

**2013-2014
Continuum of Care Program
Subrecipient Agreement
(\$138,946)**

BETWEEN

County of Santa Barbara

AND

Casa Esperanza Homeless Center



Casa Esperanza Day Center

Continuum of Care Program

Catalog of Federal Domestic Assistance Number 14.267

Contract Number CA0596L9D031205

COUNTY OF SANTA BARBARA

2013-2014 CONTINUUM OF CARE PROGRAM SUBRECIPIENT AGREEMENT

THIS AGREEMENT, entered by and between the County of Santa Barbara (herein called the "COUNTY") and Casa Esperanza Homeless Center (herein called the "SUBRECIPIENT"),

WITNESSETH THAT:

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 Continuum of Care Program Competition (CoC Program NOFA) published on November 7, 2012; and

WHEREAS, COUNTY responded to the CoC Program NOFA by submitting an application for the Casa Esperanza Day Center (herein called the "SUBRECIPIENT PROGRAM") to HUD on January 18, 2013; and

WHEREAS, HUD notified COUNTY that its application for the SUBRECIPIENT PROGRAM was selected for funding on March 13, 2013; and

WHEREAS, SUBRECIPIENT desires to participate in said program and is qualified by reason of experience, preparation, organization, staffing and facilities to provide services.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth and the mutual benefits to be derived therefrom, the parties agree as follows:

1. DEFINITIONS

The following terms have the following meanings wherever used in this Agreement, attached exhibits, or documents incorporated into this Agreement by reference:

"ADMINISTRATIVE COSTS" mean the costs associated with the management, coordination, monitoring, and evaluation of SUBRECIPIENT PROGRAM as specified in 24 CFR 578.59.

"AGREEMENT" means this legally binding contract entered into by and between COUNTY and SUBRECIPIENT.

"CONTINUUM OF CARE PROGRAM" ("CoC Program") means the program as described in 24 CFR Part 578.

"COUNTY" means the County of Santa Barbara, a political subdivision of the State of California.

"HOMELESS" is defined in 24 CFR 578.3, as may be amended, and means: (1) An individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) An individual or family

with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; (ii) An individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, or local government programs for low income individuals); or (iii) An individual who is exiting an institution where he or she resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution;

(2) An individual or family who will imminently lose their primary nighttime residence, provided that: (i) The primary nighttime residence will be lost within fourteen (14) days of the date of application for homeless assistance; (ii) No subsequent residence has been identified; and (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based or other social networks, needed to obtain other permanent housing;

(3) Unaccompanied youth under twenty-five (25) years of age, or families with children and youth, who do not otherwise qualify as homeless under this definition, but who: (i) Are defined as homeless under section 387 of the Runaway and Homeless Youth Act (42 U.S.C., § 5732a); section 637 of the Head Start Act (42 U.S.C., § 9832); section 41403 of the Violence Against Women Act of 1994 (42 U.S.C., § 14043e-2); section 330(h) of the Public Health Service Act (42 U.S.C., § 254b(h)); section 3 of the Food and Nutrition Act of 2008 (7 U.S.C., § 2012); section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C., § 1786(b)); or section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C., § 11434a); all implementing regulations; and, all as may be amended; (ii) Have not had a lease, ownership interest, or occupancy agreement in permanent housing at any time during the 60 days immediately preceding the date of application for homeless assistance; (iii) Have experienced persistent instability as measured by two moves or more during the 60-day period immediately preceding the date of applying for homeless assistance; and (iv) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse (including neglect), the presence of a child or youth with a disability, or two or more barriers to employment, which include the lack of a high school degree or General Education Development (GED), illiteracy, low English proficiency, a history of incarceration or detention for criminal activity, and a history of unstable employment; or

(4) Any individual or family who: (i) Is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; (ii) Has no other residence; and (iii) Lacks the resources or support networks, e.g., family, friends, and faith-based or other social networks, to obtain other permanent housing.

"ELIGIBLE COSTS" mean costs eligible for payment under the CoC Program as specified in 24 CFR 578.39 - 24 CFR 578.63.

"HOMELESS MANAGEMENT INFORMATION SYSTEM" ("HMIS"), as defined in 24 CFR 578.3, means the information system designated by COUNTY to comply with the requirements prescribed by HUD.

"HUD" means the United States Department of Housing and Urban Development.

"OPERATING COSTS" mean costs incurred by SUBRECIPIENT for the day-to-day operation of SUBRECIPIENT PROGRAM as specified in 24 CFR 578.55.

"OPERATING START DATE" means the date that SUBRECIPIENT can begin incurring Administrative Costs and Supportive Services Costs.

"PERMANENT HOUSING", as defined in 24 CFR 578.3, means community-based housing without a designated length of stay.

"PERMANENT SUPPORTIVE HOUSING", as defined in 24 CFR 578.3, means Permanent Housing in which Supportive Services are provided to assist Homeless individuals with a disability to live independently.

"PROGRAM APPLICATION" means the application submitted to HUD on January 18, 2013 for funding to operate SUBRECIPIENT PROGRAM attached hereto and incorporated by reference herein as Exhibit A.

