with the notification, evaluation, reduction, clearance and other requirements of the LBP Regs is not required related to the subject housing unit due to such exemption.

(iii) SUBRECIPIENT shall comply with the applicable provisions of both Subpart K and Subpart M (Tenant Based Rental Assistance) of the LBP Regs. as to all tenant-based long term housing assistance, i.e., assistance to persons/households residing in housing units cumulatively for more than 100 days. If SUBRECIPIENT has knowledge that an assisted family or household will occupy a dwelling unit for more than 100 days, the LBP Regs require evidence of compliance prior to occupancy. Funding to be provided hereunder is conditioned upon evidence of compliance.

1 Subpart M applies to all dwelling units occupied or to be occupied by families or households that have one or more children of less than 6 years of age, as well as the common areas servicing such dwelling units, and exterior painted surfaces associated with such dwelling units or common areas. LBP compliance requirements relating to such dwelling units includes, without limitation: notification, evaluation by visual assessment, paint stabilization utilizing safe work practices, and clearance.

2 CITY advises SUBRECIPIENT that in the event the services provided hereunder include rental assistance payments, such as first and last month's rent and/or security deposit, and the assisted tenant executes a lease for long term occupancy, including occupancy in the same dwelling unit for more than 100 days, then the provisions of Subpart M (Tenant Based Rental Assistance), will apply (unless otherwise informed and directed by HUD). In this regard, CITY advises SUBRECIPIENT that Subpart M requires HQS inspection of each dwelling unit prior to occupancy and prior to compliance with applicable notification, evaluation by visual assessment, reduction through paint stabilization utilizing safe work practices, and clearance requirements of the LBP REGS.

(e) **Lead Hazard Reduction Work**. SUBRECIPIENT shall cause LBP hazard reduction, such as paint stabilization, interim controls, standard treatments, or abatement of all residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT, except as exempted as described in subsection 5(d)(i)(1) above.

(i) If paint stabilization occurs, SUBRECIPIENT shall cause paint stabilization of each deteriorated surface and clearance of residential units pursuant to Section 35.1330(a) and (b) shall occur before occupancy of a vacant dwelling unit, or where a unit is occupied, immediately after receipt of the CDBG FUNDS hereunder.

(ii) Safe Work Practices shall be used in all LBP hazard reduction work.

(iii) Clearance shall be conducted to confirm that no LBP hazards remain when LBP hazard reduction work is complete. Confirmation of clearance by written certification of a qualified inspector is required on an annual basis in connection with submittal of the April 15 quarterly report.

(f) **Ongoing Maintenance**. SUBRECIPIENT shall incorporate ongoing LBP maintenance activities into regular building operations in accordance with Section 35.1355(a) for all residential property that is under its ownership, possession, or control and/or residential property occupied by

persons or families that receive financial or other assistance from SUBRECIPIENT, except as exempted as described in subsection 5(d)(i)(1) above.

(i) Ongoing maintenance includes confirmation of clearance which shall be conducted to confirm that no LBP hazards remain when LBP hazard reduction work is complete.

(ii) Ongoing maintenance also includes confirmation of clearance by written certification of a qualified inspector on an annual basis in connection with submittal of the April 15 quarterly report.

(iii) A part of such ongoing maintenance obligation includes notification of the results of clearance confirmation and annual confirmation of clearance.

1 SUBRECIPIENT shall cause to be provided a notice to all occupants of all residential property that is under its ownership, possession, or control and/or residential property occupied by persons or families that receive financial or other assistance from SUBRECIPIENT in accordance with Sections 35.125(b)(1) and (c), describing the results of the clearance examination and the results of annual certification.

(g) Units Cleared Prior to Date of Agreement; Confirmation of Clearance. In the event the requirements of the LBP REGS relating to lead hazard evaluation, lead hazard reduction, and lead hazard clearance have been completed on the subject dwelling units *prior* to the Date of Agreement, then the SUBRECIPIENT shall provide to the CITY with the April 15 quarterly report a certificate from a qualified inspector evidencing a recent inspection and confirmation of clearance of LBP and LBP hazards from the subject dwelling unit(s).

6. LBP Informational Summary. For purposes of information only and in no respect intended to be a representation or warranty of the provisions of the LBP REGS, the CITY has caused to be prepared an information summary relating to the LBP REGS and application to dwelling units that may be occupied by recipients of services and/or funding from SUBRECIPIENT under this Agreement. Attachment No. 5 to this Agreement, attached and hereby fully incorporated by this reference, is such information summary. CITY staff will cooperate with and make themselves available to SUBRECIPIENT to assist in implementation of compliance with the LBP REGS as to residential dwelling units to be assisted by SUBRECIPIENT. The parties acknowledge and agree the CITY is not and shall not be liable or responsible for the accuracy of such summary, and the SUBRECIPENT is directed to the LBP REGS and implementing guidance published and provided by HUD relating to compliance with such LBP REGS.

7. The Common Rule. SUBRECIPIENT agrees to conduct all activities of the organization, whether funded in whole or in part by CDBG FUNDS from CITY, in accordance with the provisions contained in the 24 CFR 85 (The Common Rule).

8. SUBRECIPIENT Acceptance of Assignment by CITY of Subpart K Responsibilities under LBP Regs. Pursuant to Section 35.1000(b) of the LBP Regs SUBRECIPIENT hereby accepts assignment from the CITY of all responsibilities set forth in Subpart K of the LBP Regs.

9. Conflicts. SUBRECIPIENT agrees that no officer, employee, agent or assignee of CITY having direct or indirect control of any CDBG monies granted to the CITY, inclusive of the subject CDBG 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 and said writing shall be attached and deemed fully incorporated as a part hereof.

10. Prohibition of SUBRECIPIENT Income from CDBG FUNDS. SUBRECIPIENT agrees that it shall not use CDBG FUNDS in any manner which shall provide income to SUBRECIPIENT. Any earned interest income on funds generated through the use of investment of funds received from CDBG 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.

The SUBRECIPIENT shall report quarterly all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the SUBRECIPIENT shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the SUBRECIPIENT may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the CITY at the end of the contract period as required by 24 CFR 570.503(b)(8). Any interest earned on cash advances from the US Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the CITY.

11. Records and Reports. The SUBRECIPIENT shall maintain complete and adequate records and reports to assist CITY in meeting and maintaining its record keeping responsibilities under the CDBG REGS, Title X, and the LBP Regs, including the following:

(a) Records

(i) Documentation evidencing program income requirements in conformity with 24 CFR 570.504(b)(2)(i), (ii) and 24 CFR 570.503(b)(3) and 24 CFR 570.208(a)(2)(B) of the income level of persons and/or families participating in or benefiting by the SUBRECIPIENT program.

(ii) Documentation of the number of persons and/or families participating in or benefiting by the SUBRECIPIENT program.

Household information shall include number of persons, identification of head of household, race/ethnicity, age of children, seniors, income verification.

(iii) Documentation of all CDBG FUNDS received from CITY.

(iv) Documentation of expenses as identified in the Budget Proposal, including evidence of incurring the expense, invoice(s) for goods or services, all other invoices for which CDBG FUNDS were expended, and payment therefor.

(v) Any such other related records as CITY shall reasonably require or as required to be maintained pursuant to the CDBG REGS.

(vi) Documentation evidencing compliance with all applicable provisions of Title X and the LBP Regs, in particular Subpart K and, as applicable, Subpart J and/or Subpart M.

1 Specific documentation, as required, evidencing compliance with all applicable provisions of such LBP Regs including: (i) **notification**, including distribution of the lead hazard information pamphlet (Attachment No. 3-A), disclosure and notices of hazard evaluation and reduction (Attachment Nos. 3-B and 3-C); (ii) **evaluation** of lead hazard(s), including paint testing and risk assessment; (iii) **reduction** of lead hazard(s), including **safe work practices** and **clearance**, and confirmation of clearance; and (iv) **ongoing maintenance**, as and if applicable for multifamily properties.

2 In this regard SUBRECIPIENT shall track information on all persons/households assisted and the housing units assisted with the CDBG FUNDS. Attachment No. 4 hereto is a sample form for tracking persons/households and housing units assisted with the CDBG FUNDS. All categories of information set forth in such tracking form shall be prepared and submitted to the CITY with the April 15 quarterly report.

3 In the event that such information and reports are not complete and reasonably satisfactory information submitted in order for CITY staff to review and evaluate compliance with applicable CDBG REGS and LBP Regs., then the final quarterly disbursement payment shall be withheld from the SUBRECIPIENT.

4 Documentation of clearance confirmation as provided in Section 5 (g) herein.

(b) Reports

(i) Payment Request.

(ii) Quarterly Activity Report, including outcome measurements.

