

**EMERGENCY SOLUTIONS GRANTS (ESG) PROGRAM
AGREEMENT BETWEEN THE CITY OF ORLANDO AND
MIRACLE OF LOVE**

THIS AGREEMENT is entered into by and between the **City of Orlando**, a Florida municipal corporation (hereinafter referred to as the “City”) with a principal address of 400 South Orange Avenue, Orlando, Florida 32801, and **Miracle of Love, Inc.**, a nonprofit corporation organized under the laws of the State of Florida, with a principal address of 741 W. Colonial Drive, Orlando, Florida 32804 (hereinafter referred to as the “**MOL**” or “Subrecipient”).

W I T N E S S E T H:

WHEREAS, pursuant to the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (“HEARTH”), the United States Department of Housing and Urban Development (“HUD”) has designated the City as a grantee of the revised Emergency Solutions Grants Program (“ESG”) and has allocated ESG funds to the City in furtherance of its goal of preventing homelessness for all of the citizens in the City of Orlando; and,

WHEREAS, **MOL** wishes to provide services and assistance to high risk pregnant women who are homeless or who are at-risk of becoming homeless, and if not for this assistance would be homeless; and

WHEREAS, **MOL** participated in the City's Request for Proposal process and the City accepted its proposal for assistance, and awards the sum of Forty Thousand, Eighty-Seven Dollars and No Cents (\$40,087.00) for eligible activities in accordance with 24 CFR Part 576, Subpart B.

NOW THEREFORE, in consideration of the promises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and **MOL** agree as follows:

SECTION 1: USE OF ESG FUNDS

1. **Incorporation of Recitals**: The recitals set forth above are true and correct and are incorporated herein and made a part of this Agreement.

2. **Scope of Services/Funding**: Under the terms and conditions of this Agreement, the City has allocated a subaward to **MOL** in the amount of Forty Thousand, Eight-Seven Dollars and No Cents (\$40,087.00) in FY 2017-2018 ESG funds to carry out eligible activities as described in 24 CFR Part 576, Subpart B, and therefore continue to provide assistance and services to high-risk pregnant women who are homeless or who are at-risk of becoming homeless, and if not for this assistance would be homeless, as defined in 24 CFR §576.2. Pursuant to 2 CFR §200.331, the required subaward information is attached hereto as **Exhibit “H”**. **MOL** shall carry out those eligible activities according to the Budget, which is attached hereto and made a part hereof as **Exhibit "A"**. No modification, amendment, alteration or change is to be made to the scope or intent of this Agreement, nor to the expenditure category indicated in **Exhibit "A"**. The City may

require a more detailed budget breakdown than the Budget attached hereto, and **MOL** shall provide such supplementary budget information in a timely fashion and in the form and content as may be prescribed by the City. The City may also require changes in line items, or approve other budgetary changes within the total award amount. Any supplementary budget information or budget changes must be approved in writing by the Housing Director and Housing and Community Development Manager, or designee. **MOL** shall use these ESG funds for eligible expenses permitted under the Budget as permitted under the ESG regulations set forth in 24 CFR Part 576. **MOL** acknowledges that it is responsible for expenses that exceed the total award amount and agrees that any funds not used in accordance with permitted ESG regulations and the Budget must be repaid to the City.

3. Match: **MOL** shall comply with the match-funding requirement as set forth in 24 CFR §576.201.

4. Payment Procedures/Reimbursement of Funds: This is a cost reimbursement agreement. Reimbursement of funds under this Agreement may be requested only for necessary, reasonable, and allowable costs described in the Budget, attached hereto as **Exhibit "A"** and for which **MOL** has made payment. Upon compliance with the terms of this Agreement, the City will reimburse funds to **MOL** only after completion of the work and after receipt and approval by appropriate City personnel of the invoices. Invoices shall be submitted in Zoomgrants no more frequently than once a month and shall be in accordance with the Budget attached hereto as **Exhibit "A"**, specifying the services performed and expenses incurred. All invoices must be accompanied by adequate billing documentation of payment for eligible expenses which are to be uploaded in Zoomgrants (i.e. personnel activity reports, pay stubs, payroll records, copies of cancelled checks, and time sheets) and other supporting documentation the City may request. Failure by **MOL** to provide invoices in a timely, complete and error-free manner shall reflect on the administrative performance rating of **MOL** for subsequent funding awards. It is anticipated that the City will provide payment to **MOL** within thirty (30) days from the date of receipt of proper invoices. Invoices that are incomplete or that fail to include the necessary supporting documentation may result in delay and or possible denial of payment.

No interest shall be earned on ESG proceeds. All invoices submitted in Zoomgrants must be signed by an authorized signatory of **MOL** and certified in accordance with 2 CFR §200.415. Notwithstanding anything to the contrary in this Agreement, the City also reserves the right to request and approve documentation supporting any invoice to verify the reasonableness and validity of such costs. The absolute maximum amount that shall be paid to **MOL** under this Agreement is Forty Thousand, Eight-Seven Dollars and No Cents (\$40,087.00). In the event that the City of Orlando or HUD determines that any ESG monies have been wrongfully paid, **MOL** agrees to refund such money to the City so that the City may refund it to HUD.

5. Return of Funds. **MOL** shall return to the City any over payments due to unearned funds or activities disallowed pursuant to this Agreement. **MOL** shall return any overpayment to the City within thirty (30) days after discovery by **MOL** or within fifteen (15) days after notification by the City.

6. Term: Unless earlier terminated, this Agreement shall be in effect for the period commencing October 1, 2017 and terminate on September 30, 2018. Costs may not be incurred

after September 30, 2018 without written amendment to this Agreement. Notwithstanding anything herein to the contrary, **MOL**'s obligations to the City shall not end until all closeout requirements are completed, including, but not limited to, such things as making final payments, disposing of program assets, retention of records, and use and maintenance requirements for the property. Also, notwithstanding the foregoing, the term of this Agreement and the provisions herein shall be extended to cover any additional time period during which **MOL** remains in control of ESG funds or other assets, including Program Income or for any HUD audits requiring repayment of any funds unlawfully spent under this Agreement.

SECTION 2: GENERAL TERMS AND CONDITIONS

1. **Applicable Laws:** **MOL** agrees to abide by any and all applicable federal or state laws, statutes, local ordinances, rules and regulations, whether presently existing or hereafter promulgated. **MOL** agrees to comply with all applicable provisions and regulations of the ESG Program contained in 24 CFR Part 576 and other HUD regulations, as amended from time to time, whether set forth herein or not and any amendments or policy revisions thereto which shall become effective during the term of this Agreement. **MOL** shall also comply with the ESG eligibility requirements, a copy of which is attached hereto and made a part hereof as **Exhibit "B"**.