"PROGRAM BUDGET" means the budget for Eligible Costs set forth in Exhibit B to this Agreement attached hereto and incorporated by reference herein.

"PROGRAM COSTS" mean any and all Eligible Costs, fees or expenses incurred in connection with SUBRECIPIENT PROGRAM, including Administrative Costs and Supportive Services Costs.

"PROGRAM PARTICIPANT" means a Homeless individual assisted by SUBRECIPIENT PROGRAM.

"SUBRECIPIENT" means Casa Esperanza Homeless Center, a California not-for-profit public benefit corporation.

"SUBRECIPIENT PROGRAM" means the Casa Esperanza Day Center as described in the Program Application.

"SUPPORTIVE SERVICES" mean those services as defined in 42 U.S.C. § 11385 and 24 CFR 578.53, as may be amended, and provided by SUBRECIPIENT to assist Homeless individuals.

2. CONTRACT ADMINISTRATION

The Santa Barbara County Community Services Department, Housing and Community Development Division, or its designee, shall have full authority to act for COUNTY in the administration of this Agreement on behalf of COUNTY.

3. SCOPE OF SERVICES

SUBRECIPIENT will be responsible for providing Supportive Services during the Operating Year. Supportive Services will be provided at the Casa Esperanza Day Center located at 816 Cacique Street in Santa Barbara, California as set forth in the Program Application.

SUBRECIPIENT will receive funding under this Agreement for the following Program Costs as specified in the Program Budget:

- 1) Administrative Costs up to 3.5 percent of Program Costs
- 2) Supportive Services Costs

- a) Case Management
- b) Employment Assistance
- c) Outpatient Health Services
- d) Substance Abuse Treatment Services

SUBRECIPIENT will administer SUBRECIPIENT PROGRAM and perform the activities undertaken pursuant to this Agreement in compliance with all applicable Federal, State, and local laws, ordinances, regulations, directives and guidelines governing SUBRECIPIENT PROGRAM, and in a manner satisfactory to COUNTY.

4. TIME OF PERFORMANCE

This Agreement shall begin on the date executed by all parties to be effective as of February 1, 2013 ("Operating Start Date") and shall terminate on January 31, 2014, subject to the termination provisions contained herein.

5. LEVELS OF ACCOMPLISHMENT – PERFORMANCE MEASURES

SUBRECIPIENT will meet the following performance measures during the term of this Agreement as specified in the Program Application:

- 1) At least two hundred twenty-five (225) individuals will be provided with Supportive Services.
- 2) At least twenty (20) individuals will exit to Permanent Housing during the Operating Year.
- 3) At least eighteen (18) individuals increase their total income from all sources as of January 31, 2014 or when such individuals exit from SUBRECIPIENT PROGRAM.

6. BUDGET AND METHOD OF COMPENSATION

- A. COUNTY will pay SUBRECIPIENT an amount of money not to exceed the sum of One Hundred Thirty Eight Thousand Nine Hundred Forty Six Dollars (\$138,946), which payment shall constitute full and complete compensation for SUBRECIPIENT's Supportive Services provided hereunder. Funds under this Agreement shall only be spent according to the Program Budget, as specified in Exhibit B to this Agreement. The payments shall be used exclusively for Eligible Costs, including Program Costs.
- B. Funding under this Agreement is subject to revision in accordance with the availability of grant funds provided to COUNTY by HUD upon the execution of a CoC Program Renewal Grant Agreement between COUNTY and HUD. Accordingly, COUNTY reserves the right to amend the amount of compensation set forth herein and the Program Budget in the event HUD amends funding available for SUBRECIPIENT PROGRAM.
- C. COUNTY assumes no responsibility to pay for Program Costs not specifically set forth in the Program Budget. Further, SUBRECIPIENT understands that COUNTY makes no commitment to fund SUBRECIPIENT PROGRAM beyond the term of this Agreement.

7. METHOD OF PAYMENT

- A. COUNTY shall distribute funds to SUBRECIPIENT in accord with 24 CFR 578.85(c).
- B. SUBRECIPIENT shall receive reimbursement for items identified in the Program Budget, subject to availability of funds for SUBRECIPIENT PROGRAM and subject to all other provisions of this Agreement.

- C. Quarterly invoices shall be submitted to COUNTY within thirty (30) days of the end of the quarter in which the costs were incurred.
- D. Upon the submission of the "*Expenditure Summary and Payment Request*" (ESPR), for which a sample is attached hereto as Exhibit C, together with proper support documentation for the Scope of Services described in section 3 of this Agreement, COUNTY shall distribute funds to SUBRECIPIENT at least once per quarter. Payments may be contingent upon certification of SUBRECIPIENT's compliance with financial management system requirements in accordance with the standards specified in 24 CFR 84.21.
- E. Expenditures made by SUBRECIPIENT in the performance of this Agreement shall be in strict compliance and conformity with the Program Budget.

8. WITHHELD PAYMENTS

- A. Unearned payments under this Agreement may be suspended or terminated if grant funds to COUNTY are suspended or terminated, or if SUBRECIPIENT refuses to accept additional conditions imposed by HUD.
- B. Payments to the SUBRECIPIENT may be withheld by COUNTY if SUBRECIPIENT fails to comply with any of the provisions of this Agreement.