1 Including in such reports evidence of compliance with all applicable provisions of Title X and the LBP Regs, in particular Subpart K and, as applicable, Subpart J, as further described in subsection (d) hereinafter, and Subpart M, if SUBRECIPIENT provides long term tenant-based rental assistance.

(iii) Annual Consolidated Plan Performance Report.

(iv) Any such other reports as CITY (or HUD) shall reasonably require and/or request.

(c) Recordkeeping of Ongoing Maintenance under the LBP Regs. If the services and program activities provided by SUBRECIPIENT hereunder establish an ongoing relationship with a property (such as long term tenant based rental assistance program [Subpart M] or transitional or permanent housing operated or administered by the SUBRECIPIENT), then the SUBRECIPIENT shall provide a report to the CITY evidencing that SUBRECIPIENT and/or the property owner(s), as applicable, has performed ongoing maintenance of the subject property. Ongoing maintenance shall include evidence of an annual clearance certification of the subject residential property conducted by a DHS certified technician to ensure that LBP hazard reduction measures are maintained. All maintenance activities shall be conducted to ensure the threat of LBP hazards is minimized.

(d) Recordkeeping under the LBP Regs. The SUBRECIPIENT shall keep records of distribution of notifications, all visual assessment, evaluations, inspections, repairs, and any other lead hazard evaluation, reduction, safe work practices, and clearance activities.

(i) The SUBRECIPIENT shall keep records evidencing distribution of all lead hazard information pamphlet(s).

(ii) The SUBRECIPIENT shall keep records evidencing each LBP evaluation report, LBP hazard reduction documentations, (such as job specifications), and all clearance or abatement report(s).

(iii) The SUBRECIPIENT shall keep ongoing maintenance records and records of relevant building operations for use during reevaluations of subject property for LBP and/or LBP hazards.

1 Such records shall be maintained for not less than the longer of (A) three (3) years after the activities cease or (B) the period required by applicable program regulations. Under the CDBG REGS records shall be retained for not less than five (5) years after the activities cease.

2 The SUBRECIPIENT shall provide a copy of any of the above records to the CITY or to HUD upon request of either or both.

12. Audit Report Requirements. SUBRECIPIENT shall comply and/or cause compliance with all audit report(s) required by the CITY and in conformity with OMB Circular 133, effective June 27, 2003, to the extent the CDBG FUNDS granted to SUBRECIPIENT by the CITY under this Agreement exceed $500,000.00 in federal funds. Further, SUBRECIPIENT shall comply and/or cause compliance with audit report(s) required by applicable provisions of Title X and the LBP Regs.

13. Uniform Administration Requirements. The SUBRECIPIENT shall comply with applicable uniform administrative requirements as described in 24 CFR 570.502.

14. Separation of Accounts. All CDBG 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 record keeping of such accounts maintained pursuant to applicable OMB Circular A-110 requirements. The SUBRECIPIENT is not required to maintain separate depository accounts for CDBG FUNDS; provided however, the SUBRECIPIENT must be able to account for receipt, obligation and expenditure of CDBG FUNDS pursuant to applicable OMB Circular A-110 requirements.

15. Retention of Records. All accounting records, reports, and evidence pertaining to all costs, expenses and the CDBG FUNDS of 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 completion of an audit in conformity with the CDBG REGS, except as hereinafter provided relating to retention of any records or documentation existing, created, or maintained in compliance with Title X or the LBP Regs. 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 appeals, litigation claims, or exceptions. All records relating to, or created or maintained in compliance with, Title X and/or the LBP Regs shall be retained and maintained by SUBRECIPIENT indefinitely, including without limitation, all inspection report(s), disclosure statement(s), and clearance report(s).

16. Compliance with Applicable Laws. SUBRECIPIENT agrees to comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits, including but not limited to (i) all CDBG REGS relating to financial and contractual procedures, (ii) OMB Circular Nos. A-87, A-122, and A-110 as set forth in 24 CFR 570.502(b), and (iii) Title X and the LBP Regs. Said Federal documents and laws are available and on file in the City of Costa Mesa, P.O. Box 1200, Costa Mesa, California 92628-1200, and are fully incorporated herein by reference.

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

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

(c) The SUBRECIPIENT shall ensure that the applicable requirements of Title X and the LBP Regs are met for any permits, discretionary approvals, or other entitlement required to carry out the terms of this Agreement.

17. Affirmative Action Policy.

(a) Provision of Program Services. In the performance of this Agreement or its activities, SUBRECIPIENT shall not engage in, nor permit its agents to engage in discrimination in employment of persons or provision of services or assistance, nor exclude any person from participation in, nor deny any person the benefits of, nor subject any person to discrimination under any program or activity funded in whole or in part with CDBG FUNDS on the grounds of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender or sexual orientation, except as permitted by Government Code Section 12940. Violation of this provision may result in the imposition of penalties referred to in Labor Code Section 1735 or other federal, state, or local penalties as well as other remedies available to the CITY under the provisions of this Agreement.

(b) ADA Compliance. SUBRECIPIENT shall comply with Title II of the Americans With Disabilities Act, (42 USC §12101, *et. seq.*) as it relates to public accommodations.

18. Non-Discrimination.

(a) No Discrimination in any Program or Activity. SUBRECIPIENT shall not under any program or activity funded in whole or in part with CDBG FUNDS, on the grounds of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated 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.

(iv) 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.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or

condition which the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(b) **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, 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, or sex.

(c) **Non-Discrimination in Site Selection**. SUBRECIPIENT, in determining the site or location of housing or facilities provided in whole or in part with CDBG FUNDS, may not make selections of such site or location which 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, or sex, 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.

(d) **Overcoming Effects of Prior Discrimination**. In administering a program or activity funded in whole or in part with CDBG FUNDS regarding which the SUBRECIPIENT has previously discriminated against persons on the grounds of race, color, national origin or sex, the SUBRECIPIENT must take affirmative action to overcome the effects of prior discrimination, as and pursuant to applicable requirements of the CDBG Regs. and other applicable federal laws and regulations.

(i) Even in the absence of such prior discrimination a SUBRECIPIENT in administering a program or activity funded in whole or in part with CDBG FUNDS 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 or sex. Where previous discriminatory practice or usage tends, on the grounds of race, color, national origin, or sex, 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 CDBG funding applies, the SUBRECIPIENT has an obligation to 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) A 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.

(e) **Exceptions**. Notwithstanding the foregoing non-discrimination provisions, nothing contained therein shall be construed to prohibit any SUBRECIPIENT from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

(f) **Non-Discrimination in Employment**.

(i) SUBRECIPIENT shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or handicap. SUBRECIPIENT shall take affirmative action to insure that applicants are employed, and that employees are treated

during employment, without regard to their race, color, religion, sex, national origin, age or handicap. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training including apprenticeship. SUBRECIPIENT agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(ii) SUBRECIPIENT shall, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age or handicap.

(iii) 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 No. 11246 of September 24, 1965, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

(iv) SUBRECIPIENT shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(v) SUBRECIPIENT shall furnish to the CITY all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the related rules, regulations, and orders.

(vi) In the event of SUBRECIPIENT'S failure to comply with any rules, regulations, or orders required to be complied with pursuant to this Agreement, CITY may cancel, terminate, or suspend in whole or in part its performance and SUBRECIPIENT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(vii) SUBRECIPIENT shall include the provisions of Sections A.14.(f)., "Non-Discrimination in Employment", Paragraphs (i) through (vi) 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 No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.

1 SUBRECIPIENT shall take such action with respect to any subcontract or purchase order as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event SUBRECIPIENT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the CITY, SUBRECIPIENT may request the United States to enter into such litigation to protect the interests of the United States.

(viii) SUBRECIPIENT shall not discriminate on the basis of age in violation of any provision of the Age Discrimination Act of 1975 (42 USC §6101 et seq.) or with respect to any otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 USC §794) and the Americans With Disabilities Act of 1990 (42 USC §12101 et seq.).

(ix) SUBRECIPIENT shall also provide ready access to and use of all CDBG fund assisted buildings to physically handicapped persons in compliance with the standards established in the Architectural Barriers Act of 1968 (42 USC §4151 et seq.) and the Americans With Disabilities Act of 1990 (42 USC §12101 et seq.).

19. Ineligibility of SUBRECIPIENT or Contractors. SUBRECIPIENT shall not use CDBG 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 CDBG REGS.

20. Conflict of Interest in Procurement. In the procurement of supplies, equipment, construction, and services by SUBRECIPIENT, the conflict of interest provisions in 24 CFR 84.42 and 24 CFR 570.611 shall apply.

21. Condition for Religious Organization. SUBRECIPIENT shall comply with all applicable conditions prescribed by HUD for the use of CDBG FUNDS by religious organizations if SUBRECIPIENT is a religious organization.

