

**AMENDMENT NO. 1 TO
HOME SUBRECIPIENT AGREEMENT**

THIS AMENDMENT ("Amendment") is entered into this ____ day of December, 2016, by and between the **CITY OF TACOMA**, a municipal corporation of the State of Washington, hereinafter referred to as the "City", and the **TACOMA COMMUNITY REDEVELOPMENT AUTHORITY**, a public corporation, hereinafter referred to as the "TCRA". The City and the TCRA may be collectively referred to herein as the "Parties."

WITNESSETH

WHEREAS, the City and TCRA entered into a Subrecipient Agreement (hereinafter "Agreement") to allow TCRA to administer HOME funds in order to enhance Tacoma's housing development client on or about July 1, 2016, and

WHEREAS, the Program Year 2016 HOME Consortia Participating Members Report provided by the Department of Housing and Urban Development (hereinafter "HUD") identified a shift in the percentage of funding allocated to each Consortium member and subsequently resulted in fewer funds available to the City and TCRA;

WHEREAS, the Parties desire to amend the Agreement and enter into this Amendment No. 1 in order to reduce the Agreement amount thereof by a total of \$55,694.00;

WHEREAS, the City shall ensure funding availability for TCRA administrative costs;

WHEREAS, the Parties agree to additionally amend the Agreement through this Amendment No. 1 to then increase the reduced Agreement amount thereof by a total of \$99,810.00;

WHEREAS, to be in compliance with 2 CFR 200.331(a)(1), additional subaward information must be included in the Agreement.

NOW, THEREFORE, in consideration of the mutual promises and obligations hereinafter set forth, the Parties hereto do mutually agree as follows:

1. Section 2 of the Agreement is amended and replaced as follows:
 - A. The maximum consideration for this Agreement shall not exceed **\$753,764.00 (Seven Hundred Fifty-three Thousand, Seven Hundred Sixty-four dollars and No/100 Dollars)**.
2. Exhibit C, Section 1 of the Agreement is amended and replaced as follows:
 - A. In consideration of the mutual promises given and the benefit to be derived from this Agreement, the City agrees to provide HOME funds in the amount of \$998,098.00 to accomplish the scope of services described in Exhibit B – Scope of Work.

2016-2017 HOME Budget	
Eligible Categories	New HOME Award
Down Payment Assistance	\$0.00
Homeowner Rehabilitation	\$0.00
Affordable Housing Development	\$504,239.00
CHDO Set-Aside	\$149,715.00
Administrative Costs	\$99,810.00
Total	\$753,764.00

3. In compliance with 2 CFR 200.331(a)(1), page one, paragraph one is amended to include Exhibit E as follows:

A. This contractual agreement, referred to as this "Agreement", is comprised of these General Terms and Conditions, any attached Exhibits, and subsequent Amendments. The Agreement is a contract between the CITY OF TACOMA, subsequently referred to as the "City", and TACOMA COMMUNITY REDEVELOPMENT AUTHORITY (TCRA), subsequently referred to as the "Subrecipient". Subrecipient agrees to the terms and conditions set forth in this Agreement, including the following Exhibits:

- Exhibit A** Applicable Definitions
- Exhibit B** Scope of Work
- Exhibit C** Compensation and Financial Requirements
- Exhibit D** Contract Compliance
- Exhibit E** Federal Award Identification Requirements; and

This Amendment consists of the following documents:

- (a) This Amendment;
- (b) Exhibit E - Federal Award Identification Requirements
- (c) Original Agreement

All other terms of the Agreement, together with all exhibits, are hereby ratified and shall remain in full force and effect, unaltered by this Amendment.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

CITY OF TACOMA

**TACOMA COMMUNITY REDEVELOPMENT
AUTHORITY**

T.C. Broadnax, City Manager

Carey K. Jenkins, TCRA Administrator

Ricardo Noguera, Director
Community & Economic Dev. Dept.

TCRA Authorized Officer

Andrew Cherullo, Finance Director

Approved as to form:

Debra Casparian, Deputy City Attorney

Attest:

Doris Sorum, City Clerk

Exhibit E

Additional subaward requirements pursuant to 2 CFR 200.331(a)(1) are included as follows:

1) Federal Award Identification.