2. **OMB Circulars:** **MOL** shall comply with the requirements of 2 CFR Part 200.

3. **Audits:** **MOL** shall comply with the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507) and 2 CFR Part 200, Subpart F as applicable. In accordance with 2 CFR §200.510, **MOL** shall prepare financial statements and schedule of expenditures of federal awards. **MOL**'s annual financial statement shall be prepared by an actively licensed public accountant and provided to the City within ninety (90) days of the end of its operating year. **MOL** also agrees to allow the City's Internal Audit and Evaluation Department to conduct any audits the City feels necessary at any time during the term of this Agreement or while **MOL** is responsible for any ESG funds.

4. **Records and Reports:** In accordance with the requirements set forth in 2 CFR Part 200, 24 CFR §576.107, and 24 CFR §576.500, **MOL** shall maintain separate and distinct financial records of its accounts, operations, and other documentation that adequately identify the source and application of the ESG funds. **MOL** shall keep orderly and complete records of its accounts and operations and shall keep these records open to inspection by the City and HUD personnel at reasonable hours during the entire term of this Agreement, plus five (5) years after the date of the final request for payment in accordance with 2 CFR §200.333 and 24 CFR §576.500. However, if any litigation, claim, or audit is commenced prior to the expiration of said five (5) year period, the records shall be maintained until all litigation, claims, or audit findings involving the ESG records have been resolved. Any person duly authorized by the City or HUD shall have full access to and the right to examine any of the said records during said period.

MOL shall enter all client data describing demographics, eligibility and financial assistance, including the number of individuals and families that were served, into the Homeless Management Information System (HMIS). Data must be entered, at a minimum, on a weekly basis. This data will be collected by the HMIS Lead agency on a monthly basis via the HMIS monthly

status report. **MOL** shall provide the City's Housing and Community Development Department with quarterly and annual reports concerning the progress made on the project in the form attached hereto as **Exhibit "C"** to the City by the fifteenth (15th) calendar day of the month following the end of the quarter for March, June, September, and December. The report shall include the following information:

- Households Verification of Homelessness
- Households by Gross Monthly Income
- Households by Gender and Age
- Households by Race/Ethnicity
- Households Housing Units
- Households Receiving Housing Assistance/Support Services
- Household Ending Destination
- Any Other Data Points as required by HUD

In addition, if ESG funds are being used for personnel, **MOL** shall submit a personnel activity report, for personnel activities including but not limited to duties performed and time allocated in such forms provided by the City.

MOL shall also submit an annual report on the form provided in **Exhibit "C"**. Annual reports are due by October 15, 2018 for activities conducted during the preceding year (Example: October 1, 2017 – September 30, 2018). Additional reports may be requested by the City throughout the year. **MOL** must maintain records documenting the total number of clients and the unique identifier of clients to whom services were provided, the type of services and/or actual services performed and the date(s) on which such services were provided, so that an audit trail documenting services is available.

5. Monitoring and Inspections/Access to Records: In accordance with 2 CFR §200.336, all files, records, documents, including financial statements and data, shall be made available for review to the City's Housing and Community Development Department, any auditors, the City's Office of Internal Audit and Evaluation, Comptroller General, Inspector General, HUD and/or any of their authorized representatives, who shall have access to and the right to audit, examine, inspect, make transcripts or excerpts of any of the above said records, documents or papers related to the activity or to meet any HUD requirements during normal business hours and any other reasonable time requested. This right also includes timely and reasonable access to **MOL**'s personnel for the purpose of interviewing and discussion related to said documents. This same right to review and access will be imposed upon any third party or subcontractor and it is **MOL**'s responsibility to ensure that any contract entered into with third parties contain all necessary clauses and language required by the City and/or HUD to ensure compliance with this Agreement and with all federal, state, and local laws and regulations.

MOL shall monitor the progress of the activity covered by this Agreement and shall submit appropriate reports to the City. The City shall monitor **MOL**'s performance and financial and programmatic compliance. **MOL** shall allow on-site monitoring of the facility and its programs on as frequent a basis as the City deems necessary and at any other time that may be required by HUD to determine compliance with ESG regulations and this Agreement. **MOL** shall also furnish and cause each of its own subcontractors, if any, to furnish all information and reports required

hereunder and will permit access to its books, records and accounts by the City, HUD, or any other authorized official or designee for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein. This section shall survive termination of this Agreement.

6. Termination of Assistance: **MOL** shall develop and maintain a formal process in accordance with 24 CFR §576.402, whereby if an individual or family who receive assistance from **MOL** violates program requirements, **MOL** may terminate assistance in accordance with the formal process established by **MOL**. The formal process shall recognize the rights of individuals affected which, at a minimum, must include written notice of the termination and a hearing.

7. Uniform Administrative Requirements and Cost Principles. **MOL** shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth in 2 CFR Part 200 and adopted by HUD at 2 CFR Part 2400. Although 2 CFR Part 200 addresses many requirements, some of the items it addresses includes, but is not limited to, standards for financial and program management, property and procurement standards, performance and financial monitoring and reporting, subrecipient monitoring and management, record retention and access, remedies for noncompliance, FFATA, and closeout. **MOL** is aware and acknowledges that 2 CFR Part 200 and 2 CFR Part 2400 are recent regulatory changes to the administrative requirements and HUD is in the process of developing guidance on their specific requirements. Although this may change the administrative requirements set forth herein, **MOL** shall comply with whatever guidance HUD requires. **MOL** also agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, maintain necessary source documentation for all costs incurred, and submit an indirect cost allocation plan in accordance with 2 CFR Part 200, if such plan is required.

8. Non-Discrimination and Equal Opportunity: In accordance with 24 CFR §576.407, **MOL** shall maintain records showing compliance with all applicable fair housing and civil rights requirements in 24 CFR §5.105(a). **MOL** shall not discriminate against any employee or person served on account of race, color, sex, age, religion, ancestry, national origin, handicap or marital status in the performance of this Agreement. **MOL** shall comply with the following: a) the Fair Housing Act (42 U.S.C. §3601-3619) and implementing regulations at 24 CFR Part 100 et. seq.; b) Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) and implementing regulations at 24 CFR Part 107 (Equal Opportunity in Housing Programs; c) Title VI of the Civil Rights of 1964 (42 U.S.C. §§2000d - 2000d-4) and implementing regulations at 24 CFR Part 1 (Nondiscrimination in Federally Assisted Programs; d) the Age Discrimination Act of 1975 (42 U.S.C. §§6101 - 6107) and implementing regulations at 24 CFR Part 146; e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794) and implementing regulations at 24 CFR Part 8 for purposes of the ESG program, the term "dwelling units" in 24 CFR Part 8 shall include sleeping accommodations; f) Title II of the Americans With Disabilities Act (42 U.S.C. §12101), et. seq. and 28 CFR Parts 35 and 36; g) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) and implementing regulations at 24 CFR Part 135, except homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c); h) Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086 and 12107, and implementing regulations at 41 CFR Part 60 (Equal Employment Opportunity Programs); i) Executive Order 11625, as amended by Executive Orders 12007 (Minority Business Enterprises); j) Executive Order 12432 (Minority

Business Enterprise Development); and k) Executive Order 12138, as amended by Executive Order 12608 (Women's Business Enterprise).

