2019-2020 SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF COSTA MESA, AS GRANTEE UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM, AND FAIR HOUSING FOUNDATION

Date Approved: **May 21, 2019**

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

Subrecipient: **Fair Housing Foundation**

This SUBRECIPIENT AGREEMENT ("Agreement") is entered into as of July 1, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA ("CITY"), a California municipal corporation and a grantee under the U.S. Department of Housing and Urban Development ("HUD") Community Development Block Grant ("CDBG") Program (Catalog of Federal Domestic Assistance Number: 14-218; Grant No: B-19-MC-06-0503), and FAIR HOUSING FOUNDATION, a nonprofit corporation ("SUBRECIPIENT").

WHEREAS, the primary objective of the Housing and Community Development Act of 1974, 42 U.S.C. § 5301 *et seq.*, as amended (the "Act"), and the CDBG Program is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income; and

WHEREAS, CITY has applied for and received CDBG funds from HUD under the Act; and

WHEREAS, pursuant to Title 24, Part 570 of the Code of Federal Regulations (24 CFR 570, *et seq.*) ("CDBG Regulations"), CITY may engage certain organizations to assist in utilizing CDBG funds pursuant to subrecipient agreements, provided that the activities funded are eligible for funding and meet a national objective; and

WHEREAS, eligible activities are set forth at 24 CFR 570.201-207; and

WHEREAS, each CDBG-funded activity must meet one of the following national objectives: (1) benefit low- and moderate-income persons; (2) prevent or eliminate slums or blight; or (3) meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available to meet such needs; and

WHEREAS, CITY has determined that SUBRECIPIENT's activities are eligible for funding and meet one of the national objectives; and

WHEREAS, CITY desires to grant a portion of its CDBG allocation for the Fiscal Year 2019-2020 to SUBRECIPIENT for the purpose of providing services for low and moderate income persons.

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

A. SUBRECIPIENT OBLIGATIONS.

1. Scope of Services.

(a) **Activities**. The subgranting of CDBG funds to SUBRECIPIENT shall be used to provide the specific services as described in Attachment 1, attached hereto and fully incorporated into this Agreement by this reference. Such services are summarized as follows: fair housing outreach, education and enforcement services. As needed, SUBRECIPIENT will make referrals to the appropriate licensing agency. In accordance with CITY requirements, SUBRECIPIENT shall ensure that at least seventy percent (70%) of SUBRECIPIENT's clients served by the CDBG funded program be in the low and moderate income categories as established by HUD.

(b) **National Objectives**. SUBRECIPIENT certifies that SUBRECIPIENT's activities will meet the national objective of benefitting low- and moderate-income persons.

(c) **Levels of Accomplishment – Goals and Performance Measures.** SUBRECIPIENT agrees to carry out the activities set forth in this Agreement in accordance with the goals and performance measures set forth in Attachment 1.

(d) **Performance Monitoring**. CITY will monitor the performance of SUBRECIPIENT against the goals and performance standards set forth in Attachment 1. Substandard performance, as determined by CITY, will constitute noncompliance with this Agreement. If SUBRECIPIENT does not take action to correct such substandard performance within a reasonable period of time after being notified by CITY, CITY may initiate termination or suspension of this Agreement as set forth herein.

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

3. **Term of Agreement.** Subject to the terminations provisions set forth herein, the term of this Agreement is from **July 1, 2019 through June 30, 2020,** except that SUBRECIPIENT shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to obligations with respect to indemnification, audits, reporting, data retention/reporting, and accounting.

4. **Amount of Grant and Quarterly Disbursement.** The amount granted to SUBRECIPIENT shall not exceed Fifteen Thousand Dollars ($15,000.00) ("CDBG FUNDS"). SUBRECIPIENT shall expend such funds within a time period not exceeding twelve (12) consecutive months following the Effective Date of this Agreement. CITY will disburse CDBG FUNDS to SUBRECIPIENT on a quarterly basis subject to and upon receipt and approval of a complete SUBRECIPIENT's quarterly activity report.

(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 Regulations ("Quarterly Activity Report").

(b) **Invoice Submittal.** Concurrently with the submittal of each quarterly report, as described in subsection 4(a) above, SUBRECIPIENT shall submit both (i) an original invoice and (ii) true copies of other receipts, agreements, or other documentation supporting and evidencing how the CDBG FUNDS have been or will be expended during the applicable quarter. Drawdowns for the payment of eligible expenses will be made against the budget categories set forth in the Program Budget in Attachment 1.