9. CLOSE-OUTS

In addition to the requirements set forth in 24 CFR 578.109, SUBRECIPIENT agrees to complete all necessary financial close out procedures required by COUNTY, within a period of not more than forty-five (45) calendar days from the termination or completion of this Agreement ("Financial Close Out Period"). COUNTY is not liable to provide reimbursement for any Program Costs incurred by SUBRECIPIENT prior to but not invoiced until after the expiration of the Financial Close Out Period. After the expiration of the Financial Close Out Period, those funds not paid to the SUBRECIPIENT under this Agreement, if any, may be immediately reprogrammed by HUD.

10. FUNDING REDUCTION

- A. COUNTY reserves the right to revise this Agreement in the event that grant funds are reduced. In the event of a funding reduction, COUNTY may unilaterally reduce the Program Budget, in whole or as to a Program Cost, may limit the Time of Performance, and may restrict SUBRECIPIENT's use of both its uncommitted and its unspent grant funds.
- B. In no event shall COUNTY be responsible for payment of Program Costs incurred by SUBRECIPIENT in excess of grant funds available resulting from a funding reduction.

11. FISCAL ACCOUNTABILITY

- A. SUBRECIPIENT agrees to manage grant funds received through COUNTY in accordance with sound accounting policies; incur and claim only eligible Program Costs for reimbursement; and adhere to accounting standards established in OMB Circulars A-110, A-122 and A-133.
- B. SUBRECIPIENT must establish and maintain on a current basis an accrual accounting system in accordance with Generally Accepted Accounting Principles and Standards. Further, SUBRECIPIENT must develop an accounting procedures manual. Said manual shall be made available to COUNTY upon request or during fiscal monitoring visits.

- C. Claimed Program Costs shall only be deemed eligible for payment if they are supported by properly executed invoices, time records, receipts, purchase vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. Checks, payrolls, invoices, vouchers, purchase orders, or other accounting documents shall be clearly identified and readily made available to COUNTY. All accounting records and supportive documentation shall be made available to COUNTY at SUBRECIPIENT's main accounting office.
- D. Invoices shall be accurate and complete in all respects. COUNTY may reject invoices and require SUBRECIPIENT to correct or clarify invoices until deemed acceptable by COUNTY.

12. REVENUE DISCLOSURE REQUIREMENT

Upon request, SUBRECIPIENT shall file with COUNTY a written statement listing all revenues received, or expected to be received, by SUBRECIPIENT from Federal, State, County, or City sources, or other governmental sources for SUBRECIPIENT PROGRAM. Such statement shall reflect the dollar amount of funding provided, or to be provided, by each and every governmental agency for SUBRECIPIENT PROGRAM, and the full name and address of each governmental agency providing such funding.

13. MATCHING FUNDS AND JOINT FUNDING

- A. SUBRECIPIENT shall provide funds in at least the amounts specified in the Program Application and Program Budget plus any amount necessary to comply with matching requirements specified in 24 CFR 578.73. SUBRECIPIENT shall document all sources and uses of matching funds and/or in-kind donations and demonstrate the availability of said sources to COUNTY. Further, at the end of the Time of Performance, SUBRECIPIENT must demonstrate that it has met all matching requirements.
- B. COUNTY shall not pay for any Program Costs incurred by SUBRECIPIENT that are paid with other funds. If COUNTY determines that it has paid for Program Costs that have also been paid for with other funds, SUBRECIPIENT shall reimburse those funds to COUNTY.

14. INTEREST EARNED

In the event that SUBRECIPIENT earns or receives interest on funds deposited under this Agreement, SUBRECIPIENT shall remit any and all interest to COUNTY at the end of the Time of Performance.

15. PROGRAM PARTICIPANT DATA

SUBRECIPIENT shall maintain Program Participant data in HMIS. SUBRECIPIENT shall ensure that all required data elements collected from a Program Participant are inputted into HMIS within thirty (30) days of the end of the quarter in which the Program Participant was served. Such information shall be made available to COUNTY or its designees for review upon request. Failure to comply with HMIS reporting requirements may result in COUNTY withholding payment, in accordance with section 8 of this Agreement.

16. NOTICES

All notices under this Agreement shall be served in writing. The notices to SUBRECIPIENT shall be sent to SUBRECIPIENT representative at the following address or such other address as SUBRECIPIENT designates in writing:

Michael Foley, Executive Director
Casa Esperanza Homeless Center
816 Cacique Street
Santa Barbara, CA 93103

Notices, reports and statements to COUNTY shall be delivered or sent to the Director of the Santa Barbara County Community Services Department or his or her designee at the following address or such other address as COUNTY designates in writing:

Director
Santa Barbara County Community Services Department
Housing and Community Development Division
105 E. Anapamu Street, Room 105
Santa Barbara, CA 93101

17. INDEPENDENT CONTRACTOR

Both parties hereto in the performance of this Agreement will be acting as independent contractors and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the agents or employees of the other party for any purpose whatsoever, including workers' compensation liability.