It is expressly understood that, upon the event of discrimination based on any of the foregoing regulations, and upon the City's receipt of evidence of such discrimination, the City shall have the right to immediately terminate this Agreement.

9. Equal Access: **MOL** shall comply with access requirements set forth in 24 CFR §5.106 and shall maintain records showing compliance with this provision for a period of five (5) years in accordance with 24 CFR §5.106(d).

10. Affirmative Marketing/Outreach: **MOL** shall comply with the provisions set forth in 24 CFR §8.6, 24 CFR Part 5, the Americans with Disabilities Act (42 U.S.C. §§12101-12213), and implementing regulations at 24 CFR part 35 and Part 36, as applicable. **MOL** shall adopt procedures to ensure that all persons who qualify for assistance, regardless of their race, color, religion, sex, age national origin, familial status, or handicap, know of the availability of the ESG Program, including facilities and services accessible to persons with a handicap, and maintain evidence of implementation of the procedures. Also, in accordance with Title VI and Executive Order 13166, **MOL** shall take reasonable steps to ensure meaningful access to the ESG Program for limited English proficiency (LED) persons. **MOL** shall also comply with the City's affirmative marketing procedures.

11. Religious Organizations: In accordance with 24 CFR §576.406, **MOL** shall comply with the requirements set forth in 24 CFR §5.109.

12. Conflict of Interest: In the procurement of supplies, equipment, construction and services, **MOL** shall comply with the conflict of interest rules in 2 CFR Part 200. **MOL** agrees and warrants that it will establish and adopt written standards of conduct governing conflicts of interest and the performance of its officers, employees, or agents engaged in the selection, award and administration of contracts supported by these federal funds. At a minimum these safeguards must ensure that no employee, officer or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated in 2 CFR §200.318, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of **MOL** must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. These standards of conduct must also provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of **MOL**. If **MOL** has a parent, affiliate, or subsidiary organization, **MOL** must also maintain written standards of conduct covering organizational conflicts of interest.

In all cases not governed by 2 CFR Part 200, **MOL** shall comply with the conflict of interest provisions contained in 24 CFR §576.404. Although this summary does not intend to replace §576.404, essentially this rule states that no person who exercises or have exercised any functions or responsibilities with respect to activities assisted with ESG funds, or who is in a position to participate in a decision making process or gain inside information with regard to these activities,

may obtain a financial interest or benefit from a ESG assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. The “persons” covered in §576.404 include employees, agents, consultants officers, or elected officials or appointed officials of the recipient or of any designated public agencies, or of subrecipients (**MOL**) that are receiving ESG funds. **MOL** shall also keep records supporting requests for waivers of conflicts.

MOL will disclose in writing any potential conflict of interest to the City. By executing this Agreement, the Subrecipient covenants and certifies that none of its employees, officers, or agents described in these regulations have any interest in this Agreement or any other interest which would conflict in any manner with this Agreement or the performance of the this Agreement.

Also, in accordance with 24 CFR §576.404, the provision of ESG assistance may not be conditioned on an individual’s or family’s acceptance or occupancy of emergency shelter or housing owned by the City or **MOL**, or a parent or subsidiary thereof. **MOL** shall not, with regard to individuals or families occupying housing owned by **MOL**, or by any parent or subsidiary thereof, conduct the initial evaluation required under §576.401 or administer homelessness prevention assistance under §576.103.

13. Environmental Review: In accordance with 24 CFR §576.407, **MOL** shall not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for an ESG project, or commit or expend ESG funds for eligible activities, until HUD has performed an environmental review under 24 CFR Part 50 and the City has received HUD approval of the property. **MOL** shall assist the City in its compliance with environmental review requirements pursuant to 24 CFR Part 50 by providing required information as requested by the City.

14. Displacement and Relocation: **MOL** shall comply and assist the City in complying with the provisions of 24 CFR §576.408, “Displacement, relocation, and acquisition.”

15. Disclosure and Lobbying: **MOL** shall comply with the restrictions on disclosure and lobbying contained in 31 U.S.C. §1352 and implementing regulations at 24 CFR Part 87 and shall execute the Certificate Regarding Lobbying, as attached hereto and incorporated herein by reference as **Exhibit "D"**.

16. Debarred, Suspended or Ineligible Contractors: **MOL** shall comply with the debarment and suspension requirements set forth in 24 CFR §5 and 24 CFR §24. **MOL** shall not enter into a contract with any person, **MOL** or entity that is debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 or 12689, "Debarment and Suspension," which is made a part of this Agreement by reference. In the event that **MOL** has entered into a contract or subcontract with a debarred or suspended party, no ESG funds will be provided as reimbursement for the work done by that debarred or suspended contractor or subcontractor.

17. Lead Based Paint: The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as amended by the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42

U.S.C. 4851-4856) and implementing regulations at 24 CFR Part 35, subparts A, B, H, J, K, M, and R shall apply to all shelters assisted under the ESG program and all housing occupied by program participants.

18. Habitability Standards: **MOL** shall comply with the requirements set forth in 24 CFR §576.403. If **MOL** is providing rental assistance with ESG funds, **MOL** shall conduct initial and follow-up inspections of housing units into which a program participant will be moving. Units must be inspected on an annual basis and upon a change of tenancy in accordance with the minimum habitability standards attached hereto as **Exhibit “E”**.

19. Drug Free Workplace: **MOL** shall comply with the Drug Free Workplace Act of 1988 (41 U.S.C. §701, et. seq.) and HUD's implementing regulations at 24 CFR Part 2429, and agrees to complete and comply with the "Certification Regarding Drug-Free Workplace Requirements" attached hereto as **Exhibit "F"** and incorporated by reference herein and made a part of this Agreement. **MOL** will complete this Certification and a copy shall be kept in the files of each of the parties of this Agreement.

20. Confidentiality: **MOL** shall develop, implement, and maintain written procedures to ensure the confidentiality of records pertaining to any individual(s) assisted with ESG funds under this Agreement, and that the address or location of any assisted housing will not be made public.