22. Termination of Agreement.

(a) Termination Without Cause. This Agreement may be terminated in whole or in part at any time by either party giving the other party thirty (30) days' written notice in writing. The reasons and basis for termination shall be set forth in the written notice in compliance with the provisions of the CDBG REGS, in particular 24 CFR 85.44.

(i) In the event the CITY terminates this Agreement, the CITY's City Manager is hereby empowered to give the written notice subject to subsequent ratification by the City Council of the CITY at the next regular meeting of such body at which a quorum duly authorized to act is present, or at a special meeting duly called and held.

(b) Termination for Cause.

(i) The CITY may immediately terminate this Agreement upon the termination, suspension, discontinuation, or substantial reduction in HUD CDBG funding for this Agreement's activity.

(ii) The CITY may terminate this Agreement if the SUBRECIPIENT fails to comply with the terms of this Agreement. Non-compliance with the terms of this Agreement includes, without limitation, non-performance, slow performance, or substandard performance such as the failure to provide substantially all the services described in Attachment 1 of this Agreement or the failure to substantially meet or fulfill the accomplishment goals set forth in Attachment 1 of this Agreement

1 Should the CITY decide to terminate this Agreement after a full evaluation of all circumstances has been completed, the SUBRECIPIENT shall, upon written request, have the right to an appeal process. A copy of the appeal process will be attached to any termination notice.

(iii) Either party may terminate this Agreement if for any reason the timely completion of the work/services to be provided under this Agreement is rendered improbable, infeasible, or impossible.

(iv) Either party may terminate this Agreement for non-performance by the other party of any material provision of this Agreement.

(c) Repayment of Funds by SUBRECIPIENT. In the event this Agreement is terminated, as provided in this section, SUBRECIPIENT agrees to and shall immediately return to CITY any and all unexpended and unencumbered CDBG 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.

(i) In the event of early termination of the Agreement by either party without cause, at the sole discretion and election of the CITY, the SUBRECIPIENT will be compensated for all services rendered and necessarily incurred costs performed in good faith in accordance with the terms of this Agreement that have been previously eligible for reimbursement and paid, to the date of the notice of termination to the extent that CDBG funds are available from HUD.

(ii) In the event of early termination of the Agreement by the CITY for cause (but not due to the non-performance or breach by SUBRECIPIENT), at the sole discretion and election of the CITY, the SUBRECIPIENT will be compensated for all services rendered and necessarily incurred costs performed in good faith in accordance with the terms of this Agreement that have been previously eligible for reimbursement and paid, to the date of the notice of termination to the extent that CDBG funds are available from HUD.

23. Defaults; Remedies. If either party materially fails to comply with any term of this Agreement said non-compliance shall be considered a breach or default hereunder and a basis for termination for cause as hereinbefore provided.

(a) Enforcement by CITY Due to Default by SUBRECIPIENT. In the event of default by SUBRECIPIENT hereunder, the CITY may take one or more of the actions provided under the CDBG REGS, including 24 CFR Part 85.43 and 24 CFR 85.44 relating to "Enforcement" or the CITY may avail itself of any other remedies available at law or equity for breach of this Agreement.

(i) The remedies available to the CITY under 24 CFR Part 85.43 and 24 CFR 85.44 include, without limitation, temporarily withholding cash, disallowing non-compliant costs, wholly or partly terminating the award, and withholding future awards.

(b) Recapture. The SUBRECIPIENT shall have the affirmative obligation to repay, and the CITY shall have the affirmative right (but not the obligation) to recapture from SUBRECIPIENT all (or any portion of) CDBG 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 by HUD for the operation of the CDBG Program.

24. Reversion of Assets.

(a) Unencumbered or Unexpended Funds. Upon the termination or expiration of the term of this Agreement, CONTRACTOR shall transfer to CITY any unexpended and unencumbered

CDBG 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 was acquired or improved in whole or in part with CDBG FUNDS disbursed under this Agreement, the original cost of which exceeded five thousand dollars ($5000.00) shall either be, at the election of ADMINISTRATOR: (1) used by SUBRECIPIENT for the eligible program services meeting the purposes of the CDBG 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-CDBG Program 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 fee 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 UCC requirements.

25. Independent Contractor. SUBRECIPIENT agrees that the performance of obligations hereunder is rendered in its capacity as an independent contractor and that it is in no way an employee or agent of the CITY.

26. Licensing. SUBRECIPIENT agrees to obtain and maintain all licenses, registrations, accreditations and inspections from all agencies governing its operations. SUBRECIPIENT shall insure that its staff shall also obtain and maintain all required licenses, registrations, accreditation, and inspections from all agencies governing SUBRECIPIENT'S operations and work hereunder.

27. 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 shall also 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 as set forth in federal or state law.

(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 agrees to 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.

28. 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, in the sole discretion of the CITY; provided, however, 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 the CITY shall exercise reasonable diligence in reviewing and approving or disapproving such request.

29. Prohibition of Expending CDBG FUNDS to Obtain other Funding. SUBRECIPIENT shall in no event expend CDBG 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 by the CITY.

30. Indemnification. SUBRECIPIENT shall indemnify, defend, save harmless, and pay CITY, its officers, employees, and agents, from and against any and all damages to property or injuries to or death of any person or persons, including property of officers, employees, or agents of CITY, resulting from, related in any manner to, or arising out of the intentional or malicious acts, inaction, errors, or omissions, or negligent acts, inaction, errors or omissions of SUBRECIPIENT, its officers, employees, agents, and/or subcontractors.

SUBRECIPIENT shall indemnify, defend, save harmless, and pay CITY, its officers, employees, and agents, from and against any and all claims, demands, suits, actions or proceedings of any kind or nature relating to workers' compensation claims, resulting from, related in any manner to, or arising out of the intentional or malicious acts, inaction, errors, or omissions, or negligent acts, inaction, errors or omissions of SUBRECIPIENT, its officers, employees, agents, and/or subcontractors

31. Insurance.

(a) SUBRECIPIENT shall furnish the City of Costa Mesa insurance certificates from its workers' compensation insurance carrier certifying that it carries such insurance and that the policy shall not be canceled nor the coverage reduced except upon thirty (30) days' prior written notice to CITY at the address specified in this Agreement.

(b) SUBRECIPIENT shall obtain, at its sole cost, a comprehensive general liability and auto insurance policy or policies insuring against liability for any and all claims and suits for damage or injuries to persons or property resulting from or arising out of operations of SUBRECIPIENT, its officers, agents, or employees. Said policy or policies of insurance shall provide coverage for both bodily injury and property damages in not less than the following minimum amounts: One Million Dollars ($1,000,000) combined single limit, or its equivalent. Said policy or policies shall also contain a provision that no termination, cancellation or change of coverage of any insured or additional insured shall be effective until thirty (30) days' notice thereof has been given in writing to

CITY at the address specified in this Agreement. SUBRECIPIENT shall file with the City of Costa Mesa prior to exercising any right or performing any obligation pursuant to this Agreement, and maintain for the period covered by this Agreement, a policy or policies of general liability insurance, or certificate of such insurance, satisfactory to the City Attorney expressly naming the City of Costa Mesa as additional insured.

(c) SUBRECIPIENT shall give CITY prompt and timely notice of any claim made or suit instituted. SUBRECIPIENT shall procure and maintain, at its own cost and expense, any additional kinds and amounts of insurance, which, in its own judgment may be necessary for its proper protection in the prosecution of the work.

B. CITY OBLIGATIONS.

1. Payment of Funds. CITY shall disburse to SUBRECIPIENT from CDBG FUNDS, when, if and to the extent received from HUD, 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 through the submission of quarterly invoices, in a form prescribed by CITY, detailing such expenses; provided that SUBRECIPIENT is in full compliance with this Agreement, and in particular in compliance with Title X and the LBP Regs. Invoices must include documentation of expenses by receipts, time records, invoices, canceled checks, or other appropriate documentation which fully and completely discloses the amount (s) and nature(s) of the expenditure. CITY shall pay such invoices within thirty (30) 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 CDBG REGS, Title X, and the LBP Regs. and that SUBRECIPIENT is in compliance with the terms and conditions of this Agreement.

(a) Sole Source of Funding is CDBG Program Funds. The SUBRECIPIENT expressly acknowledges and agrees that the sole source of funding available to the CITY to meet its funding obligation to SUBRECIPIENT under this Agreement is from CDBG Program funds allocated to and paid to the CITY by HUD 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 CDBG 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 the CITY'S funding described hereunder and no payment obligation of the CITY shall exist or be construed to exist.

