

EXECUTIVE SUMMARY

DATE ISSUED: January 19, 2010 **REPORT NO:** HCR 10-024
ATTENTION: Chair and Members of the Housing Commission
For the Agenda of February 19, 2010
SUBJECT: Agreement between the City Redevelopment Agency and Housing Commission
for the Lead Safe San Diego Program

SUMMARY:

The Southeastern Economic Development Corporation (SEDC) and Redevelopment Agency of the City of San Diego (Agency) desire to invest \$150,000 of Low and Moderate Income Housing Set Aside Funds in the HUD-funded Lead Safe San Diego (LSSD) Program for lead-based paint hazard remediation of residential rental properties located in SEDC's Area of Influence. By so doing, SEDC is making the communities in their area safer and enabling the Housing Commission to meet the non-federal matching funds requirement with their current HUD Lead Grants. Under the terms and conditions of the LSSD Program, grants will be offered toward materials and labor costs to remove lead hazards in residential rental properties. Additional grants will cover the costs of lead inspections, lead clearance inspections, on going maintenance plans, as well as any temporary relocation costs of tenant-occupants. To qualify, rental properties must have been constructed prior to 1978 and be occupied by tenants with household incomes less than 80% AML. The main focus will be on properties occupied or frequented by children less than six years of age.

STAFF RECOMMENDATION:

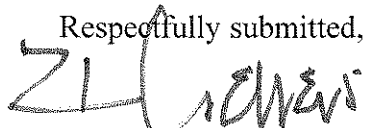
That the Housing Commission recommend the Housing Authority take the following actions:

1. Approve an agreement between the Agency and Commission for Commission's administration of \$150,000 of Low and Moderate Income Housing Set Aside Funds pursuant to the Program terms and conditions for remediating lead hazards in participating rental properties located in SEDC's Area of Influence; and
2. Authorize President and Chief Executive Officer of the Housing Commission, or designee, to execute such agreement and any and all related documents with the Agency.

FISCAL CONSIDERATIONS:

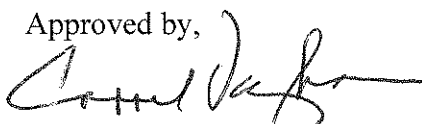
The proposed \$150,000 of Redevelopment funds will provide lead remediation grants averaging \$7,500 to remove lead paint hazards in twenty (20) residential rental units. The Housing Commission will endeavor to perform lead remediation in at least twenty (20) additional residential units in SEDC's Area of Influence using HUD Lead Grant funds to match SEDC's contribution.

Respectfully submitted,



D. Lawrence Clemens
Senior Vice President
Real Estate Department

Approved by,



Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

REPORT**DATE ISSUED:** January 19, 2010**REPORT NO:** HCR 10-024**ATTENTION:** Chair and Members of the Housing Commission
For the Agenda of February 19, 2010**SUBJECT:** Agreement between the City Redevelopment Agency and Housing Commission
for the Lead Safe San Diego Program**REQUESTED ACTION:**

Recommend the Housing Authority of the City of San Diego ("Housing Authority") approve an agreement between the Redevelopment Agency of the City of San Diego ("Agency") and the Housing Commission to administer \$150,000 of Low and Moderate Income Housing Set Aside Funds from the Agency pursuant to the Lead Safe San Diego Grant Program ("Program")

STAFF RECOMMENDATION:

That the Housing Commission recommend the Housing Authority take the following actions:

1. Approve an agreement between the Agency and Commission for Commission's administration of \$150,000 of Low and Moderate Income Housing Set Aside Funds pursuant to the Program terms and conditions; and
2. Authorize President and Chief Executive Officer of the Housing Commission, or designee, to execute such agreement and any and all related documents with the Agency.

BACKGROUND:

The Housing Commission has administered Housing Rehabilitation Programs on behalf of the Agency for owner-occupied housing in various Redevelopment Areas in the City of San Diego since 1991. The Housing Commission also has been awarded U.S. Department of Housing and Urban Development (HUD) competitive grants since 2002 for the remediation of lead-based paint hazards found in pre-1978 residential housing. The award of the HUD lead grants is partially dependent upon the Commission providing non-federal matching funds for lead remediation work. SEDC, through this Agreement, will invest \$150,000 of Low and Moderate Income Housing Set Aside Funds in the Lead Safe San Diego (LSSD) Program for lead-based paint hazard remediation of residential rental properties (Map, Exhibit A of Attachment). By so doing, SEDC is making the communities in their area safer and targeting rental housing. The Housing Commission also administers the SEDC-funded Housing Enhancement Loan Program (HELP) for owner-occupied housing. This action enables the Housing Commission to meet the non-federal matching funds requirement for the current HUD Lead Grant as well as making future HUD lead grant awards more attainable.

The LSSD Program offers grants up to \$10,000 for single family residences and up to \$5,000 per multi-family unit (plus \$5,000 for common areas) in multi-family projects, to remove lead hazards. Additional grants cover the costs of lead inspections, lead clearance inspections, on going maintenance plans, and any temporary relocation costs of occupants. To be eligible, residential properties must be constructed prior to 1978 and be occupied by tenant households with incomes less than 80% of the Area Median Income (AMI) (currently \$66,100 for a four-person household). The program focuses on properties resided in or frequented by children less than six years of age. Vacant units are also eligible, since

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Agreement between the City Redevelopment Agency and Housing Commission for the Lead Safe San Diego Program

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participating rental property owners agree to give preference to low income households with a child less than six years of age or a woman who is pregnant. Rental property owners agree to maintain pre-rehabilitation rents for one year following lead remediation work and to not increase rents by more than five percent (5%) annually for two years thereafter. Landlords must also provide on-going maintenance of all identified lead paint components for three years following completion of the lead remediation work.

