

AGREEMENT TO RESCIND
CONTINUUM OF CARE PROGRAM SUBRECIPIENT AGREEMENT

BETWEEN
COUNTY OF SANTA BARBARA
AND
GOOD SAMARITAN SHELTER

Lompoc Transformative Housing

CFDA 14.267

THIS AGREEMENT TO RESCIND CONTINUUM OF CARE PROGRAM SUBRECIPIENT AGREEMENT
("Agreement to Rescind") is made by and between the

COUNTY OF SANTA BARBARA,
a political subdivision of the State of California,
hereinafter referred to as "COUNTY",

and

GOOD SAMARITAN SHELTER,
a California nonprofit organization,
hereinafter referred to as "SUBRECIPIENT";

with reference to the following:

WHEREAS, the Continuum of Care Program (CoC Program) is authorized by Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C., § 11381 et seq.) hereinafter called the "Act"; and

WHEREAS, the United States of America, through its Department of Housing and Urban Development (HUD) released a Notice of Funding Availability for the Fiscal Year 2016 Continuum of Care Program Competition (CoC Program NOFA) on June 28, 2016; and

WHEREAS, COUNTY responded to the CoC Program NOFA by submitting an application for renewal funding for the Lompoc Transformative Housing project (hereinafter "PROJECT") to HUD on September 14, 2016; and

WHEREAS, COUNTY, as grantee/recipient, and HUD, as grantor, executed a Grant Agreement for CoC Program Grant Number CA1123L9D031603, effective May 5, 2017, which, among other things, enabled the COUNTY to act as a pass-through entity and draw grant funds from HUD in order to make payments to SUBRECIPIENT for the PROJECT; and

WHEREAS, the COUNTY as the recipient and in its role as a pass-through entity, and Good Samaritan Shelter as SUBRECIPIENT, entered into a Subrecipient Agreement for the CoC Program for the PROJECT for the performance period of October 1, 2017 through September 30, 2018 (hereinafter "Subrecipient Agreement"); and

WHEREAS, the COUNTY and SUBRECIPIENT have mutually agreed to and requested from HUD a Grant Agreement Amendment for Grant Number CA1123L9D031603 that removes COUNTY as grantee and replaces it with Good Samaritan Shelter as the grantee thereunder (hereinafter the "Grant Amendment"); and

WHEREAS, HUD has reviewed the merits of the proposed change and has agreed to enter into the Grant Amendment with the COUNTY and SUBRECIPIENT as described above; and

WHEREAS, HUD has agreed that the designation of Good Samaritan Shelter as the new grantee/recipient shall be effective for the operating year/performance period beginning October 1, 2017; and

WHEREAS, the Grant Amendment reflects SUBRECIPIENT's status as grantee of the CoC Program Grant Number CA1123L9D031603 and enables SUBRECIPIENT to receive payment for the PROJECT directly from HUD rather than through COUNTY; and

WHEREAS, the effect of the Grant Amendment is to eliminate the funding available to COUNTY under CoC Program Grant Number CA1123L9D031603; and

WHEREAS, as of the effective date of this First Amendment, COUNTY has made no draws of funds for CoC Program Grant Number CA1123L9D031603 and has made no payments to SUBRECIPIENT for the PROJECT under the Subrecipient Agreement; and

WHEREAS, COUNTY and SUBRECIPIENT desire to rescind the Subrecipient Agreement and thereby release each other from the requirements, with certain exceptions, which reflects the change made by the Grant Amendment whereby SUBRECIPIENT receives funds for the PROJECT directly from HUD and is responsible to HUD for project-level compliance with the terms of the Grant Agreement and CoC Program regulations; and

WHEREAS, on March 20, 2018, the Board approved and authorized the County Community Services Director to execute this Agreement to Rescind; and

NOW, THEREFORE, the parties agree as follows:

1. The above recitals are true and correct.
2. Rescission

COUNTY and SUBRECIPIENT hereby rescind the Subrecipient Agreement for the CoC Program for the PROJECT for the performance period of October 1, 2017 through September 30, 2018 (hereinafter "Subrecipient Agreement") and neither party shall have any further rights or duties under that agreement.

SUBRECIPIENT acknowledges that, as grantee of the under CoC Program Grant Number CA1123L9D031603, it may recover the funding described in the Subrecipient Agreement directly from HUD. Therefore, SUBRECIPIENT expressly releases COUNTY from any and all responsibility to make payment to SUBRECIPIENT under the Subrecipient Agreement, including for services performed prior to this Agreement to Rescind.

This Agreement to Rescind is intended to comply with Civ. Code, § 1689.

3. Audit Findings

SUBRECIPIENT agrees that in the event that any services that had been performed under the Subrecipient Agreement prior to this Agreement to Rescind are audited by independent auditors, COUNTY, or federal, state, or local agencies, SUBRECIPIENT shall be solely responsible for such finding(s) and complying with any required corrective actions. In the event that said findings have a fiscal impact on COUNTY, SUBRECIPIENT shall fully indemnify, defend and hold harmless COUNTY for the full amount of COUNTY costs resulting from said finding(s).

4. Indemnification

SUBRECIPIENT agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of either this Agreement to Rescind or the Subrecipient Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is prohibited by law. SUBRECIPIENT's indemnification obligation applies to COUNTY's active as well as passive negligence but does not apply to COUNTY's sole negligence or willful misconduct. SUBRECIPIENT's indemnification obligation also applies to any repayment or penalty payments that HUD may require COUNTY to make and that arise out of this Agreement to Rescind, the Subrecipient Agreement or the Grant Agreement.

5. Choice of Law Governing This Agreement

This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law.

IN WITNESS WHEREOF, COUNTY and SUBRECIPIENT have executed this Agreement to Rescind by the respective authorized officers as set forth below to be effective as of the date executed by all parties.

“COUNTY”

COUNTY OF SANTA BARBARA:

By: _____
George Chapjian
Community Services Director

“SUBRECIPIENT”

GOOD SAMARITAN SHELTER:

By: _____
Sylvia Barnard, Executive Director

Date: _____