21. Registration and Accountability: **MOL** agrees to comply with 2 CFR Parts 25 and 170, and to maintain a current registration in the federal System for Award Management (“SAM”) database (<http://www.sam.gov>), formally known as the Central Contractor Registration under 2 CFR §176.50(c), and provide the City with its SAM registration number and legal name as entered into the SAM. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is required for registration in SAM. **MOL** shall also complete and sign the Federal Funding Accountability and Transparency Act (“FFATA”) Affidavit attached hereto as **Exhibit “G”** in conjunction with its execution of this Agreement, and provide any supporting documentation if required.

22. Training: **MOL** shall attend any training sessions, including but not limited to, in-person seminars, webinars, etc...that the City requires.

23. Housing Counseling. **MOL** agrees that any housing counseling, as defined in 24 CFR §5.100, that is funded with or provided in connection with ESG funds must be carried out in accordance with 24 CFR §5.111.

24. VAWA Protections. **MOL** agrees that all eligibility and termination decisions that are made with respect to ESG rental assistance must comply with the requirements set forth in the Violence Against Women Act of 2013 as provided in 24 CFR Part 5, Subpart L and 24 CFR §576.409, both attached hereto as **Exhibit “I”**.

SECTION 3: DEFAULTS AND REMEDIES

1. Events of Default: The following shall constitute an Event of Default under this Agreement:

(a) If **MOL** fails to comply with any regulations governing ESG awards, including, but not limited to, 24 CFR Part 576 or fails to comply with any of the terms contained in this Agreement or documents executed in connection therewith, and such failure continues for a period of fifteen (15) days following notice thereof given by the City;

(b) If **MOL** fails to provide services to the homeless as described herein or fails to file its report on serving the homeless in the manner set forth herein and the attached exhibits;

(c) If at any time any material representation made by **MOL**, or any service provider, in any certification or communication submitted by the **MOL** to the City in an effort to induce the making of this grant or administration thereof is determined by the City to be false, misleading, or incorrect in any material manner;

(d) If **MOL** does not disclose to the City upon demand the name of all persons with whom **MOL** has contracted or intends to contract with or provides services to, including contracts for services and/or labor and;

(e) If any other default occurs under any of the grant documents executed by **MOL** in connection with this grant by the City (herein the “Grant Documents”) which is not elsewhere specifically addressed herein, and such default is not cured within the applicable cure period set forth in the Grant Documents, or if there is no cure period set forth, then within fifteen (15) days following the date of notice to **MOL** thereof; and

Notwithstanding any of the forgoing provisions to the contrary, if **MOL** has failed to cure any default within (5) days prior to the expiration of any applicable cure period, the City may, at its sole option, cure such default, provided, however, that the City shall be under no duty or obligation to do so.

2. Remedies for Non-compliance. If **MOL** fails to comply with Federal statutes, regulations, or the terms and conditions of this Agreement, the City may impose additional conditions as described in 2 CFR §200.207. If the City determines that noncompliance cannot be remedied by imposing additional conditions, the City may take one or more of the following actions, including but not limited to:

(a) Temporarily withhold cash payment pending correction of the deficiency or more severe enforcement action by the City;

(b) Disallow both use of funds and any applicable matching credit for all or part of the cost of the activity or action not in compliance;

- (c) Wholly or partly suspend or terminate the award;
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and applicable regulations or recommend such proceedings be initiated by HUD;
- (e) Withhold further federal awards for the project or program;
- (f) Take other remedies that may be legally available including, but not limited to litigation, declaratory judgment, specific performance, damages, injunctions, enforcement of the Declaration of Restrictive Covenant, termination of the Agreement, or any other available remedies.

3. Suspension and Termination: **MOL** and the City will comply with the noncompliance and termination provisions in 2 CFR Part 200. In addition to the remedies for non-compliance in 2 CFR §200.338, in accordance with 2 CFR §§200.338 and 339, the City may suspend or terminate this Agreement in whole or in part if **MOL** fails to comply with any terms and conditions of this Agreement or upon the occurrence of any Event of Default or any other breach of this Agreement. The City can withhold all funding and disbursements, demand repayment for amounts disbursed, terminate all payments, and/or exercise all rights and remedies available to it under the terms of this Agreement under statutory law, equity or under common law. If the City terminates this Agreement, **MOL** shall also forfeit to the City all unexpended monies awarded under the Agreement. **MOL** may also be required to refund all ESG funds awarded by the City.

In accordance with 2 CFR §200.339, the City can terminate the Agreement with the consent of **MOL** in which case **MOL** and the City must agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated.

In accordance with 2 CFR §200.339(a)(4), the Agreement may also be terminated by **MOL** or the City with written notification setting forth the reason for such termination, the effective date and in the case of partial termination, the portion to be terminated. However, if the City determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, the City may terminate the award in its entirety.

If this award is terminated or partially terminated, **MOL** remains responsible for compliance with the closeout requirements in 2 CFR §200.343 and post-closeout requirements set forth in 2 CFR §200.344.

All remedies shall be deemed cumulative and, to the extent permitted by law; the election of one or more remedies shall not be construed as a waiver of any other remedy the City may have available to it.

4. No Waiver: Failure of the City to declare a default shall not constitute a waiver of any rights by the City. Furthermore, the waiver of any default by the City shall in no event be construed as a waiver of rights with respect to any other default, past or present.

SECTION 4: INDEMNIFICATION AND INSURANCE

1. Indemnification: **MOL** shall indemnify and save the City harmless from any and all liability, claims, demands, damages, losses, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions, including attorneys' fees, original and on appeal, arising out of, or related in any way to, or in any way connected with the performance of the Agreement by **MOL** or because of or due to the existence of the Agreement itself.

2. Insurance: **MOL** shall have in force the following insurance coverage, if applicable, each of which shall contain a provision which forbids any cancellation, changes or material alterations without prior written notice to the City at least thirty (30) days in advance, and will provide Certificates of Insurance to the City prior to commencing operations under the Agreement to verify such coverage:

(a) Workers' Compensation – **MOL** shall provide Workers' Compensation Coverage for all employees and, in case any work is subcontracted, will require the subcontractor to provide Workers' Compensation for all its employees. The limits will be statutory for Workers' Compensation for all its employees. The limits will be statutory for Workers' Compensation and \$100,000.00 for Employer's Liability.

(b) Commercial General Liability – **MOL** shall provide coverage for all operations including, but not limited to, Contractual, Products and Completed Operations, and Personal Injury. The limits will not be less than Five Hundred Thousand Dollars (\$500,000.00) combined single limit bodily injury and property damage, or its equivalent.

(c) Commercial Automobile Liability – **MOL** shall provide coverage for all owned, non-owned and hired vehicles utilized in the performance of this Agreement for limits of not less than \$500,000.00 combined single limit bodily injury and property damage, or its equivalent.