FISCAL CONSIDERATIONS:

The proposed \$150,000 of Low and Moderate Income Housing Set Aside Funds from SEDC and the Redevelopment Agency will provide lead remediation grants averaging \$7,500 to remove lead paint hazards in approximately twenty (20) residential rental units. The Housing Commission will endeavor to perform lead remediation in at least twenty (20) additional residential units in SEDC's Area of Influence using HUD Lead Grant funds, to match SEDC's contribution.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

On February 1, 2008 (HCR-08-07), and February 26, 2008 (HAR-07-003), the Housing Commission and Housing Authority respectively, approved an application for HUD Lead Grants which resulted in the LSSD Program; and on August 15, 2008 (HCR-08-089), and April 21, 2009 (HAR-09-012), the Housing Commission and Housing Authority respectively, approved the Agreement for the Housing Commission to administer a Housing Enhancement Loan Program (HELP) in SEDC's Area of Influence.


ENVIRONMENTAL REVIEW:

This action is "not a project" for the purposes of the California Environmental Quality Act. The expenditure of any HUD Lead Grant funds for housing rehabilitation in conjunction with this agreement is categorically excluded per 24 CFR Section 58.34(a)5 for the purposes of the National Environmental Policy Act.

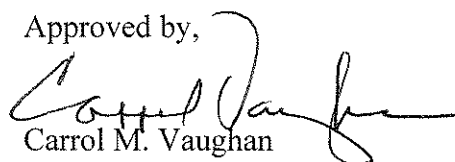
KEY STAKEHOLDERS & PROJECTED IMPACTS:

The potential beneficiaries of these grants are rental owners and the tenant occupants with household incomes less than 80% AMI in Council Districts 8 and 4.

Respectfully submitted,


D. Lawrence Clemens
Senior Vice President
Real Estate Department

Approved by,


Carrol M. Vaughan
Executive Vice President &
Chief Operating Officer

Attachment: Agreement By and Between the Redevelopment Agency of the City of San Diego and the San Diego Housing Commission in Connection with the Lead Safe San Diego Program

Hard copies are available for review during business hours at the Housing Commission offices at 1122 Broadway, San Diego, CA 92101, Main Lobby and at the Office of the City Clerk, 202 C Street, San Diego, CA 92101. You may review complete docket materials on the San Diego Housing Commission website at www.sdhc.org.

**AGREEMENT
BY AND BETWEEN
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO
AND
THE SAN DIEGO HOUSING COMMISSION
IN CONNECTION WITH THE LEAD SAFE SAN DIEGO PROGRAM TO BE
IMPLEMENTED WITHIN AREAS MANAGED BY THE SOUTHEASTERN
ECONOMIC DEVELOPMENT CORPORATION**

THIS AGREEMENT [Agreement] is made and entered into on this _____ day of _____, 2010, by and between the Redevelopment Agency of the City of San Diego, a public body, corporate and politic [Agency], and the San Diego Housing Commission, a public agency [Commission], collectively referred to herein as the Parties, with reference to the following:

RECITALS

WHEREAS, the Southcrest, Mount Hope, Central Imperial, and Gateway Center West Redevelopment Project Areas [Project Areas] are redevelopment project areas adopted by the Agency pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000 et seq.); and

WHEREAS, the Southeastern Economic Development Corporation [SEDC] is a non-profit corporation established to provide, in part, redevelopment services which can, under California law, be done by contract with the Agency; and

WHEREAS, SEDC manages the Project Areas and areas outside the Project Areas within the surrounding neighborhoods located in SEDC's Area of Influence including the Dells Imperial Study Area [collectively referred to as the SEDC LSSD Area], as defined and depicted on the map attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the Agency and SEDC are engaged in activities necessary to carry out and implement the Redevelopment Plans for the Project Areas; and

WHEREAS, pursuant to Health and Safety Code Section 33334.2, the Agency must set aside not less than twenty percent (20%) of tax increment funds generated in a project area to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate- income housing available at affordable housing cost to persons and families of low- or moderate- income, lower income households, very low income households, and extremely low income households, that is occupied by these persons and families; and

WHEREAS, in accordance with Health and Safety Code Section 33334.2, the provision of homeownership and housing rehabilitation and enhancement opportunities for low- and moderate-income households are eligible uses of the 20% housing set-aside funds described above [Low and Moderate Income Housing Set Aside Funds]; and

WHEREAS, the Agency believes that the elimination of lead hazards is an important factor

in promoting neighborhood and community health and safety and thereby improve community stability, encourage private investment, and improve the local housing stock in and around the Project Areas; and

WHEREAS, the Lead Safe San Diego Program, hereinafter referred to as the Program, was created by the Commission in an effort to reduce lead paint hazards in communities with low- and moderate- rental income housing occupied by persons and families of extremely low-, very low-, low- and moderate- income, including such communities located within the SEDC LSSD Area; and

WHEREAS, the Program is designed to provide grants in the maximum amounts of (1) Ten Thousand Dollars (\$10,000) for single family structures and (2) Five Thousand Dollars (\$5,000) per unit for multi-family structures, with an additional Five Thousand Dollars (\$5,000) per project available to control lead hazards in common areas for the benefit of occupants of residential rental properties constructed prior to 1979, occupied or frequented by children under the age of six, which occupant's gross income is less than eighty percent (80%) of the area median family income [AMI] for San Diego County as annually estimated by the U.S. Department of Housing and Urban Development and published by the California Department of Housing and Community Development; and

WHEREAS, the grants made pursuant to the Program shall be used for actual material and labor to remediate lead hazards as well as the costs of lead testing, lead clearance inspections and any necessary temporary relocation costs of residents during the lead remediation work; and

WHEREAS, the Project Areas will benefit from the Program in that the lead remediation work resulting from the opportunities provided by the Program will promote neighborhood and community health and safety and thereby improve community stability, encourage private investment, and improve the local housing stock in and around the Project Areas; and

WHEREAS, the Agency currently has approximately \$150,000 of Low and Moderate Income Housing Set Aside Funds [Agency Funds], identified in the Agency's Fiscal Year 2009-2010 Budget for the Southcrest Redevelopment Project Area, available for use toward this Program; and

WHEREAS, the Agency may, in its sole discretion, approve additional financial allocations to the Program either from tax increment or other sources, including bond proceeds as appropriate, to be used for the Program and the terms of this Agreement shall apply to the additional financial allocations; and

WHEREAS, the Commission is a public entity established by the City Council of the City of San Diego [City] to provide quality, affordable housing opportunities for the City's elderly, disabled, and moderate- and low- income populations; and

WHEREAS, the Agency finds that the Commission has the expertise, experience and personnel necessary to provide the services required for the administration and management of the Program; and

WHEREAS, in light of the above, the Agency and the Commission desire to enter into this Agreement whereby the Agency and the Commission agree that the Commission will provide the services required for the administration and management of the Program, including management and expenditure of the Agency Funds allocated toward the Program.