For example and by way of illustration, if SUBRECIPIENT intends to expend the applicable quarterly disbursement on staff salary, then 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. **Administrative Rules.** 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 2 CFR Part 200.

6. **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, or, in the event a conflict or potential conflict of interest arises after execution of this Agreement, SUBRECIPIENT shall fully disclose the conflict or potential conflict within fifteen (15) days of becoming aware of same, and said writing shall be attached and deemed fully incorporated as a part hereof.

7. **Use of CDBG FUNDS.**

(a) **Income Prohibited.** SUBRECIPIENT agrees that it shall not use CDBG FUNDS in any manner that provides income to SUBRECIPIENT. Any earned interest income on funds generated through the use of investment of funds received from CDBG FUNDS shall be cause, at the discretion of the CITY, for recapture of such income and/or the full amount of funds originally granted to SUBRECIPIENT.

(b) **Program Income.** The use of program income by the SUBRECIPIENT shall comply with the requirements set forth at 24 CFR 570.504. SUBRECIPIENT may use such income during the term of this Agreement for activities permitted under this Agreement and shall reduce requests for additional funds by the amount of any such program income balances on hand. SUBRECIPIENT shall report quarterly all program income (as defined in 24 CFR 570.500(a)) generated by activities carried out with CDBG FUNDS made available under this Agreement.

(c) **Unexpended Program Income.** All unexpended program income shall be returned to the CITY at the end of the term as required by 24 CFR 570.503(b)(7). Any interest earned on cash advances from the United States Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the CITY.

8. **Records and Reports.** The SUBRECIPIENT shall maintain all records required by the CDBG Regulations specified in 24 CFR 570.206 that are pertinent to the activities to be funded under this Agreement and such records as may be required by CITY. Such records shall include but not be limited to the following:

(a) Records providing a full description of each activity undertaken.

(b) Records demonstrating that each activity undertaken meets one of the national objectives of the CDBG program.

(c) Records required to determine the eligibility of activities.

(d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG FUNDS.

(e) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program.

(f) Financial records as required by 24 CFR 570.502. Such records shall contain documentation of expenses as identified in the Program Budget set forth in Attachment 1, including evidence of incurring the expense, invoice(s) for goods or services, all other invoices for which CDBG FUNDS were expended, and payment therefore.

(g) Records necessary to document compliance with Subpart K or 24 CFR Part 570.

(h) Records demonstrating client eligibility for the services provided. Such records shall include data including, but not limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to CITY or its designees for review upon request.

(i) Any such other related records as CITY may reasonably require or as required to be maintained pursuant to the CDBG Regulations.

SUBRECIPIENT shall, upon request of CITY, prepare such reports as may be required for CITY and/or SUBRECIPIENT to comply with the CDBG Regulations.

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

10. **Audit Requirements.** If SUBRECIPIENT is granted $750,000 or more in federal funds under this Agreement, SUBRECIPIENT shall comply with and/or cause compliance with all audit requirements established by 2 CFR 200.501 *et seq*.

11. **Uniform Administrative Requirements.** SUBRECIPIENT shall comply with applicable uniform administrative requirements as described in 24 CFR 570.502.

12. **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 recordkeeping of such accounts maintained pursuant to applicable requirements set forth in 2 CFR 200 *et seq*. SUBRECIPIENT is not required to maintain separate depository accounts for CDBG FUNDS; provided, however, that SUBRECIPIENT must be able to account for receipt, obligation and expenditure of CDBG FUNDS pursuant to applicable requirements of 2 CFR 200.302 *et seq*. and any other applicable law.

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

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

14. **Non-Discrimination; Civil Rights Compliance.**

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

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

        (i) Subject an individual to unlawful discrimination.

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

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

(iv) Segregate or separate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under the program or activity.

(v) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(vi) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition that the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

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

(c) **Non-Discrimination in Administration of Services.** SUBRECIPIENT may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, religion, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, religion, or sex.

(d) **Non-Discrimination in Site Selection.** SUBRECIPIENT, in determining the site or location of housing or facilities provided in whole or in part with CDBG FUNDS, may not make selections of such site or location which will have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, national origin, religion, 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.

(e) **Overcoming Effects of Prior Discrimination.** If SUBRECIPIENT has previously discriminated against persons on the grounds of race, color, national origin, religion, or sex, SUBRECIPIENT must take affirmative action to overcome the effects of prior discrimination, as and pursuant to applicable requirements of the CDBG Regulations and other applicable federal laws and regulations.