(d) Employee Honesty Insurance – **MOL** shall provide not less than Ten Thousand Dollars (\$10,000.00) coverage limit.

SECTION 5: MISCELLANEOUS PROVISIONS

1. Entire Agreement: This Agreement contains the entire agreement between the parties. Except as set forth herein, this Agreement may only be modified in writing, signed by both of the parties hereto.

2. Severability: It is agreed by and between the parties that if any covenant, condition, or provision contained in this Agreement is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenants, condition or provisions herein contained.

3. Effective Date: This Agreement shall be effective on October 1, 2017 (herein the "Effective Date") and **MOL** may begin providing services and goods hereunder on such date.

4. Assignment: **MOL** shall not assign or transfer any interest in this Agreement without the prior written consent of the City.

5. Notices: Whenever by the terms of this Agreement, notice shall or may be given to either party, such notice shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested to:

City: Oren Henry, Director
Housing and Community Development Department
City of Orlando
400 South Orange Avenue - 7th Floor
Orlando, Florida 32801

Subrecipient: Miracle of Love, Inc.
Angus Bradshaw, Executive Director
741 W. Colonial Drive
Orlando, Florida 32804

6. Compliance With All Laws: Notwithstanding anything herein to the contrary, **MOL** shall manage and administer the ESG funds consistent with and in compliance with all applicable federal, state, and local laws and regulations.

7. Governing Law: This Agreement shall be construed in accordance with the laws of the State of Florida.

IN WITNESS THEREOF, the parties have executed this Agreement on the _____ day of _____, 2017.

(SEAL)

CITY OF ORLANDO

By: _____
Mayor/Mayor Pro Tem

ATTEST:

Orlando City Clerk

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING ESG AGREEMENT BETWEEN THE CITY OF ORLANDO AND MIRACLE OF LOVE, INC., was acknowledged before me this _____ day of _____, 2017, by _____ and _____, well known to me to be the Mayor/Mayor Pro Tem and City Clerk, respectively, of the City of

Orlando, and who acknowledged before me that they executed the foregoing instrument on behalf of the City of Orlando as its true act and deed, that they were duly authorized so to do.

Notary Public

Print Name: _____

My Commission Expires:

APPROVED AS TO FORM AND LEGALITY

for the use and reliance of the

City of Orlando, Florida, only.

_____, 2017.

Assistant City Attorney
Orlando, Florida

Signed in the presence of
Two (2) Witnesses

MIRACLE OF LOVE, INC.
a Florida non-profit corporation (Corporate Seal)

Witness: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Witness: _____

Print Name: _____

CORPORATE ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF ORANGE

THE FOREGOING ESG PROGRAM AGREEMENT BETWEEN THE CITY OF
ORLANDO AND MIRACLE OF LOVE, INC. was acknowledged before me this _____ day of
_____ 2017, by _____, as _____ of the above-named
Florida non-profit corporation. He/she ☐ personally known to me or ☐ has produced
_____ as identification.

Notary Public

Print Name: _____

My Commission Expires: _____

EXHIBIT “A”

BUDGET

<u>Type of Services</u>	<u>Funding Amount for Service</u>
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Case Manager	\$10,087.00
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Homeless Prevention (rental and utility assistance).....	\$30,000.00
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TOTAL AWARD.....\$40,087.00

MOL shall spend at least one-half of the funding amounts allocated for each Type of Service listed above by the middle of the grant year during the term this Agreement. **MOL** shall comply with the following time frames provided below.

Type of Service	One-half of Funding for Service	Dates To Be Spent By (Timeframe)
Case Manager	\$5,043.50	March 31, 2018
Homeless Prevention	\$15,000.00	March 31, 2018

EXHIBIT “B”

PERSONS ELIGIBLE AND QUALIFIED TO RECEIVE ESG ASSISTANCE AS ESTABLISHED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

FY 2017 Income Limit Category	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
<u>Extremely Low (30%) Income Limits</u>	12,250	14,000	15,750	17,500	18,900	20,300	21,700	23,100

INCOME LIMITS - Eligible applicant must meet the income guidelines of 30% of AMI or less

1. Housing Status

The household must be either homeless or at risk of losing its housing and meet both of the following circumstances: (1) no appropriate subsequent housing options have been identified; AND (2) the household lacks the financial resources and support networks needed to obtain immediate housing or remain in its existing housing.

2. Eligibility Requirements for Rapid Re-housing Assistance

Rapid re-housing is available for persons who are homeless according to HUD’s definition. Individuals and families who meet one of the following criteria, along with the minimum requirements established in Section 5.1, are eligible under the rapid rehousing portion of ESG:

- Sleeping in an emergency shelter;
- Sleeping in a place not meant for human habitation, such as cars, parks, abandoned buildings, streets/sidewalks;
- Staying in a hospital or other institution for up to 180 days but was sleeping in an emergency shelter or other place not meant for human habitation immediately prior to entry into the hospital or institution;
- Graduating from, or timing out of a transitional housing program; and
- Fleeing domestic violence.

EXHIBIT “C”

Quarterly / Annual Report - ESG Activity Worksheet

ESG Rapid Re-housing and Stabilization Beneficiary Information

The numbers for the following questions are based on the number of persons served for Rapid Re-Housing and Housing Relocation/Stabilization services.

Please select the appropriate quarter for this report.

- ☐ Quarter #1 (October - December)
☐ Quarter #2 (January – March)
☐ Quarter #3 (April – June)
☐ Quarter #4 (July – September)

Rapid Re-Housing- Rental Assistance: Short-term

	Quarterly	Year-to-Date Served	
Households served			

Rapid Re-Housing- Rental Assistance: Medium-Term

	Quarterly	Year-to-Date Served	
Households served			

Rapid Re-Housing- Rental Assistance: Other

	Quarterly	Year-to-Date Served	
Households served			

Housing Stabilization/Financial Assistance: Identify the services and # households assisted by service in narrative:

	Quarterly	Year-to-Date Served	
Total Households served			

Households:

	Quarterly	YTD Served	Hispanic (Quarterly)	YTD
White				
Black/African American				
Asian				
American Indian/Alaskan Native				
Native Hawaiian/Other Pacific Islander				
American Indian/Alaskan Native & White				

Asian & White				
Black/African American & White				
Am. Indian/Alaskan Native & Black/African American				
Other Multi-Racial				
Totals				

Annual Number of Individual Households (singles)

Unaccompanied 18 and over	Male:	Female:	Totals:
Unaccompanied under 18	Male:	Female:	Totals:

Annual Number of Family Households with no Children Headed by:

Single 18 and over	Male:	Female:	Totals:
Single under 18	Male:	Female:	Totals:

Notes:

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Signature of President/Executive Director/Board Chair