NOW THEREFORE, in consideration of the recitals above and the terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties set forth their mutual covenants and understandings as follows:

ARTICLE 1: PURPOSES AND SCOPE OF AGREEMENT AND PROGRAM

1.1 Purpose of Agreement: The Parties acknowledge and agree that the purpose of this Agreement is for the Commission to administer and manage the Agency Funds allocated and to be expended toward the Program for the benefit of eligible occupants of residential rental properties located within the SEDC LSSD Area and to take all actions necessary to implement the Lead Safe San Diego Work Plan approved by the Commission and the United States Department of Housing and Urban Development [Work Plan], including, without limitation, entering into and executing a Memorandum of Agreement Affecting Real Property Participating in a HUD Lead Paint Hazard Remediation Grant [Memorandum of Agreement] with each participant which establishes the terms, conditions, and requirements for participation in the Program in accordance with the Work Plan.

1.2 Compliance with California Community Redevelopment Law: The Parties acknowledge and agree that the Commission's administration and management of the Agency Funds including, without limitation, ensuring compliance with the affordability requirements, shall be performed in accordance with all applicable law including, without limitation, the Community Redevelopment Law.

1.3 Independent Administration/Management: The Parties acknowledge and agree that the Commission's administration and management of the Program shall be performed independently and separately from, but may be done in conjunction and coordination with, the Commission's other housing programs. Similarly, the use of any Agency Funds shall be done pursuant to the Program and not the Commission's other housing programs.

1.4 Purpose of Program: The Parties acknowledge and agree that the purpose of the Agency's contribution toward the Program is to provide financial assistance to extremely low-, very low-, low- and moderate- income occupants of residential rental properties [Participants] constructed prior to 1979, occupied or frequented by children under the age of six and located within the SEDC LSSD Area, to be used for the purposes of eliminating lead paint hazards within such rental units [Project(s)]. To be eligible to participate in the Program, a Participant's gross household income may not exceed eighty percent (80%) of the AMI for San Diego County.

1.5 Agency Funds: The Parties acknowledge and agree that Agency will provide certain funds in the approximate amount of One Hundred Fifty Thousand Dollars (\$150,000) for the purpose of funding a portion of the grants provided pursuant to the Program within the SEDC LSSD Area. Such funds are currently available for this Program in the Agency's Fiscal Year

2009-2010 Budget for the Southcrest Redevelopment Project Area. The Commission shall manage and expend the Agency Funds to fund the grants made pursuant to the Program and in the designated amounts as authorized by this Agreement. The Commission shall not commit any additional funds of the Agency in the implementation of the Program in excess of the Agency Funds approved and provided by the Agency.

ARTICLE 2: EFFECTIVE DATE AND TERM OF AGREEMENT

2.1 This Agreement shall become effective, and the performance of responsibilities hereunder shall commence, upon the date on which this Agreement is executed by all Parties and approved by the Parties' respective legal counsel [Effective Date], and shall continue in full force and effect until the Agreement is otherwise terminated by either one or both Parties in accordance with the provisions of this Agreement.

2.2 If the Agency does not appropriate funds to the Program in any given fiscal year and neither party has terminated this Agreement, this Agreement shall continue in effect with respect to the Agency Funds then in the Program or subsequently appropriated for the Program.

ARTICLE 3: AGENCY RESPONSIBILITIES

3.1 Approvals: The Agency agrees to prepare the necessary documentation, with reasonable assistance from SEDC and the Commission, for any action taken, or to be taken, by the Agency that is required to implement the Program within the SEDC LSSD Area. The Agency agrees to use its best efforts to seek any necessary approvals from the Agency or the City that are required to implement the Program within the SEDC LSSD Area.

3.2 Program Review: The Agency shall have the right but not the obligation, in the Agency's sole discretion and during normal business hours, to review the Commission's records with respect to the Commission's performance of this Agreement including, but not limited to, those records kept or maintained in the administration, management and implementation of the Program. The Agency shall have the right to monitor and evaluate the Commission's administration, management or implementation of the Program. The Commission staff members shall reasonably cooperate with the Agency and SEDC in connection with such monitoring and evaluation activities.

ARTICLE 4: COMMISSION RESPONSIBILITIES

4.1 Program Administration and Management:

4.1.1 The Commission shall administer and manage the Program and the Agency Funds in accordance with the terms of this Agreement and the Work Plan.

4.1.2 The Commission shall thoroughly review all applications submitted to the Commission for a grant made pursuant to the Program using Agency Funds.

4.1.3 The Commission shall thoroughly evaluate each applicant and the subject property and render a written determination on the eligibility of the applicant and the property to

participate in the Program according to the Work Plan.

4.1.4 The Commission shall thoroughly evaluate each improvement proposed by each applicant and render a written determination on the eligibility of each improvement to be funded with Agency Funds according to the Work Plan.

4.1.5 The Commission shall confirm that all documents required to be submitted by an applicant in order to qualify as a Participant, pursuant to the Work Plan, have been properly submitted to the Commission and are deemed complete.

4.1.6 The Commission shall determine the amount of the grant which a Participant may be eligible to receive toward his/her Project. The Commission shall request all necessary information from the Participant upon which to render this determination.

4.1.7 According to the Program, Commission shall confirm that, once a Project is approved and prior to the commencement of any work on a Project, the Participant and the Commission enter into and execute the Memorandum of Agreement, which evidences the grant amount and the terms and conditions of the grant and imposes a three (3) year deed restriction on the subject property. The Memorandum of Agreement shall be in a form mutually agreed upon by the Commission and the Participant consistent with the Work Plan and substantially in the form of the Memorandum of Agreement attached hereto as Exhibit "B". The Commission shall confirm that the Memorandum of Agreement is recorded against the subject property in the records of the County Recorder for San Diego County.