2. Audit of Account. CITY shall include an audit of the records and account maintained by SUBRECIPIENT pursuant to Section A.11. of this Agreement in CITY'S annual audit of all CDBG funds pursuant to CDBG REGS, Title 24 of the Code of Federal Regulations, and other applicable federal laws and regulations.

C. MISCELLANEOUS PROVISIONS.

1. SUBRECIPIENT'S Failure to Comply with Agreement. Additionally, the CITY shall have the right, in accordance with 24 CFR 85.43, to terminate this Agreement immediately and/or withhold payment of any invoice for failure of the SUBRECIPIENT to comply with any term or condition of this Agreement after a full evaluation of all circumstances has been completed. Such non-compliance with this Agreement includes, without limitation, non-performance, slow performance, or substandard performance such as the failure to provide substantially all the services

described in Attachment 1 of this Agreement or the failure to substantially meet or fulfill the goals set forth in Attachment 1 of this Agreement.

(a) Should the CITY decide to terminate this Agreement after a full evaluation of all circumstances has been completed, the SUBRECIPIENT shall be given notice of the termination and the SUBRECIPIENT shall, upon written request, have the right to an appeal process.

(b) A copy of the appeal process will be attached to the notice of termination.

(c) If the CITY finds that the SUBRECIPIENT has violated a term or condition of this Agreement, the SUBRECIPIENT may, at the City's sole discretion, be required to:

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

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

(d) In the case of a termination pursuant to this section, a final payment may, at the City's sole discretion, be made to the SUBRECIPIENT upon receipt of a Final Report and invoices covering eligible costs incurred prior to termination. The total of all payments, including the final payment, shall not exceed the amount of CDBG FUNDS specified in this Agreement.

(e) The CITY may immediately terminate this Agreement upon the termination, suspension, discontinuation, or substantial reduction in HUD CDBG funding for this Agreement's activity or if for any reason the timely completion of the work/services to be provided under this Agreement is rendered improbable, infeasible, or impossible.

(f) If the SUBRECIPIENT fails to comply with a term or condition of this Agreement, CITY may, at its sole discretion, take one or more of the actions provided under the CDBG REGS, including 24 CFR Part 85.43 and 24 CFR 85.44 relating to "Enforcement." Such non-compliance may include, without limitation, non-performance, slow performance, or substandard performance.

(i) The remedies available to the CITY under 24 CFR Part 85.43 and 24 CFR 85.44 include, without limitation, temporarily withholding cash, disallowing non-compliant costs, wholly or partly terminating the award, withholding future awards, and any other remedies available at law or equity.

(ii) In the event of such noncompliance, the SUBRECIPIENT will be compensated for all services rendered and necessarily incurred costs, which, in the City's sole determination, were performed in good faith in accordance with the terms of this Agreement, that have been previously eligible for reimbursement and paid, to the date of the notice of termination to the extent that CDBG funds are available from HUD.

In the event this Agreement is terminated, as provided in this section, SUBRECIPIENT agrees to and shall immediately return to CITY any and all funds not used and to comply with the provisions of the Reversion of Assets section of this Agreement.

2. 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 P.O. Box 1200 Costa Mesa, California 92628-1200
TO SUBRECIPIENT:	**Larry Haynes** **PO Box 1905** **Santa Ana CA 92702**

3. No Disposition of Assets Acquired with CDBG FUNDS. SUBRECIPIENT shall not dispose of any real or personal property acquired in full or in part with CDBG FUNDS through sale, use or relocation without the express and prior written permission of the CITY.

4. 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.

5. Drug-Free Work Place Policy. SUBRECIPIENT, upon notification of contract award, 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 Policy No. 100-5, attached hereto as Attachment 2. Failure to establish a program, notify employees, or inform the CITY of a drug-related work place conviction will constitute a material breach of contract and cause for immediate termination of the contract by the CITY.

6. No Use of CDBG FUNDS for Lobbying. SUBRECIPIENT shall not expend any grant funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an 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 Form to Report Lobbying" 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.

7. **Constitutional Use Of Funds**. As an express condition to this Agreement, SUBRECIPIENT, agrees that the funds provided by the 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.

8. **Coalition and Collaboration SUBRECIPIENT**. CDBG funds allocated to coalition and collaboration Subrecipients (including SUBRECIPIENT, if applicable) must establish an additional reporting system to report services provided to eligible persons or households under the auspices of their combined program efforts. This additional reporting system must include the names, income, ethnicity, age, and head of household information of assisted persons or households. Additionally, the reporting system must describe the services provided by each coalition or collaboration SUBRECIPIENT to individual persons or households, and the end result of the combined services.

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

CITY

[redacted]nicipal

Mayor Pro Tem of the City of Costa Mesa

ATTEST:

[redacted]

City Clerk of the City of Costa Mesa

A[redacted]M:

B[redacted]

City Attorney's Office
City of Costa Mesa

[redacted]

Executive Director
Title

10/15/2013 10/15/2013
Date

Title

Date

Attachment 1 - Scope of Work
CITY OF COSTA MESA
Community Development Block Grant

Subrecipient acknowledges and incorporates into this Scope of Work that Community Development Block Grant funds awarded pursuant to this agreement will be primarily limited on homeless individuals that meet the City of Costa Mesa's definition:

- A Costa Mesa homeless resident is an individual who, for the 18 months immediately prior to the implementation date, has had strong ties to the community. These ties include:
  - Current residency of an **immediate family member** (for example, mother, father, sibling, grandparent, son or daughter)
  - Proof that the **individual and/or their dependent(s) attend or attended** a Costa Mesa K-12 school
  - Knowledge - either first hand or recorded - by the **Costa Mesa Police Department** and/or the **Costa Mesa Code Enforcement Department** that the individual has been living on Costa Mesa's streets prior to the implementation date
  - An individual living in Costa Mesa for less than the time period proscribed above, but that has been evaluated by a team consisting of representative from the CEO's office and CMPD.

- Examples of acceptable documentation to confirm residency includes:
  - Copy of a **previous lease**
  - Confirmation of **previous utility service**
  - Written **confirmation of residency** from a previous landlord, or proof of residency in transitional housing.
  - Confirmation of **School records** confirming previous residency

- Special Circumstances – exceptions to the definition include the following:
  - Homeless individuals that are "Medically Compromised"
  - Elderly homeless (age 60 plus)

- Exclusions – the following individuals may be excluded from the definition:
  - Residents living in a motel or recovery home
  - Intentionally homeless - A person who has the means to occupy reasonable accommodations and refuses to do so, or a person who deliberately does or fails to do anything, which would allow them to occupy or continue to occupy such reasonable accommodations, shall be considered intentionally homeless

I. ***A. Output Measurements:*** Total number of unduplicated clients anticipated to be served by the CDBG-funded program during the 12-month contract period (*regardless of community of residence*) = 100 **INDIVIDUALS**

B. Number of unduplicated **Costa Mesa** residents to be served with grant funds during the 12-month contract period = 7 **INDIVIDUALS**

C. Of the Costa Mesa residents to be assisted:

- How many will have new or continued access to this service or benefit? 7 INDIVIDUALS
- How many will have improved access to this services or benefit? 0 INDIVIDUALS
- How may will receive a service or benefit that is no longer substandard? 0 INDIVIDUALS

Total: 7 INDIVIDUALS

II. ***Schedule of Performance:*** Estimate the number of **unduplicated Costa Mesa** residents to be served during the 12-month contract period per quarter:

Quarter 1: July 1 – September 30	4 INDIVIDUALS
Quarter 2: October 1 – December 31	1 INDIVIDUALS
Quarter 3: January 1 – March 31	2 INDIVIDUALS
Quarter 4: April 1 – June 30	0 INDIVIDUALS
Total	**7 INDIVIDUALS**

III. ***Invoicing Schedule:*** 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	$3,500
Quarter 2: October 1 – December 31	$4,500
Quarter 3: January 1 – March 31	$4,500
Quarter 4: April 1 – June 30	$2,500
Total	**$15,000**

IV. *Outcome Measurements*

Activity: Select one from the below that best describes your program	**Primary Objective: Select one** from the below that best describes your program	**Primary Outcome Measurement: Select one** from the below that best describes your program	**Outcome Measurement Tool(s):** Summarize the means by which outcomes will be tracked, measured & reported
☐ Senior Service ☐ Youth Service ☒ Homeless Service ☐ Disabled Service ☐ Low/Mod-Income Service ☐ Fair Housing Services	☐ Create a suitable living environment: activity that benefits the community, families or individuals by addressing living environment issues ☒ Provide decent affordable housing: housing activity that meets individual family or community needs (do not be use for activities where housing is an element of a larger effort, e.g., transitional housing) ☐ Create economic opportunities: activity related to economic development, commercial revitalization & job creation	☒ Availability/Accessibility: activity that makes services, infrastructure, housing &/or shelter available & accessible (accessibility does not refer only to physical barriers) ☐ Affordability: 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) ☐ Sustainability – activity promotes livable or viable communities and neighborhoods by providing services or by removing slums or blighted areas.	Housing of homeless persons or stability of those at risk of homelessness will be assessed and recorded in order to track, measure, and report the outcomes of this program.