(i) Even in the absence of prior discrimination, SUBRECIPIENT should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin, religion or sex. Where previous discriminatory practice or usage tends, on the grounds of race, color, national origin, religion, 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, SUBRECIPIENT shall take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Civil Rights Act of 1964.

(ii) SUBRECIPIENT shall not be prohibited by this part from taking any eligible action to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction where the purpose of such action is to overcome prior discriminatory practice or usage.

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

(g) **Non-Discrimination in Employment.** SUBRECIPIENT shall comply with 24 CFR 570.607, including the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders set forth therein.

(i) SUBRECIPIENT shall, in all solicitations or advertisements for employees placed by or on behalf of SUBRECIPIENT, state that SUBRECIPIENT is an equal opportunity employer.

(ii) SUBRECIPIENT shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by CITY's contracting officers advising the labor union or workers' representative of SUBRECIPIENT commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

(h) SUBRECIPIENT shall include the provisions of this Section 14 (Non-Discrimination; Civil Rights Compliance) in every subcontract or purchase order unless exempted by rules, regulations, or order of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor.

15. **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 Regulations.

16. **Conflict of Interest in Procurement.** SUBRECIPIENT shall comply with all applicable conflict of interest provisions set forth in 2 CFR Part 200 and 24 CFR 570.611 in the procurement of supplies, equipment, construction, and services by SUBRECIPIENT.

17. **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.

18. **Termination of Agreement.**

(a) **Termination without Cause.** In accordance with 2 CFR 200.339, this Agreement may be terminated for convenience by CITY or SUBRECIPIENT, in whole or in part, by providing thirty (30) days written notice setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, CITY determines that the remaining portion of the award will not accomplish the purpose for which the award was made, CITY may terminate the award in its entirety.

(b) **Termination for Cause.** In accordance with 2 CFR 200.338, CITY may suspend or terminate this Agreement if SUBRECIPIENT materially fails to comply with any terms of this Agreement, which include, but are not limited to, the following:

(i) Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time.

(ii) Failure, for any reason, of SUBRECIPIENT to fulfill in a timely and proper manner its obligations under this Agreement.

(iii) Ineffective or improper use of funds provided under this Agreement.

(iv) Submission by SUBRECIPIENT to CITY reports that are incorrect or incomplete in any material respect.

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

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

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

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

(a) **Enforcement by CITY Due to Default by SUBRECIPIENT.** In the event of default by SUBRECIPIENT, in addition to any other remedies available at law or in equity, CITY may take one or more of the actions provided under CDBG Regulations, including, but not limited to, 2 CFR 200.338 relating to enforcement for breach of this Agreement.

(i) The remedies available to the CITY under 2 CFR 200.338 include, without limitation, temporarily withholding cash payments, disallowing non-compliant costs, wholly or partly suspending or terminating the award, and withholding future awards.

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

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

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

(b) **Recapture.** SUBRECIPIENT shall have the affirmative obligation to repay, and CITY shall have the affirmative right (but not the obligation) to recapture from SUBRECIPIENT, all (or any portion of) 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.

20. Reversion of Assets.

(a) **Unencumbered or Unexpended Funds.** Upon the termination or expiration of the term of this Agreement, SUBRECIPIENT shall transfer to CITY any unexpended and unencumbered 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 is acquired or improved in whole or in part with CDBG FUNDS disbursed under this Agreement, the original cost of which exceeds five thousand dollars ($5,000.00), shall either be, at the election of CITY: (1) used by SUBRECIPIENT for the eligible program services meeting the purposes of the 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 fees incurred in listing and completion of sale of such asset.

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

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

21. **Independent Contractor.** SUBRECIPIENT is and shall be acting at all times as an independent contractor and not as an employee or agent of CITY. Neither CITY nor any of its employees shall have any control over the conduct of SUBRECIPIENT, its agents or employees, except as set forth in this Agreement.

22. **Licensing.** SUBRECIPIENT shall obtain and maintain all required licenses, registrations, accreditation and inspections from all agencies governing its operations. SUBRECIPIENT shall ensure that its staff shall also obtain and maintain all required licenses, registrations, accreditations, and inspections from all agencies governing SUBRECIPIENT's operations and work hereunder.

23. **Inspection of Records.** CITY and the United States government and/or their representatives shall have access, for purposes of monitoring, auditing, and examining SUBRECIPIENT's activities and performance, to books, records, reports, documents, and papers, and the right to examine comparable records of SUBRECIPIENT's subcontractors, bookkeepers and accountants, employees and participants in regard to said program.