4.1.8 The Commission shall comply with all monitoring requirements imposed by law including, without limitation, the monitoring requirements set forth in the California Community Redevelopment Law.

4.1.9 With regard to each grant made pursuant to this Agreement, the Commission shall monitor each Participant's compliance with all Program contract and eligibility requirements including, but not limited to, affordable housing and area median income eligibility at time of occupancy, and health and safety conditions. In this regard, the Commission shall conduct all necessary inspections to ensure a Participant's compliance with all Program contract and eligibility requirements. Commission shall use good faith efforts to detect any noncompliance issues including, but not limited to, any breaches of a Participant's contractual obligations.

4.1.10 As may be required by the Program, the Commission shall process any and all required financial documents including, but not limited to, liens, lien releases, trust deeds, contracts and inspection records and shall maintain these records in an organized manner and format readily accessible by the Agency, if requested.

4.1.11 The Commission shall inspect the improvements and confirm that all improvements were completed in accordance with the Commission's approval and conditions for the grant made pursuant to the Program.

4.1.12 The Commission shall prepare the reports referenced in Section 4.2 hereof

and timely provide copies of same to the Agency.

4.1.13 The Commission shall include the SEDC logo and an acknowledgment of SEDC as a contributor toward the Program on all informational or advertising materials marketing the Program within the SEDC LSSD Area.

4.2 Reporting Requirements:

4.2.1 Within thirty (30) days of the end of each fiscal quarter, the Commission shall prepare and submit to the Agency a report containing the number of grants made using Agency Funds and applications processed within the SEDC LSSD Area pursuant to the Program within said fiscal quarter.

4.2.2 Within thirty (30) days of the end of each fiscal quarter, the Commission shall prepare and submit to the Agency a report containing the addresses of Program eligible residential rental units within the SEDC LSSD Area and the dates of Program application receipts, disbursement of grant funds using Agency Funds and completion of lead remediation work for each such unit.

4.2.3 Within thirty (30) days of the end of each fiscal quarter, the Commission shall prepare and submit to the Agency a report listing any supplemental funds used for any Project within the SEDC LSSD Area.

4.2.4 Within thirty (30) days of the end of each fiscal year, the Commission shall prepare and submit to the Agency a report outlining the progress of the Program in the SEDC LSSD Area for the previous fiscal year as well as since the Program's inception.

4.3 Equal Employment Opportunity Outreach Program: The Commission acknowledges and agrees that it shall comply with its Equal Employment Opportunity Outreach Program as set forth in the San Diego Housing Commission Policy on Equal Employment Opportunity No. PO105.000 dated April 17, 2001, and as amended from time to time, in performance of its obligations under this Agreement.

4.4 Non-Discrimination in Contracting: The Commission acknowledges and agrees that it shall comply with its nondiscrimination in contracting regulations as set forth in the San Diego Housing Commission Statement of Procurement Policy No. PO203.100 dated November 30, 2007, and as amended from time to time, in performance of its obligations under this Agreement.

4.5 Americans With Disabilities Act: The Commission acknowledges and agrees that it is aware of and shall comply with Council Policy 100-04, incorporated herein by this reference, adopted by Resolution No. R-282153, relating to the federally-mandated Americans with Disabilities Act [ADA]. The Commission shall be solely responsible for ensuring that all activities engaged in pursuant to this Agreement are in compliance with all applicable ADA law.

ARTICLE 5: MANAGEMENT AND EXPENDITURE OF AGENCY FUNDS

5.1 The Commission acknowledges and agrees that the Agency Funds shall be used solely to fund the grants provided pursuant to the Program within the SEDC LSSD Area.

5.2 The Commission acknowledges and agrees that necessary funds for the grants provided pursuant to the Program, will be made available by the Agency in its sole discretion, at such time as the Agency approves financial allocations from tax increment funds generated within the Project Areas and in such amounts as approved by the Agency to be expended for purposes of implementing the Program, in its sole discretion. The Commission shall not commit any additional funds of the Agency in the implementation of the Program in excess of the Agency Funds approved and allocated by the Agency to be used toward the Program within the SEDC LSSD Area.

5.3 Should this Agreement be terminated, the Commission shall transfer any and all unused Agency Funds to the Agency within thirty (30) calendar days of the notice of termination issued by the Agency or the Commission pursuant to Article 7 of this Agreement.

5.4 Any Agency Funds disbursed for the benefit of a Program Participant that are not used in accordance with the Program shall be immediately returned to the Commission and be used toward the Program within the SEDC LSSD Area.

Article 6: MUTUAL RESPONSIBILITIES:

6.1 Conflict of Interest: The Agency and the Commission each represent and covenant that neither it, nor its members or employees presently have any interest, nor shall it nor its members or employees acquire any interest, direct or indirect, which conflicts in any manner or degree with the performance of services required to be performed under this Agreement.

6.1.1 The Parties each further represent and covenant that it has established appropriate safeguards to prohibit their members and employees from using their positions for any purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or those with whom they have family, business, or other relationships. The Commission's employees shall not accept gratuities or any other favors from subcontractors or potential subcontractors, nor shall the Commission employees be or seek to become subcontractors of the Commission.

6.1.2 The Commission shall not use funds, personnel, subcontractors, or materials paid for out of this Agreement to advocate or support any particular position on any matter that is being proposed by a vote of the people, or is being considered for enactment by any legislative body of the City or County of San Diego, State of California, or the federal government except insofar as this Agreement or a matter pertaining to its performance is properly the subject of such vote or enactment.

6.2 Recognition of Parties in Documents: The Parties each agree and acknowledge that the work undertaken pursuant to this Agreement is due to the efforts of both Parties. Each Party shall acknowledge the other Party's participation in the Program in all documents prepared for a Project, including contracts, brochures, press releases, reports, onsite signage, or other

written or oral communications promoting the Project. The Parties shall obtain the prior review and approval of the other Party of the content, form, and location of all acknowledgments prior to their use, which approval shall not be unreasonably withheld. The following credit lines shall be used: "The Redevelopment Agency of the City of San Diego via SEDC is a contributor toward this Program" and "This Program is administered and managed by the San Diego Housing Commission."