Printed Name of President/Executive Director/Board Chair

EXHIBIT “D”

CERTIFICATE REGARDING LOBBYING

**CERTIFICATION REGARDING LOBBYING CERTIFICATION FOR CONTRACTS, GRANTS,
LOANS AND COOPERATIVE AGREEMENTS.**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or an 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, the making on any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than federal appropriated funds have been paid or will be paid to any person for 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 this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Date

Printed name of Authorized Individual

Application or Contract Number

Name and address of Organization:

EXHIBIT “E”

HUD Habitability Standards for ESG

Any building for which ESG funds are used for conversion, major rehabilitation, or other renovation must meet state or local government safety and sanitation standards, as applicable, and the following minimum safety, sanitation, and privacy standards. Any emergency shelter that receives ESG funds for shelter operations must also meet the following minimum safety, sanitation, and privacy standards:

1. **State and local requirements.** Each contractor must ensure that housing occupied by a family or individual receiving ESG assistance is in compliance with all applicable state and local housing codes, licensing requirements, and any other requirements in the jurisdiction in which the housing is located regarding the condition of the structure and the operation of the housing or services.
2. **Habitability standards.** Except for less stringent variations as are proposed by the grantee and approved by HUD, housing occupied by a family or an individual receiving ESG assistance must meet the following minimum requirements:
 - a. **Structure and materials.** The structures must be structurally sound to protect the residents from the elements and not pose any threat to the health and safety of the occupants. Any renovation (including major rehabilitation and conversion) carried out with ESG assistance must use Energy Star and WaterSense products and appliances.
 - b. **Access.** The housing must be accessible and capable of being utilized without unauthorized use of other private properties. Structures must provide alternate means of egress in case of fire.
 - c. **Space and security.** Each resident must be afforded adequate space and security for themselves and their belongings. Each resident must be provided an acceptable place to sleep.
 - d. **Interior air quality.** Every room or space must be provided with natural or mechanical means of ventilation. Structures must be free of pollutants in the air at levels that threaten or harm the health of residents.
 - e. **Water supply.** The water supply must be free from contamination.
 - f. **Sanitary facilities.** Residents must have access to sufficient sanitary facilities that are in proper operating condition, may be used in privacy, and are adequate for personal cleanliness and the disposal of human waste.
 - g. **Thermal environment.** The housing must have adequate heating and/or cooling facilities in proper operating condition.
 - h. **Illumination and electricity.** The housing must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of residents. Sufficient electrical sources must be provided to permit use of essential electrical appliances while ensuring safety from fire.
 - i. **Food preparation and refuse disposal.** All food preparation areas must contain suitable space and equipment to store, prepare, and serve food in a sanitary manner.
 - j. **Sanitary condition.** The housing and any equipment must be maintained in sanitary condition.
 - k. **Fire safety.**
 - a. Each unit must include at least one battery-operated or hard wired smoke detector, in property working condition, on each occupied level of the unit. Smoke detectors must be located, to the extent practicable, in a hallway adjacent to a bedroom. If the unit is occupied by hearing impaired persons, smoke detectors must have an alarm system designed for hearing-impaired persons in each bedroom occupied by a hearing-impaired person.
 - b. The public areas of all housing must be equipped with a sufficient number, but not less than one for each area, of battery-operated or hard-wired smoke detectors. Public areas include, but are not limited to, laundry rooms, community rooms, day care centers, hallways, stairwells, and other common areas.

EXHIBIT “F”

PLACE OF PERFORMANCE

FOR CERTIFICATION REGARDING DRUG-FREE WORKPLACE
REQUIREMENTS

Name of Subgrantee: **Miracle of Love, Inc.**

Grant Program Name: Emergency Solutions Grants Program

Grant Number: _____

Date: _____

The subgrantee shall insert in the space provided below the site(s) expected to be used for the performance of work under the grant covered by the certification:

Place of Performance (include street address, city, county, state, zip code for each site):

Check _____ if there are workplaces on file that are not identified here.

ATTEST:

By: _____

As Its _____

Date: _____

EXHIBIT “G”

AFFIDAVIT

Federal Funding Accountability and Transparency Act (FFATA)

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The FFATA Subaward Reporting System (FSRS) is the reporting tool Federal prime awardees (i.e. prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS will then be displayed on www.USASpending.gov associated with the prime award furthering Federal spending transparency. The Transparency Act requires information disclosure concerning entities receiving Federal financial assistance through Federal awards such as Federal contracts, sub-contracts, grants, and sub-grants.

Specifically, the Transparency Act’s section 2(b)(1) requires the City to provide the following information about each Federal award:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type,
- Location of the entity receiving the award and primary location of performance under the award;
- Unique identifier of the entity receiving the award and the parent entity of the recipient;
- Names and total compensation of the five most highly compensated officers of the entity if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

I, _____ (print name), hereby swear or affirm that:

I read and understand the information provided above.

I have personal knowledge of the facts I am attesting to in this affidavit.

(please check one of the following)

_____ I attest that _____ (agency name) **does not** meet the above threshold requiring names and total compensation of the five most highly compensated officers of the entity if the entity.

_____ I attest that _____ (agency name) **does** meet the above threshold* requiring names and total compensation of the five most highly compensated officers of the entity if the entity.

*If agency meets the above threshold, the agency MUST attach a spreadsheet with the names and total compensation of the five most highly compensated officers of the entity, signed and dated by the one of the following: President; Executive Director; CEO; Board Chairperson; Finance Director; CFO; or Treasurer.

I understand that the submission of a false affidavit is punishable as a second-degree misdemeanor under Florida law.

Signature of President/Executive Director/Board Chair

Printed Name of President/Executive Director/Board Chair

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing Affidavit was acknowledged before me this ____ day of _____, 20____,
by _____ on behalf of _____ (agency
name) and is personally known to me or has produced _____ as identification.

Notary Public
My Commission Expires:

EXHIBIT “H”

REQUIRED SUBRECIPIENT INFORMATION

1. Subrecipient name (which must match registered name in DUNS): Miracle of Love, Inc.
2. Subrecipient's DUNS number (see §200.32 Data Universal Numbering System (DUNS) number: 9 6 1 6 3 7 5 2 7
3. Federal Award Identification Number (FAIN): E-17-MC-12-0015
4. Federal Award Date (see §200.39 Federal award date): _____
5. Subaward Period of Performance Start Date and End Date: 10/01/2017 to 9/30/2018
6. Amount of Federal Funds Obligated by this activity: \$40,087
7. Total Amount of Federal Funds obligated to subrecipient: \$1,405,059
8. Total Amount of the Federal Award: \$162,256
9. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): Funds will pay for two months of rental and utility assistance to high-risk pregnant women that are enrolled in the Targeted Outreach for Pregnant Women Act (TOPWA) Program.
10. Name of Federal awarding agency, pass-through entity, and contact information for awarding official: U.S. Department of Housing and Urban Development; City of Orlando Housing and Community Development Department; Housing and Community Development Manager; 400 S. Orange Ave, 7th Floor, Orlando, FL, 32802; 407-246-3326
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award the CFDA number at the time of disbursement: 14.231, Emergency Solutions Grant
12. Identification of whether the award is R&D: N/A

13. Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A costs)): N/A

EXHIBIT “I”

§ 576.409 Protection for victims of domestic violence, dating violence, sexual assault, or stalking.