- (i) Subrecipient name: Tacoma Community Redevelopment Authority;
- (ii) Subrecipient's unique identifier: EIN: 91-1061825 DUNS: 824665491;
- (iii) Federal Award Identification Number (FAIN): M16-DC530206;
- (iv) The Federal Award Date (as defined in 2 CFR 200.39) is September 1, 2016;
- (v) The amount of Federal Funds Obligated by this action by the City of Tacoma to the Subrecipient is \$898,288.00;
- (vi) The total amount of Federal Funds Obligated to the Subrecipient by the City of Tacoma including the current obligation is \$898,288.00;
- (vii) The total amount of the Federal Award committed to the Subrecipient by the City of Tacoma is \$898,288.00
- (viii) The Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): TCRA will be the administrator of the City's HOME funds with the intent to enhance Tacoma's housing development climate by providing loans and technical assistance to income qualified homeowners, homebuyers, and to organizations that develop, own and/or sponsor affordability housing, including shelters, group homes, special needs and transitional housing, and opportunities for low-income households. In certain instances where the need and/or opportunity is identified, the Subrecipient reserves the right to directly acquire and/or develop projects to meet the intent of this Agreement.
- (ix) The name of:
 - Federal awarding agency: United States Department of Housing and Urban Development
 - Pass-through entity: City of Tacoma
- (x) Contact information for awarding official of the pass-through entity: Ricardo Noguera, Director of community & Economic Development; 747 Market St, Room 900, Tacoma, WA 98402; (253) 591-5139; rnoguera@cityoftacoma.org
- (xi) CFDA Number: 14.239; Name: HOME Investment Partnerships Program (HOME); Dollar amount made available under each Federal award: \$898,288.00
- (xii) This award to the Subrecipient is a non-Research and Development award; and
- (xiii) The Subrecipient shall not charge an indirect cost rate to the Federal award under this Subrecipient Agreement.

**SUBRECIPIENT AGREEMENT – HOME PROGRAM
BETWEEN THE CITY OF TACOMA, THE CITY OF LAKEWOOD, AND THE TACOMA
COMMUNITY REDEVELOPMENT AUTHORITY
PROGRAM YEAR 2016-17**

This HOME Subrecipient Agreement, hereinafter called “Agreement”, has been made and entered into as of the 1st day of July, 2016, between the City of Tacoma (“Tacoma”), the City of Lakewood (“Lakewood”), and the Tacoma Community Redevelopment Authority (“TCRA”) to allow for the administration of the Tacoma-Lakewood HOME Consortium (“Consortium”), whose address is 747 Market Street, Room 900, Tacoma, WA 98402 as authorized by Title II, Section 216 and 217 of the National Affordable Housing Act of 1990, and 24 CFR Part 92, also known as the HOME Investment Partnerships (“HOME”) Program.

RECITALS

WHEREAS, the U.S. Department of Housing & Urban Development (“HUD”) has designated Tacoma as a Participating Jurisdiction for the HOME Program under 24 CFR Part 92.105 and has maintained a continuous designation as a Participating Jurisdiction under § 92.106; and

WHEREAS, HUD allows for Participating Jurisdictions to select a public agency to administer its HOME program for the purpose of strengthening public-private partnerships and to expand the supply of decent, safe, sanitary and affordable housing, for low-income households; and

WHEREAS, HUD has designated the cities of Tacoma and Lakewood as the Tacoma-Lakewood HOME Consortium (“Consortium”), HUD has further designated Tacoma as the Lead Agency (“Lead Agency”) under § 92.101(2)(ii) and Lakewood as a Subrecipient Agency (“Subrecipient”); and

WHEREAS, the Lead Agency distributes HOME funds to the Subrecipient as allowed under 24 CFR Part 92.101(d) for the purpose of promoting affordable housing for low-income households through the acquisition, construction, or rehabilitation of non-luxury housing; and

WHEREAS, the Lead Agency has contracted with the Tacoma Community Redevelopment Agency (“TCRA”) to administer and carry-out the HOME program on the Lead Agency’s behalf through an annual subrecipient agreement and allocation of HOME funds.

NOW, THEREFORE, the parties, for and in consideration of the promises and mutual obligations set forth below, agree as provided for in this agreement.

I. Definitions

Act – means the HOME Investment Partnership Act at title II of the Cranston-Gonzalez National Affordable Housing Act, as amended, 42 U.S.C. 12701 et seq.