6.3 Mutual Indemnification: The Parties each agree to defend, indemnify, protect, and hold the other Party's officers, officials, agents, and employees harmless from any and all actions, suits, proceedings, liability, claims, demands for, damages or injuries to any person, including injury to their officers, officials, agents, and employees, or property and all claims which arise from or are directly connected with the negligence or failure to perform services or other obligations of this Agreement, or are caused or claimed to be caused by the negligence of their officers, officials, agents, or employees, and all expenses of investigating and defending against same; provided, however, that this indemnification and hold harmless provision shall not include any claims arising from the established sole negligence and/or willful misconduct of the other Party, its officers, officials, agents, or employees.

ARTICLE 7: TERMINATION OF AGREEMENT

7.1 Parties' Rights to Terminate for Convenience: Either Party may, at its sole option and for its convenience, terminate this Agreement by providing thirty (30) calendar days' prior written notice of such termination to the other Party. Such notice shall be delivered by certified mail with return receipt for delivery to the non-terminating Party. The termination of the Agreement shall be effective upon receipt of the notice by the non-terminating Party.

7.2 Agency's Right to Terminate for Default: If the Commission fails to perform or adequately perform any obligation required by this Agreement, the Commission's failure shall constitute a default of this Agreement. If the Commission fails to satisfactorily cure a default within ten (10) calendar days of receiving written notice from the Agency specifying the nature of the default, the Agency shall have the right in its sole discretion to immediately terminate this Agreement, and terminate each and every right of the Commission, and any person claiming any rights by or through the Commission under this Agreement. If the default is such that it is not reasonably capable of being cured within ten (10) days after such notice is received, and the Commission (1) initiates corrective action within said period, and (2) diligently, continually, and in good faith works to effect a cure as soon as possible, then the Commission shall have an additional forty-five (45) days to cure the default prior to exercise of any remedies by the Agency. The rights and remedies of the Agency enumerated in this Section are cumulative and shall not limit the Agency's rights under any other provision of this Agreement or otherwise waive or deny any right or remedy at law or in equity, existing as of the date of this Agreement or enacted or established at a later date, that may be available to the Agency against the Commission.

ARTICLE 8: BOOKS, RECORDS AND OTHER DOCUMENTS

8.1 Complete Books, Records and Other Documents: The Commission shall maintain or cause to be maintained complete and accurate reports, files, books, records, letters,

calculations, real property related documents, and all other documents and records prepared, received or maintained in the administration, management and implementation of the Program under this Agreement.

8.2 Availability: All reports, files, books, records, letters, calculations, real property related documents, and all other documents and records prepared, received or maintained in the administration, management and implementation of the Program under this Agreement shall be made available to the Agency, the City Comptroller, or the Agency's designee, for copying and inspection at any time without notice during normal business hours.

8.3 Access: The Agency shall have full and free access to all reports, files, books, records, letters, calculations, real property related documents, and all other documents and records of the Commission that are pertinent to the obligations of all Parties under this Agreement.

ARTICLE 9: SUBCONTRACT, ASSIGN, TRANSFER AND DELEGATE

The Commission shall not subcontract, assign, transfer, or delegate any of the rights, duties or responsibilities contained in this Agreement, without the advance written consent of the Agency. If the Commission does subcontract, assign, transfer, or delegate any of the rights, duties or responsibilities in violation of this Agreement, such subcontract, assignment, transfer, or delegation or other such effectuation shall be null and void and this Agreement may be immediately terminated by the Agency.

ARTICLE 10: MISCELLANEOUS

10.1 Entire Agreement: It is expressly understood and agreed that this Agreement constitutes the entire agreement between the Agency and the Commission and in no event shall the Commission be entitled to any compensation, benefits, reimbursements or ancillary services other than as expressly provided herein. No verbal agreements or conversation with any officer, agent or employee of either Party shall effect or modify any of the terms and conditions of this Agreement.

10.2 Signing Authority: The representative signing on behalf of each Party to this Agreement represents that authority has been obtained to execute this Agreement on behalf of said Party.

10.3 Time of Essence: Time is expressly declared to be of the essence in this Agreement, and of every provision in which time is an element.

10.4 Captions: Article, Section or Paragraph titles and captions contained in this Agreement are inserted as a matter of convenience and for reference, and are not a substantive part of this Agreement.

10.5 Additional Documents: The Parties each agree to sign any additional documents, which are reasonably necessary to carry out this Agreement or to accomplish its intent.

10.6 Benefit and Burden: This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, representatives, successors and assigns. This Agreement is not intended to benefit any person other than the Parties hereto.

10.7 Governing Law: This Agreement has been entered into in the State of California, and shall be interpreted and enforced under California law.

10.8 Attorney's Fees: The prevailing party in any action, including, but not limited to, arbitration, a petition for writ of mandate, and/or an action for declaratory relief, brought to enforce, interpret or reform the provisions of this Agreement shall be entitled to reasonable attorney's fees and costs incurred in such action including, but not limited to, expert's fees and costs, and other costs regardless of whether recoverable as such under statute.

10.9 Signatures: This Agreement may be signed in counterpart.

10.10 Approvals:

10.10.1 Except as otherwise expressly provided in this Agreement, approvals required of the Agency or the Commission in this Agreement shall not be unreasonably withheld or delayed. All approvals shall be in writing. Failure by either Party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either Party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval.

10.10.2 When this Agreement refers to an act or approval to be performed by the Agency, that act or approval may be performed in writing by the Agency's Executive Director or designee, unless this Agreement specifies otherwise. In this regard, however, the Executive Director or designee, in his/her sole discretion, may refer any approvals required of the Agency that may be approved by the Executive Director or designee to the Agency Board for consideration and action. When this Agreement refers to an act or approval to be performed by the Commission, that act or approval may be performed in writing by the Commission's Chief Executive Officer or designee, unless this Agreement specifies otherwise.