Code of Federal Regulations

Title 24, Housing and Urban Development

Subtitle B, Regulations Relating to Housing and Urban Development

Chapter V, Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Refs & Amos)

Subchapter C, Community Facilities

Part 576, Emergency Solutions Grants Program (Refs & Amos)

Subpart F, Program Requirements

24 C.F.R. § 576.409

§ 576.409 Protection for victims of domestic violence, dating violence, sexual assault, or stalking.

Effective: December 16, 2016

Currentness

(k) **Applicability of VAWA protections.** The core statutory protections of VAWA that prohibit denial or termination of assistance or eviction solely because an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking applied upon enactment of VAWA 2013 on March 7, 2013. The VAWA regulatory requirements under 24 CFR part 5, subpart L, as supplemented by this section, apply to all eligibility and termination decisions that are made with respect to ESG rental assistance on or after December 16, 2016. The recipient must ensure that the requirements under 24 CFR part 5, subpart L, are included or incorporated into rental assistance agreements and leases as provided in § 576.106(e) and (g).

(b) **Covered housing provider.** For the ESG program, “covered housing provider,” as such term is used in HUD’s regulations in 24 CFR part 5, subpart L, refers to:

- (1) The recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(c);
- (2) The housing owner for the purposes of 24 CFR 5.2005(d)(1), (d)(3), and (d)(4) and 5.2009(a);
- (3) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2005(d)(2); and
- (4) The housing owner and the recipient or subrecipient that administers the rental assistance for the purposes of 24 CFR 5.2007. However, the recipient or subrecipient may limit documentation requests under 24 CFR 5.2007 to only the recipient or subrecipient, provided that:
 - (i) This limitation is made clear in both the notice described under 24 CFR 5.2005(a)(1) and the rental assistance agreement;
 - (ii) The entity designated to receive documentation requests determines whether the program participant is entitled to protection under VAWA and immediately advise the program participant of the determination; and

(ii) If the program participant is entitled to protection, the entity designated to receive documentation requests must notify the owner in writing that the program participant is entitled to protection under VAWA and work with the owner on the program participant's behalf. Any further sharing or disclosure of the program participant's information will be subject to the requirements in 24 CFR 5.2007.

(c) **Notification.** As provided under 24 CFR 5.2005(a) each recipient or subrecipient that determines eligibility for or administers ESG rental assistance is responsible for ensuring that the notice and certification form described under 24 CFR 5.2005(a)(1) is provided to each applicant for ESG rental assistance and each program participant receiving ESG rental assistance at each of the following times:

- (1) When an individual or family is denied ESG rental assistance;
- (2) When an individual or family's application for a unit receiving project-based rental assistance is denied;
- (3) When a program participant begins receiving ESG rental assistance;
- (4) When a program participant is notified of termination of ESG rental assistance; and
- (5) When a program participant receives notification of eviction.

(d) **Emergency transfer plan.**

(1) The recipient must develop the emergency transfer plan under 24 CFR 5.2005(e) or, if the recipient is a state, require its subrecipients that administer ESG rental assistance to develop the emergency transfer plan(s) required under 24 CFR 5.2005(e). If the state's subrecipients are required to develop the plan(s), the recipient must specify whether an emergency transfer plan is to be developed for:

- (i) The state as a whole;
- (ii) Each area within the state that is covered by a Continuum of Care; or
- (iii) Each subrecipient that administers ESG rental assistance.

(2) Once the applicable plan is developed in accordance with this section, the recipient and each subrecipient that administers ESG rental assistance must implement the plan in accordance with 24 CFR 5.2005(e).

(3) Each emergency transfer plan must meet the requirements in 24 CFR 5.2005(e) and include the following program requirements:

(i) For families living in units receiving project-based rental assistance (assisted units), the required policies must provide that if a program participant qualifies for an emergency transfer, but a safe unit is not immediately available for an internal emergency transfer, that program participant shall have priority over all other applicants for tenant-based rental assistance, utility assistance, and units for which project-based rental assistance is provided.

(ii) For families receiving tenant-based rental assistance, the required policies must specify what will happen with respect to the non-transferring family member(s), if the family separates in order to effect an emergency transfer.

(c) **Bifurcation.** For the purposes of this part, the following requirements shall apply in place of the requirements at 24 CFR 5.2009(b):

(1) When a family receiving tenant-based rental assistance separates under 24 CFR 5.2009(a), the family's tenant-based rental assistance and utility assistance, if any, shall continue for the family member(s) who are not evicted or removed.

(2) If a family living in a unit receiving project-based rental assistance separates under 24 CFR 5.2009(a), the family member(s) who are not evicted or removed can remain in the assisted unit without interruption to the rental assistance or utility assistance provided for the unit.

(f) **Emergency shelters.** The following requirements apply to emergency shelters families under § 576.102:

(1) No individual or family may be denied admission to or removed from the emergency shelter on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.

(2) The terms "affiliated individual," "dating violence," "domestic violence," "sexual assault," and "stalking" are defined in 24 CFR 5.2303.

Credits

[81 FR 30808, Nov. 16, 2016; 81 FR 87812, Dec. 6, 2016]

SOURCE: 76 FR 75974, Dec. 5, 2011; 81 FR 90659, Dec. 14, 2016, unless otherwise noted.

AUTHORITY: 12 U.S.C. 1701x, 1701x-1; 42 U.S.C. 11371 et seq.; 42 U.S.C. 3535(d).

Catalog through August 17, 2017; 82 FR 39274.

End of Document

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Code of Federal Regulations

Title 24, Housing and Urban Development

Subtitle A, Office of the Secretary, Department of Housing and Urban Development

Part 5, General HUD Program Requirements; Waivers (Refs & Annotations)

Subpart L, Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
(Refs & Annotations)

24 C.F.R. § 5.2005

§ 5.2005 VAWA protections.