Annual Action Plan – the annual plan through which the Lead Agency identifies the use of their HOME funds and the amount allocated to each program or project.

HOME Assisted Units – those units which were partially or totally acquired, rehabilitated, constructed, or otherwise, assisted with the use of HOME Funds.

HOME Funds – the total amount of HOME Program dollars being distributed by the Lead Agency to the Subrecipient under this Agreement.

Household – means one or more persons occupying a housing unit.

Lead Agency – means the City of Tacoma.

Low-Income Households – means households whose annual income does not exceed 80 percent of the median income for the area, as determined by HUD.

Project – a site or sites together with any buildings that are under common ownership management and financing and are to be assisted with HOME funds as a single undertaking under this agreement.

Project Completion – means that all necessary title transfer requirements and construction work have been performed; the project complies with the requirements of 24 CFR § 92, including the property standards under 24 CFR § 92.251; the final drawdown has been disbursed for the project; and the project completion information has been entered in the disbursement and information system established by HUD.

Program – a grouping of individual projects that have a common eligible activity and result (e.g.: Homeowner Rehabilitation or Down Payment Assistance).

Program Income – means gross income received by the Subrecipient, whether received directly or indirectly, that is generated from the use of HOME funds.

Program Year – the program year for this Agreement shall run from July 1st to June 30th.

Regulations – the requirements in 24 CFR Part 92 which govern the HOME Program and the use of HOME Funds, and all related and applicable OMB Circulars, Codes, Regulations, and requirements.

Subrecipient – means the City of Lakewood

Tacoma Community Redevelopment Authority (TCRA) – a public development authority created and operated by the City of Tacoma to act as the administrator and lender of HOME funds.

II. Sources and Uses of Funds

- A. Amount. In Program Year 2016-17, HUD allocated a total of \$271,483.00 in HOME funds available to the Subrecipient for Program eligible activities. Under the Consortium, ten (10) percent of the awarded funds, or \$27,148.00, will be held by

TCRA and used by TCRA staff for administrative functions in support of the Subrecipient's HOME allocation as described in this Agreement.

HOME Program dollars, hereinafter called "HOME Funds", to be allocated to the Subrecipient under this Agreement is **Two Hundred Forty-four Thousand, Three Hundred Thirty-four and No/100 Dollars (\$244,344.00)**, excluding any Program Income received from Subrecipient projects for the implementation of the Program Description described in Section II(D) of this Agreement.

- B. Program Year. This Agreement covers HOME funds allocated for the Program Year 2016.
- C. Timeliness of Expenditures. Time is of the essence in this Agreement. Any Program Year 2016 funds uncommitted as of June 30, 2019 may be recaptured by the Lead Agency for redistribution to an eligible HOME activity, unless prior written approval is granted by the Lead Agency.
- D. Program Description. The Lead Agency has approved the Subrecipient's Annual Action Plan for the Program Year 2016-17, which includes funding of three programs in Program Year 2016-17: Affordable Housing Project(s), Housing Rehabilitation, and Down Payment Assistance in a total amount of **Two Hundred Forty-four Thousand, Three Hundred Thirty-four and No/100 Dollars (\$244,344.00)**.
- E. Scope of Work. The Subrecipient will act as program coordinator, and will market the programs in accordance with applicable HOME rules and regulations to households whose gross annual household income is at or below eighty percent (80%) of median under income guidelines established annually by HUD for the Tacoma-Lakewood area. The Subrecipient is responsible for ensuring that all federal, state, and local regulations, laws and requirements are met prior to the written commitment and/or disbursement of any HOME funds under this Agreement.
- F. Project Approval. All projects will be reviewed individually and independently approved by the TCRA, a public development authority, staffed by the Lead Agency. All projects must meet the regulatory requirements of 24 CFR Part 92. The TCRA, on behalf of the Subrecipient, will act as lender of the Subrecipient HOME funds to households, developers and/or owners ("Borrower") as individually authorized and approved by TCRA.

All loans will be subject to TCRA terms and conditions of approval and made in compliance with 24 CFR Part 92, as appropriate for the specific activity. TCRA will be named as mortgagee on the properties, which will be documented by one or more of the following documents, as appropriate: a Developer Agreement, a Promissory Note, a Loan Agreement, a Deed of Trust, and a HOME Agreement. All documents must be satisfactory to the Lead Agency and/or TCRA. All properties acquired construction or rehabilitated with HOME funds will maintain property insurance naming TCRA as a

loss payee throughout the life of the loan. The original loan documents and proof of insurance will be forwarded to TCRA prior to the start of work on the project.