ARTICLE 12: AMENDMENTS OR MODIFICATIONS TO AGREEMENT

Any amendments or modifications of this Agreement, or to any provisions hereof, shall be approved in writing by the Agency Board and by the governing body of the Commission.

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IN WITNESS WHEREOF, this Agreement is executed by the Redevelopment Agency of the City of San Diego by and through its Executive Director or designee, and by the San Diego Housing Commission, by and through its Chief Executive Officer or designee.

**REDEVELOPMENT AGENCY OF
THE CITY OF SAN DIEGO**

Dated: _____

By: _____
Janice L. Weinrick
Deputy Executive Director

SAN DIEGO HOUSING COMMISSION

Dated: _____

By: _____
Richard C. Gentry
President & Chief Executive Officer

SEDC Consents to the Agreement:

**SOUTHEASTERN ECONOMIC
DEVELOPMENT CORPORATION**

Dated: _____

By: _____
Brian Trotier
Acting President/C.E.O.

*Signatures continue on the following page

WE HEREBY APPROVE the form and legality of the foregoing Agreement on this
_____ day of _____ 2010.

Jan I. Goldsmith, General Counsel
Redevelopment Agency of the City
of San Diego

Christensen & Spath, LLP

By: _____
Diane B. Young
Deputy General Counsel

By: _____
Charles B. Christensen
General Counsel
San Diego Housing Commission

Exhibits:

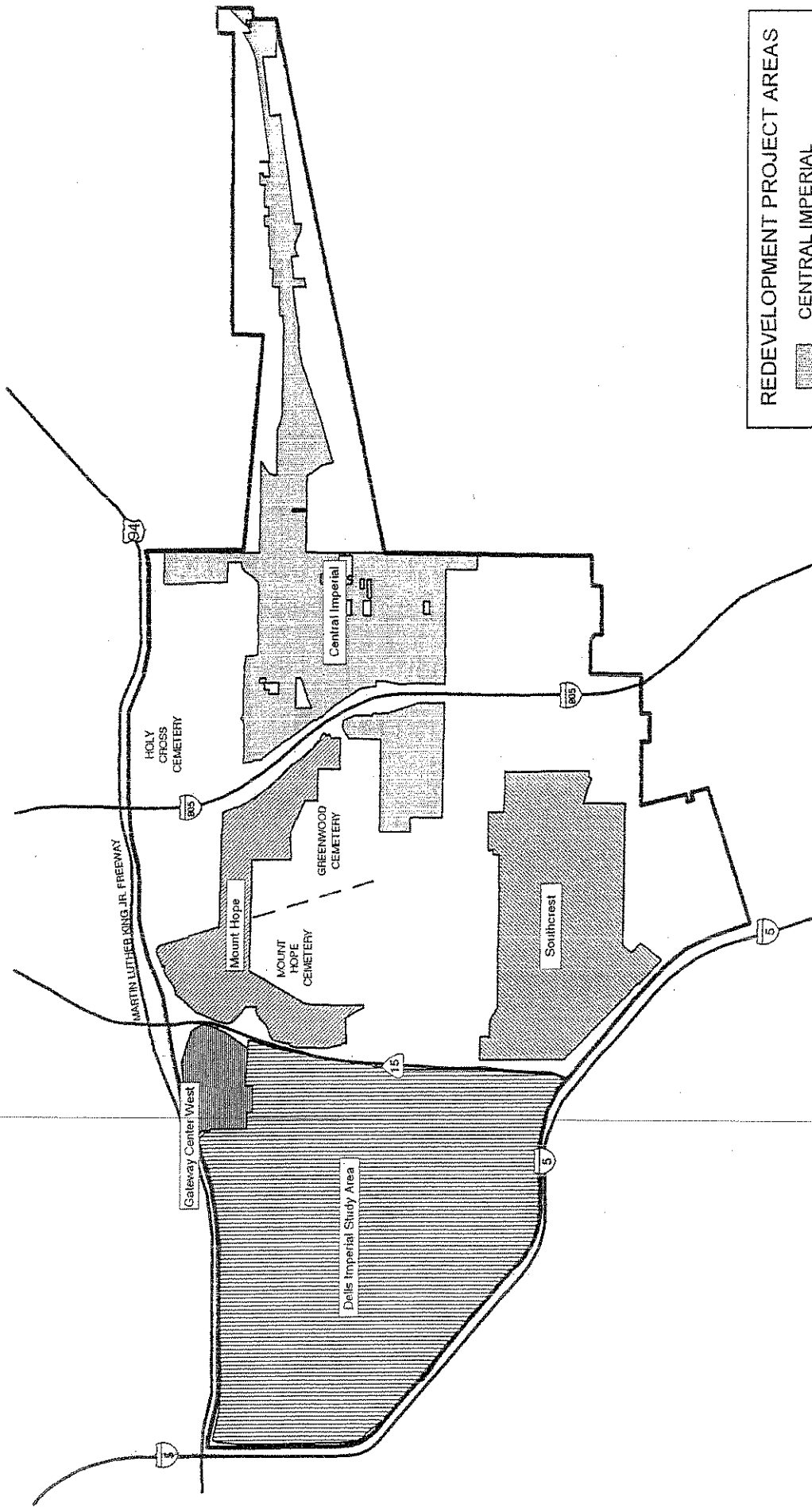
Exhibit "A": Map of SEDC LSSD Area

Exhibit "B": Memorandum of Agreement Affecting Real Property Participating in a HUD Lead
Paint Hazard Remediation Grant

Exhibit "A"

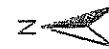
Map of SEDC LSSD Area





REDEVELOPMENT PROJECT AREAS

- CENTRAL IMPERIAL
- DELLS IMPERIAL STUDY AREA
- GATEWAY CENTER WEST
- MOUNT HOPE
- SOUTHCREST



Scale: 1" = 3200'

SEDC AREA OF INFLUENCE

Exhibit "B"

Memorandum of Agreement Affecting Real Property
Participating in a HUD Lead Paint Hazard Remediation Grant

**NO CHARGE ON THIS DOCUMENT
FOR THE BENEFIT OF A STATE AGENCY
FORMED BY THE CITY OF SAN DIEGO**

Recording Requested By And When Recorded Mail To:

SAN DIEGO HOUSING COMMISSION
1122 Broadway, Suite 300
San Diego, CA 92101
Attn: Housing Rehabilitation

**MEMORANDUM OF AGREEMENT AFFECTING REAL PROPERTY
PARTICIPATING IN A HUD LEAD PAINT HAZARD REMEDIATION GRANT**

WHEREAS _____ (hereinafter referred to as "Grantee"), is the owner of that residential rental property located at _____, (the "Property"), and more fully described as:

SEE EXHIBIT "A" OR LEGAL DESCRIPTION ATTACHED HERETO

WHEREAS, the San Diego Housing Commission, (the "Commission"), has made a Conditional Grant (the "Grant") in the amount of _____ Dollars (\$) to Grantee, upon certain terms and conditions; and

WHEREAS, the Commission and Grantee desire to place the public on notice of this Grant.