18. GRIEVANCE PROCEDURES

SUBRECIPIENT shall establish and implement a program for the resolution of any grievance or disagreement that a Program Participant may have with another Program Participant or with SUBRECIPIENT's employees regarding SUBRECIPIENT PROGRAM. SUBRECIPIENT shall maintain documentation of all grievances. The documentation shall contain a description of the grievance and the resolution or disposition of said grievance. Said documentation shall be retained in a central dispute or grievance file, which file shall be made available to COUNTY upon request. SUBRECIPIENT shall provide a formal process for terminating assistance to a Program Participant who violates SUBRECIPIENT PROGRAM requirements or conditions of occupancy in accordance with 24 CFR 578.91.

19. PROGRAM INCOME

SUBRECIPIENT may use any resident rents and occupancy charges received through SUBRECIPIENT PROGRAM only in the manner specified in 24 CFR 578.97 and calculated according to 24 CFR 578.77 including any amendments thereto.

20. SUBCONTRACTS

A. For the purpose of this Agreement, any subcontracts under this Agreement must be approved by COUNTY in writing and may include purchase agreements, lease or rental agreements (excluding real property agreements), third party agreements, consultant services subcontracts, and construction subcontracts. All subcontracts entered into in the performance of this Agreement shall:

- i) Be in writing.
- ii) Be subject to the terms and conditions set forth in this Agreement, and contain the applicable provisions of this Agreement.

- iii) Specifically prohibit assignment or transfer of interest without prior written approval by COUNTY.
 - iv) Specifically provide proof, when applicable, of qualifications necessary, appropriate permits and/or business licenses.
 - v) Specifically provide parties to the subcontract, a full description of the exact scope of services to be performed, the length of time, and compensation for services rendered.
- B. COUNTY's approval of any subcontracts under this Agreement shall not be construed as SUBRECIPIENT's compliance with Federal, State, and local laws, ordinances, regulations, directives and guidelines, or as a waiver of any rights of COUNTY to challenge such subcontracts. COUNTY's approval of any such subcontracts shall not imply that any costs incurred as part of such subcontracts are allowable. Further, COUNTY's approval of any such subcontracts shall not bind or obligate COUNTY to the terms of any such subcontracts, nor shall COUNTY's approval of such subcontracts make COUNTY a promisor, guarantor, or surety of SUBRECIPIENT's performance of the terms of such subcontracts.
- C. Under no circumstances shall SUBRECIPIENT enter into subcontracts the compensation for which is on a cost plus percentage basis.

21. PROGRAM EVALUATION

- A. SUBRECIPIENT shall make available for inspection during the term of this Agreement and for a period of five (5) years thereafter financial and all other records pertaining to performance of this Agreement to HUD and/or COUNTY.
- B. Program evaluation may include but is not limited to a review of the effectiveness and impact of the program and a review of the internal systems such as reporting tools, tracking systems and techniques developed by SUBRECIPIENT to serve Homeless persons.

22. MONITORING

- A. COUNTY shall monitor SUBRECIPIENT's performance and may conduct program progress reviews at any time during the term of this Agreement. COUNTY shall provide written notice to SUBRECIPIENT for all visits, observe client confidentiality rules and shall have the right of unlimited access to all activities and facilities operated by the SUBRECIPIENT under this Agreement.
- B. Facilities for the purpose of Subsection A above include all files, records, and other documents related to the performance of this Agreement. Activities include attendance at staff, board of directors, advisory committee and advisory board meetings, and observation of on-going program functions. SUBRECIPIENT shall ensure the cooperation of its staff and board members in providing complete access to COUNTY.
- C. Monitoring visits may consist of announced visits focusing on the extent to which SUBRECIPIENT PROGRAM has been implemented, measurable goals achieved, and effectiveness of SUBRECIPIENT PROGRAM administration and management.

23. FISCAL MONITORING

- A. COUNTY reserves the right to dispatch auditors of their choosing to any site where SUBRECIPIENT PROGRAM is being conducted, controlled or advanced in any way, tangible

or intangible. Said sites may include the home office, any branch office or other locations of SUBRECIPIENT if such site or the activities performed thereon have any relationship to SUBRECIPIENT PROGRAM funded herein. COUNTY shall provide written notice to SUBRECIPIENT for all announced visits.

- B. SUBRECIPIENT shall make available at all times during the term of this Agreement and for a period of five (5) years thereafter, for the purpose of audit or inspection, any and all books, financial documents, papers, records, property, and premises of SUBRECIPIENT. SUBRECIPIENT's staff will cooperate fully with authorized auditors when they conduct audits and examinations of SUBRECIPIENT PROGRAM. A financial audit of SUBRECIPIENT's performance under this Agreement may be conducted at COUNTY's discretion.