Effective: December 16, 2016

Currency:

(a) Notification of occupancy rights under VAWA, and certification form

(1) A covered housing provider must provide to each of its applicants and to each of its tenants the notice of occupancy rights and the certification form as described in this section:

(i) A "Notice of Occupancy Rights under the Violence Against Women Act," as prescribed and in accordance with directions provided by HUD, that explains the VAWA protections under this subpart, including the right to confidentiality, and any limitations on these protections; and

(ii) A certification form, in a form approved by HUD, to be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:

(A) States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;

(B) States that the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection under this subpart meets the applicable definition for such incident under § 5.2003; and

(C) Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

(2) The notice required by paragraph (a)(1)(i) of this section and certification form required by paragraph (a)(1)(ii) of this section must be provided to an applicant or tenant no later than at each of the following times:

(i) At the time the applicant is denied assistance or admission under a covered housing program;

(ii) At the time the individual is provided assistance or admission under the covered housing program;

(k) With any notification of eviction or notification of termination of assistance; and

(iv) During the 12-month period following December 16, 2006, either during the annual recertification or lease renewal process, whichever is applicable, or, if there will be no recertification or lease renewal for a tenant during the first year after the rule takes effect, through other means.

(5) The notice required by paragraph (a)(1)(ii) of this section and the certification form required by paragraph (a)(1)(ii) of this section must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 12166 (Improving Access to Services for Persons with Limited English Proficiency, signed August 11, 2000, and published in the Federal Register on August 16, 2000 (at 65 FR 5012)).

(4) For the Housing Choice Voucher program under 24 CFR part 982, the project-based voucher program under 24 CFR part 983, the public housing admission and occupancy requirements under 24 CFR part 960, and renewed funding or leases of the Section 8 project-based program under 24 CFR parts 880, 882, 883, 884, 886, as well as project-based section 8 provided in connection with housing under part 891, the HUD required lease, lease addendum, or tenancy addendum, as applicable, must include a description of specific protections afforded to the victims of domestic violence, dating violence, sexual assault, or stalking, as provided in this subpart.

(h) Prohibited basis for denial or termination of assistance or eviction

(1) General. An applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

(2) Termination on the basis of criminal activity. A tenant in a covered housing program may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

(i) The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant; and

(ii) The tenant or an affiliated individual in the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

(c) Construction of lease terms and terms of assistance. An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as:

(1) A serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or

(2) Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

(d) Limitations of VAWA protections.

(1) Nothing in this section limits the authority of a covered housing provider, when notified of a court order, to comply with a court order with respect to:

(i) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or

(ii) The distribution or possession of property among members of a household.

(2) Nothing in this section limits any available authority of a covered housing provider to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. However, the covered housing provider must not subject the tenant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with an individual who is or has been a victim of domestic violence, dating violence, sexual assault or stalking, to a more demanding standard than other tenants in determining whether to evict or terminate assistance.

(3) Nothing in this section limits the authority of a covered housing provider to terminate assistance to or evict a tenant under a covered housing program if the covered housing provider can demonstrate an actual and imminent threat to other tenants or those employed in or providing service to property of the covered housing provider would be present if that tenant or tenant occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an "actual and imminent threat" if they meet the standards provided in the definition of "actual and imminent threat" in § 5.2003.

(4) Any eviction or termination of assistance, as provided in paragraph (d)(3) of this section should be utilized by a covered housing provider only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

(e) Emergency transfer plan. Each covered housing provider, as identified in the program-specific regulations for the covered housing program, shall adopt an emergency transfer plan, no later than June 14, 2017 based on HUD's model emergency transfer plan, in accordance with the following:

(1) For purposes of this section, the following definitions apply:

(i) Internal emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

(ii) External emergency transfer refers to an emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process in order to reside in the new unit.

(iii) Safe unit refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

(2) The emergency transfer plan must provide that a tenant receiving rental assistance through, or residing in a unit subsidized under, a covered housing program who is a victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if:

(i) The tenant expressly requests the transfer; and

(ii)(A) The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or

(B) In the case of a tenant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.

(3) The emergency transfer plan must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

(4) The emergency transfer plan must incorporate strict confidentiality measures to ensure that the covered housing provider does not disclose the location of the dwelling unit of the tenant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

(5) The emergency transfer plan must allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.

(6) The emergency transfer plan must describe policies for assisting a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available, and these policies must ensure that requests for internal

emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing providers may already provide to other types of emergency transfer requests.

(7) The emergency transfer plan must describe reasonable efforts the covered housing provider will take to assist a tenant who wishes to make an external emergency transfer when a safe unit is not immediately available. The plan must include policies for assisting a tenant who is seeking an external emergency transfer under VAWA out of the covered housing provider's program or project, and a tenant who is seeking an external emergency transfer under VAWA into the covered housing provider's program or project. These policies may include:

(i) Arrangements, including memoranda of understanding, with other covered housing providers to facilitate moves; and

(ii) Outreach activities to organizations that assist or provide resources to victims of domestic violence, dating violence, sexual assault, or stalking.

(8) Nothing may preclude a tenant from seeking an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.

(9) Where applicable, the emergency transfer plan must describe policies for a tenant who has tenant-based rental assistance and who meets the requirements of paragraph (c)(2) of this section to move quickly with that assistance.

(10) The emergency transfer plan may require documentation from a tenant seeking an emergency transfer, provided that:

(i) The tenant's submission of a written request to the covered housing provider, where the tenant certifies that they meet the criteria in paragraph (c)(2)(ii) of this section, shall be sufficient documentation of the requirements in paragraph (c)(2) of this section;

(ii) The covered housing provider may, at its discretion, ask an individual seeking an emergency transfer to document the occurrence of domestic violence, dating violence, sexual assault, or stalking, in accordance with § 5.2007, for which the individual is seeking the emergency transfer, if the individual has not already provided documentation of that occurrence; and

(iii) No other documentation is required to qualify the tenant for an emergency transfer.

(11) The covered housing provider must make its emergency transfer plan available upon request and, where feasible, must make its plan publicly available.

(12) The covered housing provider must keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years, or for a period

of time as specified in program regulations. Requests and outcomes of such requests must be reported to HUD annually.

(13) Nothing in this paragraph (c) may be construed to supersede any eligibility or other occupancy requirements that may apply under a covered housing program.

SOURCE: 61 FR 5202, Feb. 9, 1996; 61 FR 9041, March 6, 1996; 61 FR 9547, March 8, 1996; 61 FR 11112, March 18, 1996; 61 FR 13616, March 27, 1996; 61 FR 54498, Oct. 18, 1996; 70 FR 77743, Dec. 30, 2005; 73 FR 72540, Nov. 28, 2008; 75 FR 66258, Oct. 27, 2010; 81 FR 19416, April 4, 2016; 81 FR 30798, Nov. 16, 2016; 81 FR 87812, Dec. 6, 2016; 81 FR 90657, Dec. 14, 2016, unless otherwise noted.

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