    (a) **Monitoring.** CITY and the United States government and/or their representatives may schedule on-site monitoring at their discretion. Monitoring activities may also include, but are not limited to, questioning employees and participants in said program and entering any premises or any site in which any of the services or activities funded hereunder are conducted or in which any of the records of SUBRECIPIENT are kept. Nothing herein shall be construed to require access to any privileged or confidential information.

    (b) **Failure to Provide Records.** In the event SUBRECIPIENT does not make the above-referenced records available within the City of Costa Mesa, California, SUBRECIPIENT shall pay all necessary and reasonable expenses incurred by CITY in conducting any audit at the location where said records and books of account are maintained.

24. **Assignability.** SUBRECIPIENT shall not assign or transfer any interest in this Agreement, whether by assignment, delegation or novation, without the prior written consent of CITY, except that claims for money due or to become due to SUBRECIPIENT from CITY under this Agreement may be assigned to a bank, trust company or other financial institution, or to a trustee in bankruptcy, without such approval. Any assignment delegation or novation other than as provided above shall be void and inoperative. Written notice of any request for an assignment or transfer shall be promptly furnished to CITY and CITY shall exercise reasonable diligence in reviewing and approving or disapproving such request.

25. **Prohibition on Expending CDBG FUNDS to Obtain Other Funding.** SUBRECIPIENT shall not 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 in writing by CITY.

26. **Indemnification.** SUBRECIPIENT shall indemnify, defend, and hold free and harmless CITY, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, actions, suits or other legal proceedings brought against CITY, its elected officials, officers, employees, agents and volunteers, arising out of or relating to the performance of this Agreement by SUBRECIPIENT, its officers, employees, agents, volunteers and/or subcontractors.

SUBRECIPIENT shall further indemnify, defend, and hold harmless CITY, its elected officials, officers, employees, agents, and volunteers from and against any and all claims, demands, suits, actions or proceedings arising from or relating to any failure of SUBRECIPIENT to comply with any applicable laws or regulations.

27. Insurance.

(a) SUBRECIPIENT shall furnish to CITY 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 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, employees, or volunteers. 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 ($1,000,000.00) combined single limits, 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 CITY 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 obtain, at its sole cost, business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

(d) 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, 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 based on the submission of quarterly invoices, in a form prescribed by CITY, detailing such expenses. Invoices must include documentation of expenses by receipts, time records, invoices, canceled checks, or other appropriate documentation that fully and completely discloses the amount(s) and nature(s) of the expenditures. CITY shall pay such invoices within forty-five (45) days after receipt thereof, provided CITY is satisfied that such expenses have been incurred and documented within the scope and provisions of this Agreement and in conformity with the CDBG Regulations and that SUBRECIPIENT is in compliance with the terms and conditions of this Agreement.

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

2. **Audit of Account.** CITY will include an audit of the records and accounts maintained by SUBRECIPIENT pursuant to this Agreement in CITY's annual audit of all CDBG funds pursuant to CDBG Regulations, Title 24 of the Code of Federal Regulations, and other applicable federal laws and regulations.

C. MISCELLANEOUS PROVISIONS.

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

TO CITY:	City of Costa Mesa Housing & Community Development Department 77 Fair Drive Costa Mesa, CA 92626 Attn: CDBG/HOME Coordinator
TO SUBRECIPIENT:	Executive Director Fair Housing Foundation 3605 Long Beach Blvd, Suite 302 Long Beach, CA 90807

2. **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.

3. **Disbursement Pursuant to Agreement.** SUBRECIPIENT acknowledges that the CITY shall disburse funds to SUBRECIPIENT only upon execution of this Agreement and CITY is empowered to provide funds to SUBRECIPIENT only pursuant to the provisions of this Agreement.

4. **Drug-Free 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 Council Policy No. 100-5, attached hereto as Attachment 2. Failure to establish a program, notify employees, or inform the CITY of a drug-related workplace conviction

will constitute a material breach of contract and cause for immediate termination of this Agreement by CITY.

5. **No Use of CDBG FUNDS for Lobbying.** SUBRECIPIENT shall not expend any CDBG FUNDS for the purpose of influencing or attempting to influence any officer or employee of any agency, a member of Congress, any officer or employee of Congress or any employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant or loan, the entering into of any cooperative federal agreement, and/or the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

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

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

7. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance.