- G. Disbursements. The Subrecipient may request funds under this Agreement only when they are needed for payment of specific allowable costs described herein, and only in amounts needed to pay such costs. The Lead Agency has designated TCRA as the disbursing agent for the HOME funds. The Subrecipient shall be reimbursed for eligible project costs after review and approval by the Lead Agency of invoices, statements, and other billings, and property inspection if applicable. Upon prior approval of the Lead Agency, a vendor, contractor or escrow office may be paid directly on behalf of the Subrecipient.

Each request for a disbursement of funds shall be deemed a certification of the Subrecipient that as of the date of such request, all representations and warranties contained in this agreement and any applicable project loan documents have been satisfied. The obligation of the Lead Agency to make any disbursement shall also be subject to the (a) availability of the funds from the grant (HOME Grant) made by the United States Dept. of Housing and Urban Development to the Lead Agency, (b) allocation of the necessary HOME funds by the City of Tacoma to TCRA, (c) satisfaction by Subrecipient of all other conditions under this Agreement, and (d) satisfaction by Borrower of all other conditions to the obligations of TCRA.

III. Project Requirements and Standards

- A. Eligible Households. The Subrecipient will determine each household is income eligible by determining the household's annual income in accordance with 24 CFR § 92.203(a)(2) requiring the examination of source documents. For the Affordable Housing program, the Subrecipient will establish an income calculation at the time of the project contract, in accordance with 24 CFR § 92.203(b).

The Subrecipient will calculate the annual income of the household by projecting the prevailing rate of income of the household at the time the Subrecipient determines that the family is eligible. Annual income shall include income from all household members aged 18 and older. The Subrecipient is not required to re-examine the family's income at the time the HOME-assistance is provided, unless more than six months has elapsed since the Subrecipient determined that the family qualified as income eligible.

- B. Maximum Per-Unit Subsidy. The total amount of HOME funds that the Subrecipient may invest on a per-unit basis in affordable housing may not exceed the per-unit dollar limitations established under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the Tacoma/Pierce County area.
- C. Minimum Per-Unit Subsidy. The minimum amount of HOME funds that may be invested in a project is One Thousand Dollars and No/100 (\$1,000.00).

- D. Subsidy Layering. Before committing funds to a project, the Subrecipient must evaluate the project in accordance with guidelines it has adopted for the purpose of subsidy layering and not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing.
- E. Property Standards. In compliance with 24 CFR § 92.251, all housing that is constructed or rehabilitated with HOME funds will meet all applicable local codes, the Subrecipient's written rehabilitation standards, ordinance and zoning ordinances at the time of project completion, except as provided in paragraph (b) of § 92.251. The Subrecipient's written rehabilitation standards must be satisfactory to the Lead Agency and will ensure that the HOME-assisted housing is decent, safe, and sanitary.

All other HOME-assisted housing must meet all applicable State and local housing quality standards and code requirements and if there are no such standards or code requirements, the housing must meet the housing quality standards in 24 CFR 982.401.

- F. Rental Project Affordability. Any HOME-assisted units in a rental housing project must be occupied by households that are at or below sixty percent (60%) of the area median income at the time of initial occupancy. Any rental projects funded through the Subrecipient's Affordable Housing Program will comply with 24 CFR § 92.252 and 92.253. These regulatory requirements include rent limitations, initial rent schedule and utility allowances, nondiscrimination against rental assistance subsidy holders, periods of affordability, rent adjustments during the period of affordability, tenant income, over-income tenants, fixed and floating HOME units, and tenant protections, including lease requirements and prohibitions.

These requirements also apply to the HOME-assisted non-owner occupied units in a single-family housing purchased with HOME funds in accordance with 24 CFR § 92.254.

- H. Homeowner Rehabilitation Affordability. Housing that is currently owned by a household qualifies as affordable housing only if:
1. The estimated value of the property, after rehabilitation, does not exceed 95 percent of the median purchase price for the area, as published annual by HUD under the HOME program;
 2. The housing is the principal residence of an owner whose household qualifies as a low-income family at the time HOME funds are committed to the housing; and
 3. The ownership in the housing assisted meets the definition of "homeownership" in 24 CFR § 92.2.