24. AUDITS

- A. COUNTY may request a final financial audit for activities performed under this Agreement at or after the expiration of the Financial Close Out Period.
- B. In the event that SUBRECIPIENT spends an aggregate of Five Hundred Thousand Dollars (\$500,000.00) or more of federal funds in a fiscal year, SUBRECIPIENT shall have conducted at its own expense within nine (9) months after the close of SUBRECIPIENT's fiscal year, an audit in accordance with OMB Circular A-133.
- C. SUBRECIPIENT, no later than fifteen days after receipt of the final report resulting from an audit under the foregoing subsection 24.B, shall submit a copy of the audit report to COUNTY.

25. AUDIT FINDINGS

- A. SUBRECIPIENT agrees that in the event that SUBRECIPIENT PROGRAM is 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).
- B. If in COUNTY's judgment there are indications of misappropriation or misapplication of funds under this Agreement, COUNTY may require a special audit, and the cost of the audit shall be borne by SUBRECIPIENT and is not to be reimbursed from funds under this Agreement, unless specifically agreed to in writing by COUNTY.
- C. In the event that an audit reveals that COUNTY reimbursed SUBRECIPIENT for disallowed or ineligible costs under this Agreement, COUNTY shall notify and provide SUBRECIPIENT the opportunity to justify said costs prior to a final determination of disallowed costs.
- D. Upon final determination of disallowed costs, if any, SUBRECIPIENT agrees to repay all said costs to COUNTY within sixty (60) days after issuance of the final determination.

26. DEOBLIGATION

In the event HUD deobligates COUNTY from all or part of grant funds as provided in 24 CFR 578.107(d), COUNTY may deobligate SUBRECIPIENT from all or parts of funds under this

Agreement. Such event shall relieve COUNTY of all obligations to provide funds to SUBRECIPIENT under this Agreement.

27. RECORDS

- A. SUBRECIPIENT shall maintain records in accordance with requirements prescribed by this Agreement and by COUNTY, including with respect to all matters covered by any subcontract under this Agreement. Except where otherwise required by law to be retained for a longer period of time, such records shall be retained within Santa Barbara County for a period of five (5) years after receipt of final payment under this Agreement, unless authorization to remove them earlier is granted in writing by the COUNTY and all agencies that may otherwise require the retention of such records. .
- B. SUBRECIPIENT shall comply with recordkeeping requirements specified in 24 CFR 578.103.
- C. Expenditures shall be supported by properly executed documents evidencing in detail the nature of the charges, including but not limited to receipts and invoices. These records shall be made available to COUNTY for copying, audit, and inspection at any time during normal business hours.
- D. At such times and in such forms as COUNTY may require, SUBRECIPIENT shall furnish to COUNTY such statements, records, reports, financial data and information as COUNTY may request pertaining to matters covered by any subcontract.

28. INSURANCE

Insurance coverage as set forth in Exhibit D to this Agreement attached hereto and incorporated by reference herein must be in full force and effect during the term of this Agreement.

29. INDEMNIFICATION

SUBRECIPIENT agrees to indemnify, defend and save harmless COUNTY as set forth in Exhibit D.

30. COMPLIANCE WITH LAWS AND REGULATIONS

- A. All parties agree to be bound by applicable Federal, State, and local laws, ordinances, regulations, directives and guidelines as they pertain to the performance of this Agreement including but not limited to required licenses or permits. SUBRECIPIENT further assures and certifies that it shall comply with all applicable laws, ordinances, regulations, directives and guidelines as they exist or may be amended.
- B. Applicable laws, regulations, policies, and guidelines subject to the performance of this Agreement include but are not limited to: the Act; 24 CFR Part 578, including 24 CFR 578.99; the Notice of HUD's FY2012 NOFA Policy Requirements and General Section to HUD's FY2012 NOFAs for Discretionary Programs; the CoC Program NOFA; 24 CFR Part 5; the Flood Disaster Protection Act of 1973 (42 U.S.C., §§ 4001 et seq.); the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3501 et seq.); the Lead-Based Paint Poisoning Prevention Act (42 U.S.C 4821 et seq.); the Residential Lead-Based Hazard Reduction Act of 1992 (42 U.S.C. 4851 et seq.); and, all implementing regulations; the Conflict of Interest provision in 24 CFR 578.95; and U.S. Office of Management and Budget (OMB) Circular numbers A-110, A-122, A-133; all as may be amended.

31. FACILITY OPERATING STANDARDS

SUBRECIPIENT must ensure that facilities in which services under this Agreement are provided are operated in accordance with 24 CFR 578.75, as may be amended.

32. ASSIGNMENT

This Agreement is not assignable by SUBRECIPIENT without the express written consent of COUNTY. Any attempt by SUBRECIPIENT to assign any performance of the terms of this Agreement without written consent of COUNTY shall be null and void and shall constitute a material breach of this Agreement.

33. LIMITATION OF CORPORATE ACTS

SUBRECIPIENT shall not move to dissolve, transfer any assets derived from funds provided herein or take any other steps which may materially affect the performance of this Agreement without first notifying COUNTY in writing. SUBRECIPIENT shall notify COUNTY within forty-eight (48) hours, in writing of any change in SUBRECIPIENT's legal name.