NOW THEREFORE, in the furtherance of the recitals stated above, the mutual covenants set forth below, the Commission and Grantee agree, promise and declare as follows:

1. Purpose. This Memorandum of Agreement ("MOA") evidences a grant ("the Grant") which is made in conjunction with the Commission's Lead Safe San Diego Program, funded by a U. S. Department of Housing and Urban Development ("HUD") grant. The proceeds of the Grant shall be used only for the cost of lead-based paint reduction in rental units participating in the Lead Safe San Diego Program and which are located at the Property.

2. Grantee's Representations and Warranties. This Grant is conditioned upon the following facts, which the Grantee represents and warrants are true:

- a. Grantee is the owner of the aforementioned Property, which is a residential rental property;
- b. The Property is located in the City of San Diego;

c. Grantee has provided Commission with evidences of eligibility showing that all tenants occupying the Property are Low Income Households, ("Low Income Household(s)" is defined as a household earning an income no greater than eighty percent (80%) of the Area Median Income, as adjusted for family size). However, if the Property consists of five (5) or more residential units, Grantee has provided eligibility evidence that no more than twenty percent (20%) of the total units on the Property are occupied by tenants that do not qualify as Low Income Households;

d. Grantee agrees to use the funds which are the subject of this Grant solely for material and labor expenditures associated with the reduction of lead-based paint in the Property, including lead testing, clearance inspection costs and any temporary relocation of existing tenants in the Property as approved in advance, in writing, by Commission;

e. Grantee agrees and acknowledges that the cost of any work performed on the Property that was not agreed upon and approved, in writing, by the Commission in advance of performance, will be the sole obligation of the Grantee and will not be paid from the Grant funds;

f. Grantee agrees that the Commission will have the right to monitor the progress of the lead hazard control work on the Property and the expenditure of the funds granted herein;

g. Grantee agrees that the Commission shall have absolutely no liability or duty whatsoever for the quality of lead hazard control work on the Property, or the sufficiency of the Grant funds beyond the identified scope of work and project budget associated with this MOA; and

h. Grantee agrees that all lead hazard control work on the Property will be performed in accordance with pertinent Federal, State, and/or Local laws, regulations and ordinances.

3. Grantee's Covenants and Acknowledgments. Upon accepting this Grant, Grantee covenants and acknowledges that Grantee will abide by the following conditions for no less than three (3) years following completion of the lead hazard control work on the Property:

a. Grantee covenants to give preference to rent vacant units in the Property to Low Income Households with either a child (or children) under six (6) years of age or a woman of the Household who is pregnant;

b. Grantee covenants to maintain the pre-rehabilitation rents for one (1) year following completion of the lead hazard control work, and during at least two (2) years thereafter not to increase the rents by more than five percent (5%) annually;

c. Grantee covenants that Grantee will not discriminate against prospective tenants on the basis of race, religion, sex, age, color, handicap, familial status, national origin, or any other classification prohibited by law.

d. Grantee covenants to provide on-going maintenance of all identified lead paint components using safe work practices and to provide access for periodic reevaluations of the Property during the three (3) year period beginning on the date of completion of the lead hazard control work on the Property; and

e. Grantee acknowledges that any additional costs for work needed as a result of failing to maintain the building components containing lead paint will be the Grantee's responsibility as well as any costs associated with additional testing and clearances.

4. Revocation and Repayment of Conditional Grant. The Grant shall not be recoverable after three (3) years have expired from the date of completion of the lead hazard control work on the Property, provided that the Grantee has fully complied with all the terms and conditions of the Grant, as set forth in this MOA. Notwithstanding any other provisions herein, the full amount of the Grant, as stated above, shall, at the option of the Commission, be immediately due and payable to the Commission, upon the occurrence of either of the following events:

a. Grantee's default under the terms and conditions of this MOA by Grantee's non-compliance with any of the terms and conditions herein including, but not limited to, any of the covenants enumerated in Section 3 herein;

b. The Commission, in its reasonable discretion, determines that information provided by Grantee or any of Grantee's tenant(s) was intentionally misleading or false.

5. Severability. If any provision of this MOA is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision of this MOA, and such other provisions shall remain in full force and effect.

6. Attorneys' Fees. The prevailing party in any action, including, but not limited to, a complaint for breach of contract, a petition for writ of mandate, and/or an action for declaratory relief, brought to enforce, interpret or reform the provisions of this Agreement shall be entitled to reasonable attorneys' fees and costs (including, but not limited to, experts' fees and costs, and including "costs" regardless of whether recoverable as such under statute) incurred in such action.

7. Governing Law. This MOA has been entered into in the State of California and shall be interpreted and enforced under California law.

8. Waiver and Amendment. No provision of this MOA, or breach of any provision, can be waived except in writing. Waiver of any provision or breach shall not be deemed to be a waiver of any other provision, or of any subsequent breach of the same or other provision. Except as otherwise provided herein, this Agreement may be amended, modified or rescinded only in a writing signed by the Grantee and the Commission.