8. **Corporate Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

10. **Entire Agreement; Modification.** This Agreement contains the entire agreement of the parties and supersedes all other prior negotiations, understandings or agreements. This Agreement may be modified only upon mutual written agreement of the parties. Notwithstanding the foregoing, SUBRECIPIENT shall agree to any amendment necessary to conform with federal, state or local governmental regulations, guidelines or policies.

[Signatures appear on following page.]

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

CITY OF COSTA MESA
A California municipal corporation

Lori Ann Farrell Harrison
City Manager

SUBRECIPIENT

FAIR HOUSING FOUNDATION
Federal Tax ID Number: 95-6122678
DUNS Number: 14-830-7068

Signature

Date: 9-25-19

Barbara Shull, E.D.
Name Title

Signature

Date: 9-25-19

Stella Verdeja, Program Manager
Name and Title

ATTEST:

Brenda Green 10/28/19
Brenda Green
City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow
City Attorney

APPROVED AS TO CONTENT:

Barry Curtis, AICP
Economic and Development
Services Director

APPROVED AS TO PURCHASING:

Kelly A. Telford, CPA
Finance Director

ATTACHMENT 1

SCOPE OF WORK

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

I. ***A. Output Measurements:*** Total number of unduplicated clients anticipated to be served by the funded program during the 12-month FY 19/20 contract period (*regardless of community of residence*) = 175 **INDIVIDUALS**

B. Number of unduplicated low and moderate-income **Costa Mesa** residents to be served with grant funds during the 12-month FY 19/20 contract period = 175 **INDIVIDUALS**

C. Of the Costa Mesa residents to be assisted:

- How many will have new or continued access to this service or benefit? 175 INDIVIDUALS
- How many will have improved access to this service or benefit? 0 INDIVIDUALS
- How may will receive a service or benefit that is no longer substandard? 0 INDIVIDUALS

Total: 175

INDIVIDUALS

II. ***Schedule of Performance:*** Estimate the number of **unduplicated Costa Mesa** residents to be served during the 12-month FY 19/20 contract period per quarter:

Quarter 1: July 1 – September 30	43 INDIVIDUALS
Quarter 2: October 1 – December 31	43 INDIVIDUALS
Quarter 3: January 1 – March 31	43 INDIVIDUALS
Quarter 4: April 1 – June 30	46 INDIVIDUALS
Total	**175 INDIVIDUALS**

III. ***Invoicing Schedule:*** Estimate the amount of grant funds to be requested during the 12-month FY 19/20 contract period on a quarterly basis:

Quarter 1: July 1 – September 30	$3,750.00
Quarter 2: October 1 – December 31	$3,750.00
Quarter 3: January 1 – March 31	$3,750.00
Quarter 4: April 1 – June 30	$3,750.00
Total	**$15,000.00**

IV. *Outcome Measurements for FY 2019-2020*

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 Services ☐ Youth Services ☐ Homeless Services ☐ Disabled Services ☐ Low/Mod-Income Services ☒ 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 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.	Education and Outreach database and reports. Fair Housing Case Management database and reports. Excel compliance documents. Monthly, quarterly, and annual reports

V. *Description of Work:* In space below, summarize the program to be funded during the 12-month FY 19/20 contract period. Include services to be provided, program goals & how grant funds will be used.

FHF provides a comprehensive Fair Housing Program that includes 4 components. Within each component, FHF proposes the following performance goals:

1. Fair Housing Complaint intake and investigation and resolution of housing discrimination allegations.
   * Counsel 12 individuals
   * Intake and investigate a minimum 7 bonafide cases
   *At no time will FHF turn down clients once a goal has been reached
   * Resolve through conciliation, training, administrative agencies or referral to private attorney.
2. Landlord/Tenant counseling; provide practical and accurate information and guidance to landlords and tenants based on their rights and responsibilities, habitability case assistance, unlawful detainer assistance, mediations and referrals.
   * Counsel 163 clients regarding landlord tenant issues
   * Conduct 2 mediations
   * Provide 2 clients with unlawful detainer assistance
3. Education and outreach; increase awareness and education through events, educate consumers through tenant workshops, landlord workshops, management trainings and realtor trainings and provide city services including to Grantee, staff walk-in clinics and make presentations.
   * Assist a minimum of 400 individuals at one of many education and outreach activities conducted in the City
   * Distribute a minimum of 2,800 pieces of literature
   * Provide 1 Community Presentation
     * Attend 1 Community Meeting
     * Staff 1 fair housing booth in the City
   * Conduct 2 Fair Housing Workshops
     * Conduct 1 City Staff workshops
     * Hold the annual Fair Housing Reception and Poster Contest
4. All Activities and Services conducted to Affirmatively Further Fair Housing