34. CONFLICT OF INTEREST

In addition to the conflict of interest requirements in 24 CFR Part 85 and 24 CFR 578.95, no person who is an employee, agent, representative, consultant, officer, or elected or appointed official of SUBRECIPIENT and who exercises or has exercised any functions or responsibilities with respect to SUBRECIPIENT PROGRAM, or who is in a position to participate in a decision-making process or gain inside information with regard to SUBRECIPIENT PROGRAM, may obtain a personal or financial interest or benefit from SUBRECIPIENT PROGRAM, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter. Participation by Homeless persons who also are Program Participants in policy or decision-making under 24 CFR 578.75(g) does not constitute a conflict of interest.

35. DISCRIMINATION

In addition to the requirements set forth in 24 CFR 578.93, no person shall, on the grounds of race, ethnicity, sex, creed, color, religion, age, sexual orientation, disability or national origin, be excluded from participation in, be refused the benefits of, or otherwise be subject to discrimination in any activities, program or employment supported by this Agreement. This Agreement is subject to COUNTY's anti-discrimination ordinance set forth as Santa Barbara County Code Sections 2-94 through 2-98, all as may be amended, which is hereby incorporated by reference.

36. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT PRACTICES

SUBRECIPIENT shall make every effort to ensure that SUBRECIPIENT PROGRAM shall provide equal employment and career advancement opportunities for minorities, women and small businesses. In addition, SUBRECIPIENT shall make every effort to employ residents of the area in which SUBRECIPIENT PROGRAM is located and shall keep a record of the positions that have been created directly as a result of SUBRECIPIENT PROGRAM.

37. NEPOTISM

SUBRECIPIENT shall not hire nor permit the hiring of any person to fill a position funded in part or in whole under this Agreement if a member of that person's immediate family is employed in an administrative capacity by SUBRECIPIENT. For the purpose of this section, the term "immediate family" means spouse, child, mother, father, brother, sister, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, stepparent and stepchild. The term "administrative capacity" means having selection, hiring, fiscal, supervisory or

management responsibilities, including but not limited to serving on the governing body of SUBRECIPIENT.

38. RELIGIOUS AND POLITICAL ACTIVITIES

SUBRECIPIENT agrees that funds under this Agreement will be used exclusively for performance of the work required herein, and that no funds under this Agreement shall be used to promote religious or political activities. Further, SUBRECIPIENT agrees that it will not perform, nor permit to be performed, any religious or political activities in connection with the performance of this Agreement.

39. AMERICANS WITH DISABILITIES ACT

SUBRECIPIENT agrees to comply with the requirements of the Americans with Disabilities Act of 1990 ("ADA") (42 U.S.C., § 12101 et seq.), and all implementing regulations, all as may be amended, and to ensure that SUBRECIPIENT PROGRAM and facilities in which SUBRECIPIENT PROGRAM is conducted are accessible to and usable by persons with disabilities. SUBRECIPIENT further agrees to provide for reasonable accommodations to allow qualified persons with disabilities to have access to and participate in its programs, services and activities in accordance with the provisions of the ADA. SUBRECIPIENT attests that it has adopted and is enforcing Certification Regarding Compliance with the Americans with Disabilities Act consistent with the form attached hereto as Exhibit E and incorporated by reference herein.

40. CITIZEN PARTICIPATION

SUBRECIPIENT shall promptly provide all data necessary for COUNTY to provide reports to citizens. SUBRECIPIENT representatives shall be available to respond to questions, attend meetings and receive recommendations when so requested by the Director of the Santa Barbara County Community Services Department or his or her designee.

41. FEDERAL LOBBYIST REQUIREMENTS

A. SUBRECIPIENT is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments (31 U.S.C., § 1352), and all implementing regulations, including HUD's 24 CFR Part 87, all as may be amended, from using federally appropriated 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, loan or cooperative agreement, and any extension, continuation, renewal, amendment or modification of said documents. A Certification Regarding Lobbying is attached hereto as Exhibit F and incorporated by reference herein.

B. Failure on the part of SUBRECIPIENT or entities acting on behalf of the SUBRECIPIENT to fully comply with the Federal Lobbyist Requirements may be subject to penalties in addition to default provisions under this Agreement as set forth in Section 51 below.

42. DEBARMENT

SUBRECIPIENT assures and certifies that it, its officers, and employees are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from receiving funds under this Agreement in accordance with Federal regulations as contained in Executive Order Number 12549 and 2 CFR 2424 and any amendment thereto. SUBRECIPIENT shall not knowingly enter into any lower tier contract, or other covered

transaction, with a party that is similarly debarred or suspended from receiving funds under this Agreement. SUBRECIPIENT attests that it has adopted and is enforcing Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lowered Tier Covered Transactions consistent with the form attached hereto as Exhibit G and incorporated by reference herein.

43. LEAD-BASED PAINT

When acquiring or leasing property pursuant to this Agreement, SUBRECIPIENT shall comply with the requirements of all Federal, State and local health and safety laws and environmental protection laws including but not limited to the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821 et seq.; the Residential Lead-Based Paint Hazard Reduction Act of 1992 ("Title X"), 42 U.S.C., 4851 et seq.; and "Title IV-Lead Exposure Reduction", 15 U.S.C. 2681 et seq.; and, all implementing regulations, including the regulations at 24 CFR Part 35; and, all as may be amended; by undertaking, or requiring the owner to undertake, to remove, encapsulate, or enclose lead-based paint and lead contaminated dust and soil. SUBRECIPIENT is precluded from leasing, using, or conducting SUBRECIPIENT PROGRAM in structures where lead-based paint exists and abatement has not taken place.