V. *Description of Work:* In addition to the summary provided below, subrecipient agrees to the following:

- Provide/make available a "reservation certificate" so that Costa Mesa homeless/at risk individuals are provided at least 30 days to seek housing or other services. Individuals receiving a certificate will communicate directly to Costa Mesa CEO staff.
- Consistent with subrecipient's program design, clients referrals by Costa Mesa CEO or CMPD staff will be provided first preference for housing and services offered by the subrecipient.
- Hold weekly conference call with Costa Mesa CEO staff and maintain a roster of all Costa Mesa clients served, regardless of the source of resources used to serve respective clients.
- Should client need to be exited from said program, the subrecipient agrees to contact the City first to determine if alternative arrangements can be made.

Summarize the program to be funded during the 12-month contract period. Include information regarding services to be provided, program goals & how grant funds will be used.

In partnership with City Staff, Mercy House will provide either homeless prevention, or housing search and placement services to Costa Mesa residents in order to prevent and end their homelessness. Ongoing case management services will be provided to ensure the continued housing stability of clients served through this program.

VI. 2013-2014 Program Budget

BUDGET CATEGORY	PROPOSED USE OF CDBG FUNDS	PROPOSED USE OF OTHER PROGRAM FUNDS	TOTAL PROGRAM COSTS
Agency Administration Staff Salaries & Benefits	$1,125	$7,875	$9,000
Program Staff Salaries & Benefits	$3,750	$69,214	$72,964
Program Supplies	$	$2,325	$2,325
Rent/Lease	$	$4,500	$4,500
Communications	$	$4,750	$4,750
Utilities	$	$	$
Professional Services (Specify)	$	$3,980	$3,980
Insurance	$	$550	$550
Other (Specify) Direct assistance	$10,125	$234,705	$244,830
Other (Specify) Other admin	$	$4,211	$4,211
Other (Specify)	$	$	$
Other (Specify)	$	$	$
TOTAL	**$15,000**	$332,110	**$347,110**

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

SOURCE OF OTHER PROGRAM REVENUE	AMOUNT OF OTHER PROGRAM FUNDS
OC ESG Rapid Rehousing	$162,015
SA ESG Rapid Rehousing	$23,025
OC TBRA	$147,070
	$
	$
TOTAL	*** $332,110**

* 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".

VII. CDBG Funded Personnel - only list personnel that will be paid with CDBG funds and that have been listed as part of the 2013-2014 Program Budget.

☐ NOT APPLICABLE

AGENCY ADMINISTRATION

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	CDBG FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO COSTA MESA CDBG ACTIVITY
Accounting	$56,500	$12,000	$68,500	$1,125	1%
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%

PROPOSED PROGRAM STAFF

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	CDBG FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO COSTA MESA CDBG ACTIVITY
Case Managers	$38,000	$10,000	$48,000	$3,750	7%
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%

PROPOSED PROGRAM CONTRACT STAFF

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	CDBG FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO COSTA MESA CDBG ACTIVITY
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%

Attachment 2

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.

2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:

    a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

b. Establishing a Drug-Free Awareness Program to inform employees about:

   1. The dangers of drug abuse in the workplace;

   2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;

   3. Any available drug counseling, rehabilitation and employee assistance programs; and

   4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;

d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:

   1. Abide by the terms of the statement; and

   2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;

f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:

   1. Taking appropriate personnel action against such an employee, up to and including termination; or

   2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.

2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:

   a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;

   b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;

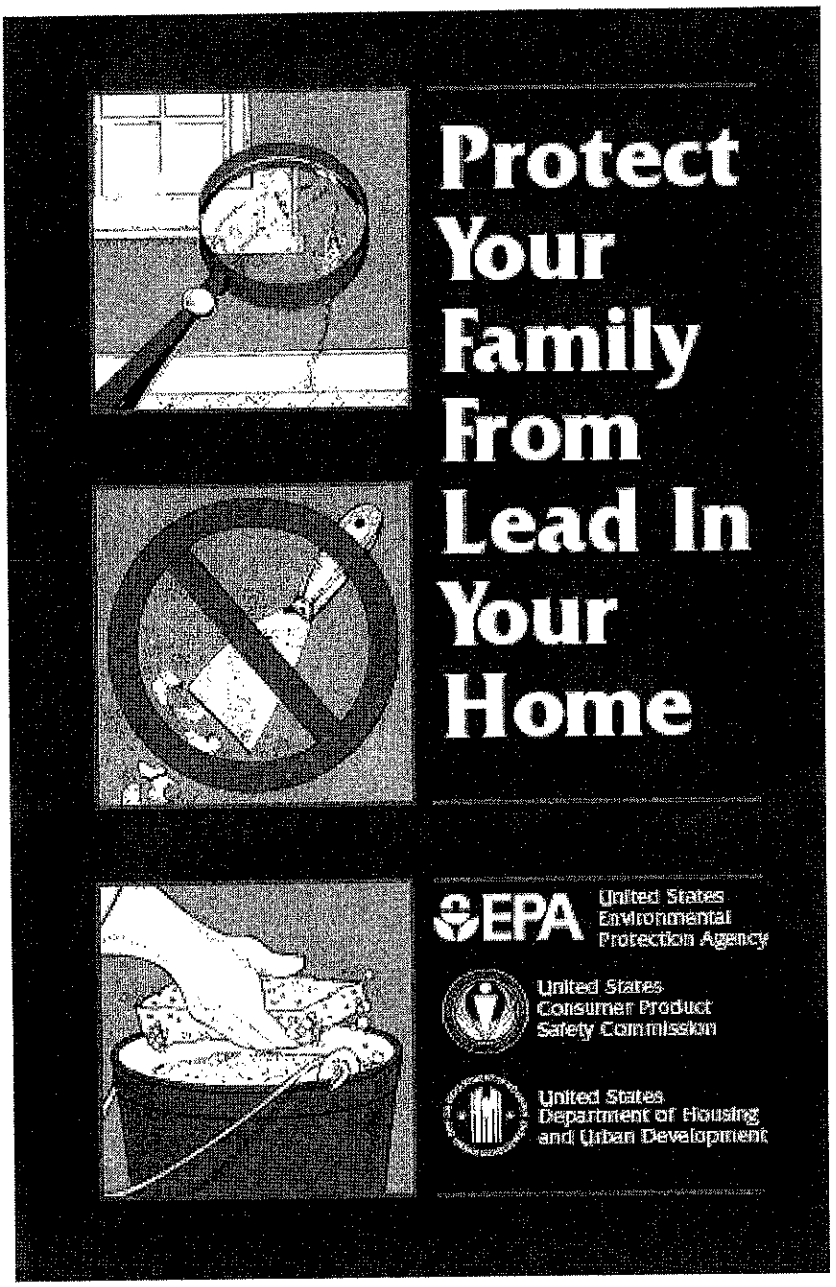
   c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.

3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

ATTACHMENT NO. 3-A

"Protect Your Family from Lead in Your Home"
EPA747-K-99-001

(Attached)


Protect Your Family From Lead In Your Home
EPA United States Environmental Protection Agency
United States Consumer Product Safety Commission
United States Department of Housing and Urban Development

Are You Planning To Buy, Rent, or Renovate a Home Built Before 1978?

Many houses and apartments built before 1978 have paint that contains high levels of lead (called lead-based paint). Lead from paint, chips, and dust can pose serious health hazards if not taken care of properly.

OWNERS, BUYERS, and RENTERS are encouraged to check for lead (see page 6) before renting, buying or renovating pre-1978 housing.

Federal law requires that individuals receive certain information before renting, buying, or renovating pre-1978 housing:

LANDLORDS have to disclose known information on lead-based paint and lead-based paint hazards before leases take effect. Leases must include a disclosure about lead-based paint.

SELLERS have to disclose known information on lead-based paint and lead-based paint hazards before selling a house. Sales contracts must include a disclosure about lead-based paint. Buyers have up to 10 days to check for lead.

RENOVATORS disturbing more than 2 square feet of painted surfaces have to give you this pamphlet before starting work.

IMPORTANT!

Lead From Paint, Dust, and Soil Can Be Dangerous If Not Managed Properly

FACT: Lead exposure can harm young children and babies even before they are born.

FACT: Even children who seem healthy can have high levels of lead in their bodies.