VI. FY 2019-2020 Program Budget

BUDGET CATEGORY	PROPOSED USE OF CDBG FUNDS	PROPOSED USE OF OTHER PROGRAM FUNDS	TOTAL PROGRAM COSTS
Agency Administration Staff Salaries & Benefits	$3,518	$0	$3,518
Program Staff Salaries & Benefits	$7,141	$0	$7,141
Program Supplies	$1,790	$105	$1,896
Rent/Lease	$1,146	$287	$1,433
Communications	$162	$41	$203
Utilities	$0	$0	$0
Professional Services (Specify) Consultants	$965	$241	$1,206
Insurance	$131	$33	$163
Other (Specify) Travel	$132	$33	$165
Other (Specify) Staff Development	$15	$10	$25
Other (Specify)	$0	$0	$0
Other (Specify)	$0	$0	$0
TOTAL	**$15,000**	*** $750**	**$15,750**

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

SOURCE OF OTHER PROGRAM REVENUE	AMOUNT OF OTHER PROGRAM FUNDS
HomeFree USA (HUD) Rental Counseling	$$750
	$
	$
	$
	$
TOTAL	*** $750**

*** 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. FY 2019-2020 CDBG Funded Personnel - **ONLY** list personnel that will be paid with CDBG funds and that have been listed as part of the 19/20 Program Budget.

☐ **CHECK IF 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
Executive Director 6-months	$47,070	$9,073	$46,143	$1,488	2.6%
Program Manager	$66,336	$10,250	$76,586	$2,030	2.6%
	$	$	$	$	%
	$	$	$	$	%
	$	$	$	$	%

PROPOSED PROGRAM STAFF

POSITION TITLE	ANNUAL SALARY	ANNUAL BENEFITS	TOTAL COMPENSATION	CDBG FUNDS REQUESTED	% OF TIME POSITION IS DEDICATED TO COSTA MESA CDBG ACTIVITY
Community Engagement Liaison	$57,522	$9,785	$67,307	$1,784	2.6%
Outreach Coordinator	$50,100	$8,793	$58,893	$1,561	2.6%
Case Analyst	$45,169	$8,709	$53,878	$1,428	2.6%
Outreach Assistant	$40,344	$7,485	$47,829	$1,267	2.6%
Housing Counselor	$33,114	$3,212	$36,326	$963	2.6%

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
Program Staff - TESTERS	$5,000	$254	$5,254	$139	2.6%
	$	$	$	$	%
	$	$	$	$	%

FY 2019-2020 Costa Mesa CDBG Program Outcomes
A minimum of one (1) program goal and outcome is required.
(If funds will be used for more than one program, then each program must have a corresponding goal and outcome.)

Program Goal	Program Activities	Program Output	Indicator	Program Outcome	Outcome Measurement
Goal: The overarching objective(s) of the program.	*Activities:* Describe the tasks/activities that will be carried out in pursuit of the desired goal.	*Outputs:* List the quantifiable outputs your team will undertake in pursuit of the outcome. (e.g. # of classes held, # of meals served, # of participants engaged).	*Indicators*: Measures or benchmarks used to track how/if outcome(s) will be reached.	*Outcome*: The end result and impact on the target population as a result of the efforts (e.g. change in knowledge, behavior or community).	*Results:* What is the "success" threshold for outcomes (e.g., % of clients meeting planned outcome).
Goal 1: Fair Housing	Counsel, intake, investigate, and resolve	12 Households	3 Households per quarter	Correct illegal housing discrimination	100% of households alleging Fair Housing discrimination will have their concerns resolved or a bonafide case opened and investigated.
Goal 2: Landlord & Tenant	Counsel, resolve, medidiate, assist, and refer	163 Households	40.75 Houholds per quarter	Resolve issues and screen for fair housing violations	75% of household issues will be resolved, 20% will be referred to City agencies, and 5% of issues will be resolved through mediation.
Goal 3: Education & Outreach	Educate comminity on fair housing laws, rights, and responsibilities	2 - Fair Housing Workshops 8 - Coimmunity Events	1/4 accomplished per quarter	Education and bring awareness to fair housing and resources	100% of Education and Outreach activities included in the the contract will be successfully completely.

ATTACHMENT 2

COUNCIL POLICY NO. 100-5

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.