44. ASBESTOS

When acquiring or leasing property pursuant to this Agreement, SUBRECIPIENT shall comply with the requirements of all Federal, State and local health and safety laws and environmental protection laws including but not limited to the regulation of Asbestos-Containing Material (ACM), in accord with 40 CFR 763, as may be amended, by undertaking, or requiring the owner to undertake, to remove, friable (Category I) and non-friable (Category II) asbestos in any and all facilities used under this Agreement. SUBRECIPIENT is precluded from using structures where asbestos exists and abatement has not taken place. SUBRECIPIENT is further prohibited from sheltering any adult or minor child in a structure where friable asbestos is known to exist.

45. PROGRAM CHANGES

In the event that SUBRECIPIENT wishes to make significant changes to the approved SUBRECIPIENT PROGRAM under this Agreement and any amendment thereto, COUNTY and HUD written approval is required in accordance with 24 CFR 578.105(b) prior to any and all changes. SUBRECIPIENT shall request all significant changes in writing to COUNTY and HUD. Significant changes include, but are not limited to:

- i) A change in the subrecipient;
- ii) A change in site where SUBRECIPIENT PROGRAM is being conducted;
- iii) Additions or deletions in the Program Costs approved under this Agreement;
- iv) A shift of more than ten (10) percent of funds from one Program Cost to another; and
- v) A change in the category of Program Participants to be served.

46. BUDGET LINE ITEM CHANGES

In order to promote flexibility for SUBRECIPIENT PROGRAM, SUBRECIPIENT may transfer up to ten (10) percent of funds from one Program Cost to another. To implement this type of transfer, SUBRECIPIENT must notify COUNTY in writing of the amount of funds to be transferred and the Program Costs affected. COUNTY will notify the SUBRECIPIENT when the change has been approved by COUNTY.

47. AMENDMENTS

This writing, with attachments, embodies the whole of the agreement of the parties hereto. Any amendments or modifications to this Agreement must be in writing and shall be made only if executed by both SUBRECIPIENT and COUNTY. No oral conversation between any officer or agent, or employee of the parties shall modify or be deemed to be a binding interpretation of any of the terms or conditions of this Agreement.

48. TIME OF PERFORMANCE MODIFICATIONS

In the event that SUBRECIPIENT requests a modification regarding the Time of Performance, the Santa Barbara County Community Services Department, Housing and Community Development Division may grant Time of Performance modifications when those modifications:

- i) In aggregate do not exceed twelve (12) calendar months;
- ii) Will not change SUBRECIPIENT PROGRAM goals or scope of services;
- iii) Are in the best interests of the COUNTY and SUBRECIPIENT in performing the scope of services under this Agreement; and
- iv) Does not alter the amount of compensation under this Agreement.

49. WAIVERS

- A. Waivers of provisions of this Agreement must be in writing and signed by the Director of Santa Barbara County Community Services Department or his designee and SUBRECIPIENT.
- B. No waiver by COUNTY of a breach of any provision of these conditions shall be deemed for any purpose to be a waiver of breach of any other provision hereof, or of a continuing or subsequent breach of the same provision.

50. BREACH

In the event either party fails to perform, in whole or in part, any promise, covenant, or agreement herein, or should any representation made by it be untrue, any aggrieved party may avail itself of all rights and remedies at law or equity including termination of this Agreement and specific performance. Said rights and remedies are cumulative except that in no event shall any party recover more than once, suffer a penalty or forfeiture, or be unjustly compensated.

51. DEFAULTS

Should SUBRECIPIENT fail to comply with the terms of this Agreement, COUNTY will provide written notice to SUBRECIPIENT identifying specific items of noncompliance. If SUBRECIPIENT fails to deliver an acceptable written response and work plan within fifteen (15) days, COUNTY reserves the right to:

- i) Reduce the Program Budget;
- ii) Make changes in the scope of services of this Agreement;
- iii) Place SUBRECIPIENT on probation status; and/or
- iv) Suspend program operations.

This Section shall not otherwise limit, restrict, or otherwise affect COUNTY's ability to terminate this Agreement.

52. SUSPENSION

If SUBRECIPIENT has not complied or is not complying with this Agreement, COUNTY may suspend the operation of this Agreement and/or reduce the funding available to SUBRECIPIENT under this Agreement for up to ninety (90) days upon three (3) days written notice to SUBRECIPIENT of its intention to so act.