FACT: People can get lead in their bodies by breathing or swallowing lead dust, or by eating soil or paint chips containing lead.

FACT: People have many options for reducing lead hazards. In most cases, lead-based paint that is in good condition is not a hazard.

FACT: Removing lead-based paint improperly can increase the danger to your family.

If you think your home might have lead hazards, read this pamphlet to learn some simple steps to protect your family.

1

Lead Gets in the Body in Many Ways

Childhood lead poisoning remains a major environmental health problem in the U.S.

Even children who appear healthy can have dangerous levels of lead in their bodies.

People can get lead in their body if they:

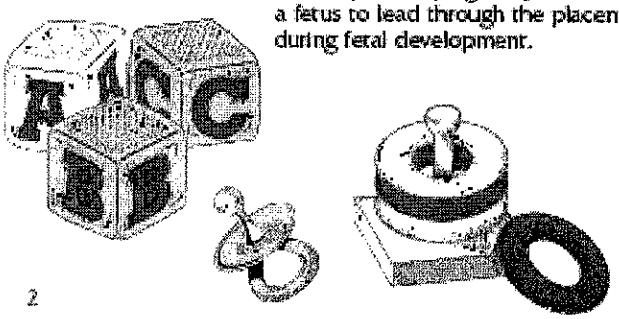
- Breathe in lead dust (especially during renovations that disturb painted surfaces).
- Put their hands or other objects covered with lead dust in their mouths.
- Eat paint chips or soil that contains lead.

Lead is even more dangerous to children under the age of 6:

- At this age children's brains and nervous systems are more sensitive to the damaging effects of lead.
- Children's growing bodies absorb more lead.
- Babies and young children often put their hands and other objects in their mouths. These objects can have lead dust on them.

Lead is also dangerous to women of childbearing age:

- Women with a high lead level in their system prior to pregnancy would expose a fetus to lead through the placenta during fetal development.



Lead's Effects

It is important to know that even exposure to low levels of lead can severely harm children.

In children, lead can cause:

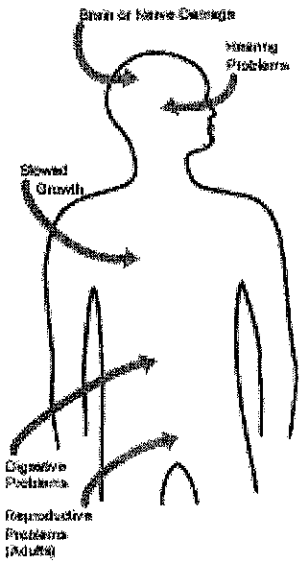
- Nervous system and kidney damage.
- Learning disabilities, attention deficit disorder, and decreased intelligence.
- Speech, language, and behavior problems.
- Poor muscle coordination.
- Decreased muscle and bone growth.
- Hearing damage.

While low-lead exposure is most common, exposure to high levels of lead can have devastating effects on children, including seizures, unconsciousness, and, in some cases, death.

Although children are especially susceptible to lead exposure, lead can be dangerous for adults too.

In adults, lead can cause:

- Increased chance of illness during pregnancy.
- Harm to a fetus, including brain damage or death.
- Fertility problems (in men and women).
- High blood pressure.
- Digestive problems.
- Nerve disorders.
- Memory and concentration problems.
- Muscle and joint pain.



Lead affects the body in many ways.

3

Where Lead-Based Paint Is Found

In general, the older your home, the more likely it has lead-based paint.

Many homes built before 1978 have lead-based paint. The federal government banned lead-based paint from housing in 1978. Some states stopped its use even earlier. Lead can be found:

- In homes in the city, country, or suburbs.
- In apartments, single-family homes, and both private and public housing.
- Inside and outside of the house.
- In soil around a home. (Soil can pick up lead from exterior paint or other sources such as past use of leaded gas in cars.)

Checking Your Family for Lead

Get your children and home tested if you think your home has high levels of lead.

To reduce your child's exposure to lead, get your child checked, have your home tested (especially if your home has paint in poor condition and was built before 1978), and fix any hazards you may have. Children's blood lead levels tend to increase rapidly from 6 to 12 months of age, and tend to peak at 18 to 24 months of age.

Consult your doctor for advice on testing your children. A simple blood test can detect high levels of lead. Blood tests are usually recommended for:

- Children at ages 1 and 2.
- Children or other family members who have been exposed to high levels of lead.
- Children who should be tested under your state or local health screening plan.

Your doctor can explain what the test results mean and if more testing will be needed.

Identifying Lead Hazards

Lead-based paint is usually not a hazard if it is in good condition, and it is not on an impact or friction surface, like a window. It is defined by the federal government as paint with lead levels greater than or equal to 1.0 milligram per square centimeter, or more than 0.5% by weight.

Deteriorating lead-based paint (peeling, chipping, chalking, cracking or damaged) is a hazard and needs immediate attention. It may also be a hazard when found on surfaces that children can chew or that get a lot of wear-and-tear, such as:

- Windows and window sills.
- Doors and door frames.
- Stairs, railings, banisters, and porches.

Lead from paint chips, which you can see, and lead dust, which you can't always see, can both be serious hazards.

Lead dust can form when lead-based paint is scraped, sanded, or heated. Dust also forms when painted surfaces bump or rub together. Lead chips and dust can get on surfaces and objects that people touch. Settled lead dust can re-enter the air when people vacuum, sweep, or walk through it. The following two federal standards have been set for lead hazards in dust:

- 40 micrograms per square foot ($\mu g/ft^2$) and higher for floors, including carpeted floors.
- 250 $\mu g/ft^2$ and higher for interior window sills.

Lead in soil can be a hazard when children play in bare soil or when people bring soil into the house on their shoes. The following two federal standards have been set for lead hazards in residential soil:

- 400 parts per million (ppm) and higher in play areas of bare soil.
- 1,200 ppm (average) and higher in bare soil in the remainder of the yard.

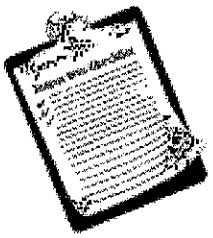
The only way to find out if paint, dust and soil lead hazards exist is to test for them. The next page describes the most common methods used.

Checking Your Home for Lead

Just knowing that a home has lead-based paint may not tell you if there is a hazard.

You can get your home tested for lead in several different ways:

- A paint **inspection** tells you whether your home has lead-based paint and where it is located. It won't tell you whether or not your home currently has lead hazards.
- **A risk assessment** tells you if your home currently has any lead hazards from lead in paint, dust, or soil. It also tells you what actions to take to address any hazards.
- A combination risk assessment and inspection tells you if your home has any lead hazards and if your home has any lead-based paint, and where the lead-based paint is located.



Hire a trained and certified testing professional who will use a range of reliable methods when testing your home.

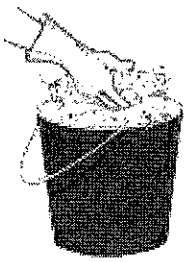
- Visual inspection of paint condition and location.
- A portable x-ray fluorescence (XRF) machine.
- Lab tests of paint, dust, and soil samples.

There are state and federal programs in place to ensure that testing is done safely, reliably, and effectively. Contact your state or local agency (see bottom of page 11) for more information, or call **1-800-424-LEAD (5323)** for a list of contacts in your area.

Home test kits for lead are available, but may not always be accurate. Consumers should not rely on these kits before doing renovations or to assure safety.

What You Can Do Now To Protect Your Family

If you suspect that your house has lead hazards, you can take some immediate steps to reduce your family's risk:



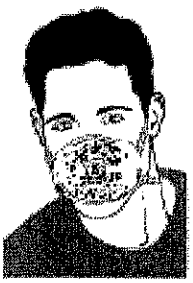
- **If you rent, notify your landlord of peeling or chipping paint.**
- **Clean up paint chips immediately.**
- **Clean floors, window frames, window sills, and other surfaces weekly.** Use a mop or sponge with warm water and a general all-purpose cleaner or a cleaner made specifically for lead. REMEMBER: NEVER MIX AMMONIA AND BLEACH PRODUCTS TOGETHER SINCE THEY CAN FORM A DANGEROUS GAS.

- **Thoroughly rinse sponges and mop heads after cleaning dirty or dusty areas.**
- **Wash children's hands often, especially before they eat and before nap time and bed time.**
- **Keep play areas clean.** Wash bottles, pacifiers, toys, and stuffed animals regularly.
- **Keep children from chewing window sills or other painted surfaces.**
- **Clean or remove shoes before entering your home to avoid tracking in lead from soil.**
- **Make sure children eat nutritious, low-fat meals high in iron and calcium,** such as spinach and dairy products. Children with good diets absorb less lead.