9. Notice and Payment Address. All notices given pursuant to this Declaration or law shall be written. Notices shall be delivered with all delivery or postal charges prepaid. Notices may be given personally; by facsimile; by United States first-class mail; by United States certified or registered mail; or by other recognized overnight service. Notices shall be deemed received on the date of personal delivery or facsimile transmission; on the date shown on a signed return receipt or acknowledgment of delivery; or, if delivery is refused or notice is sent by regular mail, seventy-two (72) hours after deposit. Unless notified otherwise in writing, notices to the Grantee shall be sent to the Property address, as listed below, and notices and payments to the Commission shall be sent to:

COMMISSION

San Diego Housing Commission
Attn: Housing Rehabilitation
1122 Broadway, Suite 300
San Diego, CA 92101

GRANTEE

10. Indemnification. Grantee agrees to and shall protect, defend, indemnify and hold harmless the Commission, the Housing Authority of the City of San Diego (the "Authority"), the City of San Diego (the "City"), their respective officers, agents, employees, commissioners, board members, council persons, representatives, contractors and subcontractors, from and against any and all liability, claims, damages, costs, fees, causes of action, actions, complaints, fines, losses, damages ("the Claims") arising out of or connected with this MOA, the Conditional Grant made hereunder, the lead based paint remediation, removal and/or handling, and ownership and/or early occupancy of the Property, including but not limited to claims for death, personal injury, or property damage occurring on the Property, or arising out of the Property and/or the occupation of the Property by the Grantee, its heirs, successors, assigns, invitees, guests, tenants, and inhabitants of the Property, whenever such Claims are asserted, at the sole cost and expense of the Grantee.

Further, Grantee shall be exclusively responsible for any and all problems, claims, liabilities, work, clean up costs, clean up efforts concerning the lead based paint located or alleged to be located on the Property. The City, the Authority and the Commission, and each of them, shall not have any liability, obligation or responsibility whatsoever for any lead based paint or remediation of the same located on the Property. Grantee acknowledges that this Conditional Grant would not have been made by the Commission but for this indemnification being granted in favor of the Commission, the City and the Authority, and each of them.

The indemnification provisions contained in this Section 11 shall be construed as a Type I indemnity and that term has been construed under and by virtue of the applicable case law within the State of California, including but not limited to the cases of *McDonald & Kruse, Inc. v. San Jose Steel Company, Inc.* (1972) 29 Cal.App.3d 413, and *CI Engineering & Construction v. Johnson* (1983) 140 Cal.App.3d 1011, 1015.

11. MOA Subordinate to the Rights of All Institutional First Mortgagees. The rights of the Commission herein shall be subordinate to any and all rights of the institutional first mortgagees holding deeds of trust secured by the Property. The Grant from the Commission to the Grantee as herein described shall be repayable to the Commission out of the proceeds of the sale, or transfer, or refinance, whether voluntary or involuntary, only after the first mortgagee has been paid in full, including all accrued interest.

12. The Grantee shall perform the lead hazard control work in a timely manner, to be completed on or before _____ (date), and in no event later than one (1) year from the date of the execution of this MOA. Failure to timely perform the work, time being of the essence, shall, at the option of the Commission, be a material breach of this MOA. The Commission may unilaterally terminate this MOA upon a material breach by the Grantee. This right to terminate shall be in addition to, and not in lieu of, all other remedies available to the Commission, at law or in equity, including, without limitation, the right to recoup monies advanced under the terms of this MOA.

13. Entire Agreement. This MOA represents the entire agreement between the Commission and Grantee concerning the subject matter of this MOA and supersedes any other agreements, promises, or representations oral or written pertaining to such subject matter.

14. Exhibits Incorporated. All exhibits to which reference is made in this MOA are deemed incorporated in this MOA whether or not the exhibits are actually attached to this MOA.

15. Construction of the Agreement. The provisions contained in this MOA shall not be construed in favor of or against either party but shall be construed as if both parties contributed equally to its preparation. This MOA shall be construed in accordance with the laws of the State of California.

16. Commission Not Liable for Acts or Omissions of Others. Neither the Commission, the Authority nor the City shall in be liable, in any way, for any acts or omissions of Grantee or Grantee's agent(s) or contractor(s), or any person furnishing labor and/or materials used in or related to the improvement of said Property.

17. Time of the Essence. Time is expressly declared to be of the essence in this MOA, and of every provision in which time is an element.

18. Delegation. Grantee shall not delegate its duties under this MOA without the prior written consent of the Commission. Any attempt at delegation in violation of this section shall be void. Commission shall have full right and authority to assign all or a part of its rights and delegate all or a part of its duties under this MOA.

19. Successors and Assigns. This MOA shall inure to the benefit of, and be binding upon, the parties and their respective heirs, successors and assigns. Any and all successors, heirs and assigns of Grantee shall be subject to and bound by the provisions of the MOA, while in effect, upon acceptance and recordation of the grant deed and/or quitclaim deed or other conveyance transferring beneficial interest in the Property to said successors, heirs and/or assigns.

20. Federal Regulations Govern. This Grant is funded with Federal funds through the Lead-Based Paint Hazard Control Grant or the Lead Hazard Reduction Demonstration Grant, and as such the following Federal Program regulations shall apply to the performance of this MOA, including, but not limited to, the following:

- a. Civil Rights Act of 1964, Title VI, (Pub. L. 88-352, 42 U.S.C. 2000d et seq.)
- b. The Fair Housing Act, P.L. 90-284 (42 U.S.C. 3601-20)
- c. Flood Hazard 44 CFR Parts 59-79 (42 U.S.C. 4001)
- d. The Uniform Relocation Assistance Act and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601; 24 CFR Part 42)
- e. Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u and 24 CFR Part 135)

- f. Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) and the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856)
- g. Americans With Disabilities Act of 1990 (42 U.S.C. 1201 et seq.)

IN WITNESS WHEREOF, the Parties have executed this MOA on the date set forth below.

Dated: _____

Grantee

Grantee

San Diego Housing Commission

By: _____

ACKNOWLEDGMENT

State of California)
)
County of San Diego)

On _____, 20____ before me,
_____, personally appeared
_____ who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on
the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

ACKNOWLEDGMENT

State of California)
)
County of San Diego)

On _____, 20____ before me,
_____, personally appeared
_____ who proved
to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
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executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)