53. TERMINATION

- A. This Agreement may be terminated at any time by either party upon giving thirty (30) days notice in writing to the other party.
- B. COUNTY may immediately terminate this Agreement upon the termination, suspension, or discontinuation of grant funds by HUD for SUBRECIPIENT PROGRAM to be provided under this Agreement or if for any reason the timely completion of the work under this Agreement is rendered improbable, unfeasible or impossible.
- C. This Agreement may also be immediately terminated or suspended in COUNTY's sole discretion for actions and behavior by SUBRECIPIENT that undermines the integrity of SUBRECIPIENT PROGRAM, including but not limited to client, child and staff endangerment, inappropriate and reckless staff behavior and health code violations.
- D. Any disposal of property, documents, data, studies, reports and records purchased or prepared by SUBRECIPIENT under this Agreement shall comply with all Federal, State, and local laws, ordinances, regulations, directives and guidelines and be done in accordance with this Agreement.
- E. In the event that SUBRECIPIENT ceases or intends to cease to operate, (i.e. dissolution of corporate status, declaration of bankruptcy, etc.) SUBRECIPIENT shall provide COUNTY copies of all records relating to this Agreement prior to taking the first action in furtherance of ceasing operations but in any event no later than prior to ceasing operations.
- F. Upon satisfactory completion of all closeout activities, and in accordance with Section 9, Subsection A above, COUNTY shall determine the total amount of compensation that shall be paid to SUBRECIPIENT for any unreimbursed Program Costs set forth in the Program Budget that are reasonably and necessarily incurred in the satisfactory performance of this Agreement.
- G. COUNTY may withhold any payments due to SUBRECIPIENT until such time as the exact amount of damages resulting from SUBRECIPIENT's breach is determined.
- H. The foregoing subsections B, C, D, E, F, and G shall survive beyond the term expiring upon the date specified in section 4 of this Agreement.

54. SANCTIONS

If COUNTY or HUD determines that SUBRECIPIENT is not complying with this Agreement and all applicable Federal, State, and local laws, ordinances, regulations, directives and guidelines governing SUBRECIPIENT PROGRAM, COUNTY shall take action as specified in 24 CFR 578.107.

55. NOTICE OF TERMINATION

In the event that this Agreement is terminated, SUBRECIPIENT shall immediately notify all of its employees and Program Participants and shall notify in writing COUNTY and any parties subcontracted under this Agreement within five (5) working days after the termination of this Agreement.

56. EFFECT OF LEGAL JUDGMENT

Should any covenant, condition or provision herein contained be held to be invalid by final judgment in any court of competent jurisdiction, the invalidity of such covenant, condition or provision shall not in any way affect any other covenant, condition or provision herein contained.

57. 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.

58. CONTRACT

This Agreement consists of this document and Exhibits A through G which together constitute the entire understanding and agreement of the parties.

59. AUTHORIZATION WARRANTY

SUBRECIPIENT represents and warrants that the signatories to this Agreement are fully authorized to obligate SUBRECIPIENT hereunder and that all corporate acts necessary to the execution of this Agreement have been accomplished.

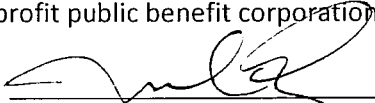
60. NO THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Agreement.

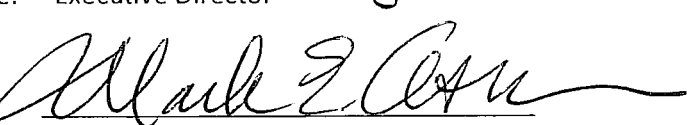
IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date set forth above.

"SUBRECIPIENT:"

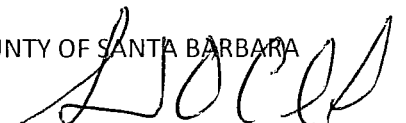
Casa Esperanza Homeless Center
a nonprofit public benefit corporation

By: 
Name: Michael Foley
Title: Executive Director

Date: 6/18/13

By: 
Name: Mark Asman
Title: President

"COUNTY:"

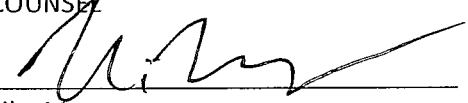
THE COUNTY OF SANTA BARBARA
By: 
Name: Salud Carbajal
Title: Chair, County Board of Supervisors

ATTEST:

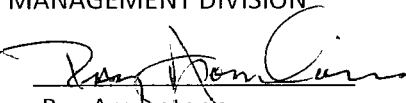
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: 
Deputy Clerk

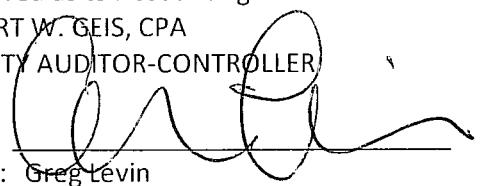
Approved as to Form:
DENNIS A. MARSHALL
COUNTY COUNSEL

By: 
Name: Mike Munoz
Title: Deputy County Counsel

Approved as to Form:
GENERAL SERVICES DEPARTMENT
RISK MANAGEMENT DIVISION

By: 
Name: Ray Aromatorio
Title: Risk Manager

Approved as to Accounting Form:
ROBERT W. GEIS, CPA
COUNTY AUDITOR-CONTROLLER

By: 
Name: Greg Levin
Title: Division Chief