Reducing Lead Hazards In The Home

Removing lead improperly can increase the hazard to your family by spreading even more lead dust around the house.

Always use a professional who is trained to remove lead hazards safely.



In addition to day-to-day cleaning and good nutrition:

- You can **temporarily** reduce lead hazards by taking actions such as repairing damaged painted surfaces and planting grass to cover soil with high lead levels. These actions (called "interim controls") are not permanent solutions and will need ongoing attention.
- To **permanently** remove lead hazards, you should hire a certified lead "abatement" contractor. Abatement (or permanent hazard elimination) methods include removing, sealing, or enclosing lead-based paint with special materials. Just painting over the hazard with regular paint is not permanent removal.

Always hire a person with special training for correcting lead problems—someone who knows how to do this work safely and has the proper equipment to clean up thoroughly. Certified contractors will employ qualified workers and follow strict safety rules as set by their state or by the federal government.

Once the work is completed, dust cleanup activities must be repeated until testing indicates that lead dust levels are below the following:

- 40 micrograms per square foot ($\mu g/ft^2$) for floors, including carpeted floors;
- 250 $\mu g/ft^2$ for interior windows sills; and
- 400 $\mu g/ft^2$ for window troughs.

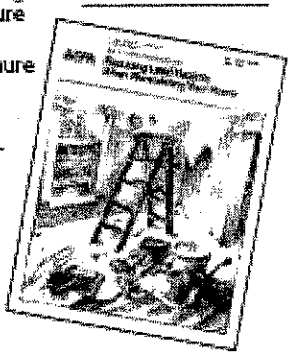
Call your state or local agency (see bottom of page 11) for help in locating certified professionals in your area and to see if financial assistance is available.

Remodeling or Renovating a Home With Lead-Based Paint

Take precautions before your contractor or you begin remodeling or renovating anything that disturbs painted surfaces (such as scraping off paint or tearing out walls):

- **Have the area tested for lead-based paint.**
- **Do not use a belt-sander, propane torch, high temperature heat gun, dry scraper, or dry sandpaper** to remove lead-based paint. These actions create large amounts of lead dust and fumes. Lead dust can remain in your home long after the work is done.
- **Temporarily move your family** (especially children and pregnant women) out of the apartment or house until the work is done and the area is properly cleaned. If you can't move your family, at least completely seal off the work area.
- **Follow other safety measures to reduce lead hazards.** You can find out about other safety measures by calling 1-800-424-LEAD. Ask for the brochure "Reducing Lead Hazards When Remodeling Your Home." This brochure explains what to do before, during, and after renovations.

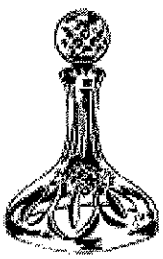
If not conducted properly, certain types of renovations can release lead from paint and dust into the air.



If you have already completed renovations or remodeling that could have released lead-based paint or dust, get your young children tested and follow the steps outlined on page 7 of this brochure.

Other Sources of Lead

While paint, dust, and soil are the most common sources of lead, other lead sources also exist.



- **Drinking water.** Your home might have plumbing with lead or lead solder. Call your local health department or water supplier to find out about testing your water. You cannot see, smell, or taste lead, and boiling your water will not get rid of lead. If you think your plumbing might have lead in it:
  - Use only cold water for drinking and cooking.
  - Run water for 15 to 30 seconds before drinking it, especially if you have not used your water for a few hours.
- **The job.** If you work with lead, you could bring it home on your hands or clothes. Shower and change clothes before coming home. Launder your work clothes separately from the rest of your family's clothes.
- Old painted **toys** and **furniture.**
- Food and liquids stored in **lead crystal** or **lead-glazed pottery or porcelain.**
- **Lead smelters** or other industries that release lead into the air.
- **Hobbies** that use lead, such as making pottery or stained glass, or refinishing furniture.
- **Folk remedies** that contain lead, such as "greta" and "azarcon" used to treat an upset stomach.

For More Information

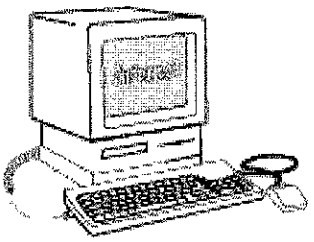
The National Lead Information Center

Call **1-800-424-LEAD (424-5323)** to learn how to protect children from lead poisoning and for other information on lead hazards. To access lead information via the web, visit **www.epa.gov/lead** and **www.hud.gov/offices/lead/**.

EPA's Safe Drinking Water Hotline

Call **1-800-426-4791** for information about lead in drinking water.

Consumer Product Safety Commission (CPSC) Hotline



To request information on lead in consumer products, or to report an unsafe consumer product or a product-related injury call **1-800-638-2772**, or visit CPSC's Web site at: **www.cpsc.gov**.

Health and Environmental Agencies

Some cities, states, and tribes have their own rules for lead-based paint activities. Check with your local agency to see which laws apply to you. Most agencies can also provide information on finding a lead abatement firm in your area, and on possible sources of financial aid for reducing lead hazards. Receive up-to-date address and phone information for your local contacts on the Internet at **www.epa.gov/lead** or contact the National Lead Information Center at **1-800-424-LEAD**.

For the hearing impaired, call the Federal Information Relay Service at **1-800-877-8339** to access any of the phone numbers in this brochure.

EPA Regional Offices

Your Regional EPA Office can provide further information regarding regulations and lead protection programs.

EPA Regional Offices

Region 1 (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont)

Regional Lead Contact
U.S. EPA Region 1
Suite 1100 (CPT)
One Congress Street
Boston, MA 02114-2023
1 (888) 372-7341

Region 2 (New Jersey, New York, Puerto Rico, Virgin Islands)

Regional Lead Contact
U.S. EPA Region 2
2890 Woodbridge Avenue
Building 209, Mail Stop 225
Edison, NJ 08837-3679
(732) 321-6671

Region 3 (Delaware, Maryland, Pennsylvania, Virginia, Washington DC, West Virginia)

Regional Lead Contact
U.S. EPA Region 3 (3WC33)
1650 Arch Street
Philadelphia, PA 19103
(215) 814-5000

Region 4 (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

Regional Lead Contact
U.S. EPA Region 4
61 Forsyth Street, SW
Atlanta, GA 30303
(404) 562-8998

Region 5 (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin)

Regional Lead Contact
U.S. EPA Region 5 (DT-8J)
77 West Jackson Boulevard
Chicago, IL 60604-3666
(312) 886-6003

Region 6 (Arkansas, Louisiana, New Mexico, Oklahoma, Texas)

Regional Lead Contact
U.S. EPA Region 6
1445 Ross Avenue, 12th Floor
Dallas, TX 75202-2733
(214) 665-7577

Region 7 (Iowa, Kansas, Missouri, Nebraska)

Regional Lead Contact
U.S. EPA Region 7
(ARTD-RALI)
901 N. 5th Street
Kansas City, KS 66101
(913) 551-7020

Region 8 (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming)

Regional Lead Contact
U.S. EPA Region 8
999 18th Street, Suite 500
Denver, CO 80202-2466
(303) 312-6021

Region 9 (Arizona, California, Hawaii, Nevada)

Regional Lead Contact
U.S. Region 9
75 Hawthorne Street
San Francisco, CA 94105
(415) 947-4164

Region 10 (Alaska, Idaho, Oregon, Washington)

Regional Lead Contact
U.S. EPA Region 10
Toxics Section WCM-128
1200 Sixth Avenue
Seattle, WA 98101-1128
(206) 553-1985

CPSC Regional Offices

Your Regional CPSC Office can provide further information regarding regulations and consumer product safety.

Eastern Regional Center
Consumer Product Safety Commission
201 Varick Street, Room 903
New York, NY 10014
(212) 620-4120

Western Regional Center
Consumer Product Safety Commission
1301 Clay Street, Suite 610-N
Oakland, CA 94612
(510) 637-4050

Central Regional Center
Consumer Product Safety Commission
230 South Dearborn Street, Room 2944
Chicago, IL 60604
(312) 353-8260

HUD Lead Office

Please contact HUD's Office of Healthy Homes and Lead Hazard Control for information on lead regulations, outreach efforts, and lead hazard control and research grant programs.

U.S. Department of Housing and Urban Development
Office of Healthy Homes and Lead Hazard Control
451 Seventh Street, SW, P-3206
Washington, DC 20410
(202) 755-1785

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U.S. EPA Washington DC 20460
U.S. CPSC Washington DC 20207
U.S. HUD Washington DC 20410

EPA747-K-99-001
June 2003

Simple Steps To Protect Your Family From Lead Hazards

If you think your home has high levels of lead:

- Get your young children tested for lead, even if they seem healthy.
- Wash children's hands, bottles, pacifiers, and toys often.
- Make sure children eat healthy, low-fat foods.
- Get your home checked for lead hazards.
- Regularly clean floors, window sills, and other surfaces.
- Wipe soil off shoes before entering house.
- Talk to your landlord about fixing surfaces with peeling or chipping paint.
- Take precautions to avoid exposure to lead dust when remodeling or renovating (call 1-800-424-LEAD for guidelines).
- Don't use a belt-sander, propane torch, high temperature heat gun, scraper, or sandpaper on painted surfaces that may contain lead.
- Don't try to remove lead-based paint yourself.

Recycled/Recyclable
Printed with vegetable oil based inks on recycled paper (minimum 50% postconsumer) process chlorine free.

ATTACHMENT NO. 3-B

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

(Attached)

Disclosure Form for Target Housing Rentals and Leases
Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Housing built before 1978 may contain lead-based paint. Lead from paint, paint chips, and dust can pose health hazards if not managed properly. Lead exposure is especially harmful to young children and pregnant women. Before renting pre-1978 housing, lessors must disclose the presence of known lead-based paint and/or lead-based paint hazards in the dwelling. Lessees must also receive a federally approved pamphlet on lead poisoning prevention.

Lessor's Disclosure (initial)

_____(a) Presence of lead-based paint or lead-based paint hazards (check one below):

☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

_____

☐ Lessor has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.

_____(b) Records and reports available to the lessor (check one below):

☐ Lessor has provided the lessee with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

_____

☐ Lessor has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Lessee's Acknowledgment (initial)

_____(c) Lessee has received copies of all information listed above.
_____(d) Lessee has received the pamphlet *Protect Your Family From Lead in Your Home.*

Agent's Acknowledgment (initial)

_____(e) Agent has informed the lessor of the lessor's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

_____ Lessor	_____ Date	_____ Lessor	_____ Date
_____ Lessee	_____ Date	_____ Lessee	_____ Date
_____ Agent	_____ Date	_____ Agent	_____ Date

Disclosure Form for Target Housing Sales
Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards

Lead Warning Statement

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

Seller's Disclosure (initial)

_____(a) Presence of lead-based paint and/or lead-based paint hazards (check one below):

☐ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).

_____

_____

☐ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing

_____(b) Records and reports available to the seller (check one below):

☐ Seller has provided the purchaser with all available records and reports pertaining to lead-based paint and/or lead-based paint hazards in the housing (list documents below).

_____

_____

☐ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

Purchaser's Acknowledgment (initial)

_____ (c) Purchaser has received copies of all information listed above.
_____ (d) Purchaser has received the pamphlet *Protect Your Family From Lead in Your Home.*
_____ (e) Purchaser has (check one below):

☐ Received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
☐ Waived the opportunity to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards.

Agent's Acknowledgment (initial)

_____(f) Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

Certification of Accuracy

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information provided by the signatory is true and accurate.

_____	_____	_____	_____
Seller	Date	Seller	Date
_____	_____	_____	_____
Purchaser	Date	Purchaser	Date
_____	_____	_____	_____
Agent	Date	Agent	Date

ATTACHMENT NO. 3-C

Contents Of Abatement And Clearance Reports

(Attached)

CONTENTS OF ABATEMENT AND CLEARANCE REPORTS

Clearance Report	Abatement Report
Property address.	Property address.
Clearance examination information: ❑ Date of the clearance examination. ❑ Name, address, and signature of each person performing the clearance examination including certification number. ❑ Visual assessment results. ❑ Dust sample analysis, in µg/sq.ft., by location of sample. ❑ Name and address of each laboratory that conducted the dust sample analysis, including their identification number.	Clearance examination information: ❑ Date of clearance testing. ❑ Name, address, and signature of each certified risk assessor or inspector conducting clearance sampling. ❑ Clearance testing results and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analysis.
Hazard reduction or maintenance information: ❑ Start and completion dates of the hazard reduction or maintenance activity. ❑ Name and address of each firm or organization conducting the hazard reduction or maintenance activity, and the name of each supervisor assigned. ❑ A detailed, written description of the hazard reduction or maintenance activity, to include: ➢ Methods; ➢ Locations of exterior surfaces or soil; ➢ Interior rooms; ➢ Common areas; and/or ➢ Components where the hazard reduction activity occurred, and any suggested monitoring of encapsulants or enclosures.	Abatement information: ❑ Start and completion dates of abatement. ❑ Name and address of each certified firm conducting the abatement, and the name of each supervisor assigned to the abatement project. ❑ Occupant protection plan. ❑ A detailed, written description of the abatement, to include: ➢ Methods used; ➢ Locations of rooms; and/or ➢ Components where abatement occurred, the reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

ATTACHMENT NO. 4

2011-2012 SUBRECIPIENT AGREEMENT
(With Provisions Relating to Compliance with Title X and 24 CFR Part 35 Relating to Lead Based Paint)

CITY OF COSTA MESA, AS GRANTEE, UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

ADDRESS OF ASSISTED UNIT	HOUSE-HOLD SIZE	HOUSE-HOLD INCOME	DATE OF OCCUPANCY BY ASSISTED HOUSEHOLD	DATE OF END OF OCCUPANCY BY ASSISTED HOUSEHOLD	STATUS OF LBP NOTICE COMPLIANCE	STATUS OF LBP EVALUATION, REDUCTION, AND CLEARANCE WORK/CONFIRMATION

ATTACHMENT NO. 5

LBP INFORMATION SUMMARY

1. ZERO/0 BEDROOM < (LESS THAN) 100 DAYS IN UNIT; ASSISTANCE IN HOMELESS SHELTER

   - STATUS: EXEMPT TITLE X

2. ZERO/0 BEDROOM > (MORE THAN) 100 DAYS IN UNIT

   - STATUS: OPEN ISSUE UNDER LBP REGS
   - ZERO/0 BEDROOM > (MORE THAN) 100 DAYS ASSISTANCE IN HOMELESS SHELTER
   - STATUS: OPEN ISSUE UNDER LBP REGS
   - SEE SUBPART K
   - CLEARANCE OF UNIT(S) WILL BE REQUIRED BY CITY FOR ALL HOUSING UNITS (EVEN ZERO BEDROOM) FOR WHICH OCCUPANCY OCCURS BY ASSISTED HOUSEHOLD FOR MORE THAN 100 DAYS, PENDING FURTHER INTERPRETATION/GUIDANCE FROM HUD

3. ONE OR MORE (1+) BEDROOMS OCCUPANCY < 100 DAYS IN RESIDENTIAL UNIT AND/OR OCCUPANCY IN HOMELESS SHELTER

   - EXEMPT TITLE X

4. 1+ BEDROOMS > 100 DAYS IN RESIDENTIAL UNIT

   - STATUS: SAME AS #2 ABOVE; CLEARANCE REQUIRED
   - SEE SUBPART K

5. EMERGENCY RENTAL ASSISTANCE < 100 DAYS

   - EXEMPT TITLE X

6. EMERGENCY RENTAL ASSISTANCE > TO HOUSEHOLD TO BE OCCUPANCY IN RESIDENTIAL UNIT FOR MORE THAN 100 DAYS (SUCH AS LONG TERM LEASE SIGNED AT TIME OF EMERGENCY ASSISTANCE)

   - CLEARANCE BEFORE ANY MONEY DISBURSED;
     LBP COMPLIANCE: NOTIFICATION, EVALUATION, REDUCTION THROUGH CLEARANCE REQUIRED <u>BEFORE</u> OCCUPANCY OF UNIT

- MAY BE CONSIDERED TENANT BASED RENTAL ASSISTANCE (TBRA); THUS HQS INSPECTION AND SUBPART M MAY APPLY
- SEE SUBPARTS K AND M
- PENDING HUD GUIDANCE

7. TBRA < 100 DAYS

- EXEMPT TITLE X

8. TBRA > 100 DAYS OF HOME ASSISTANCE (SUCH AS WHEN TENANT ENTERS INTO LONG TERM LEASE

- SEE SUBPART M
- CLEARANCE BEFORE ANY MONEY DISBURSED; LBP COMPLIANCE: NOTIFICATION, EVALUATION, REDUCTION THROUGH CLEARANCE REQUIRED BEFORE OCCUPANCY OF UNIT
- HQS INSPECTION REQUIRED BEFORE OCCUPANCY
- CLEARANCE BEFORE ANY MONEY DISBURSED

9. TBRA < 100 DAYS – TENANT ENTERS INTO LONG TERM LEASE, CITY GIVES LESS THAN 100 DAYS OF ASSISTANCE.

- EXEMPT TITLE X

[See HUD Interpretative Guidance: Online: Questions M4, K7, K4, for discussion]