- I. Homeowner Acquisition Affordability. Housing that is for acquisition, with or without rehabilitation, must meet the affordability requirements 24 CFR § 92.254(a), including:
 1. Housing must be single-family housing;
 2. The housing must be modest housing with a purchase price that does not exceed ninety-five percent (95%) of the median purchase price for the area, as published annually by HUD. In the case of acquisition with rehabilitation, the housing must have an estimated value after rehabilitation that does not exceed 95% of the median purchase price for the area, as published annually by HUD;
 3. The housing must be acquired by a homebuyer whose family qualifies as a low-income family and the housing must be the principal residence of the family throughout the period described in sub-paragraph 4 of this section;
 4. The HOME-assisted housing must meet the affordability requirements, beginning after project completion, for not less than the applicable period as follows: Under \$15,000.00 HOME-assistance per unit, 5 years; \$15,000.00 to \$40,000.00 HOME-assistance per unit, 10 years; over \$40,000.00 HOME-assistance per unit, 15 years; and
 5. To ensure affordability, the Subrecipient will impose recapture requirements that will allow TCRA, on behalf of the Consortium, to recoup all or a portion of the HOME assistance to the homebuyers if the housing does not continue to be the principal residence of the household for the duration of the period of affordability, as required in 24 CFR §92.254(a)(5)(ii). If the recapture requirements are triggered by a sale, voluntary or involuntary, of the housing unit and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, the Lead Agency, Subrecipient and/or TCRA can only recapture the net proceeds, if any. Net proceeds are defined as the sale price minus superior loan repayment (other than HOME funds) and any closing costs. Funds recaptured under this provision are considered as recaptured funds and will be invested in additional eligible HOME projects allowed under 24 CFR § 92.503(c).
- J. Repayments. Any HOME funds invested in housing that does not meet the affordability requirements for the affordability period specified in 24 CFR § 92.252 or § 92.254, as applicable, must be repaid by the Subrecipient in accordance with § 92.503(b)(3). Any HOME funds invested in a project that is terminated before completion, either voluntarily or otherwise, must be repaid by the Subrecipient in accordance with 24 CFR § 92.503(b)(3).

IV. Federal Requirements

The Federal requirements set forth in 24 CFR Part 5, Subpart A, are applicable to this Agreement. The nondiscrimination requirements at section 282 of the Act are also applicable.

- A. Affirmative Marketing. Subrecipient is required, in projects with 5 or more HOME-assisted units, to establish affirmative marketing procedures and requirements in place. Affirmative marketing steps consist of actions to provide information and otherwise attract eligible persons in the housing market area to the available housing without regard to race, color, national origin, sex, religion, familial status or disability. Project owners or developers must keep records that describe the actions taken to affirmatively market units and records to assess the results of these actions.
- B. Environmental Review. The effects of each activity related to the Program must be assessed in accordance with the provisions of the National Environmental Policy Act of 1969 and the related authorities in 24 CFR 58, and as detailed in 24 CFR Part 92.352. The Subrecipient must, *prior* to undertaking any choice limiting or physical activity with respect to the Project, regardless of whether such activity is to be funded by the HOME Funds, comply to the extent applicable, with the regulations found at 24 CFR Part 58. All applicable environmental review and clearance requirements as provided in 24 CFR 58.5 must be completed by the Subrecipient and a Release of Funds from the U.S. Department of Housing and Urban Development must be received prior to any commitment by the Subrecipient of HOME dollars, if applicable. The Subrecipient will abide by any special conditions, procedures and requirements of the environmental review and will advise the Lead Agency of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b). The Subrecipient may not use any of the HOME Funds for acquisition or construction in identified special flood hazard areas unless the Project is subject to the mandatory purchase of flood insurance as required by Section 102(a) of the Flood Disaster Protection Act of 1973.
- C. Uniform Relocation Act. All reasonable steps to minimize the displacement of persons (families, individuals, businesses, nonprofit organizations and farms) as a result of a project assisted with HOME funds will be taken. A person displaced as a direct result acquisition, rehabilitation or demolition for a HUD-funded project must be provided relocation assistance at the levels described in, and in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 USC 4201-4655) and 49 CFR part 24. This includes any permanent, involuntary move for an assisted project that is made after notice by the owner to move permanently from the property if the move occurs on or after (a) the date of submission of an application to the Subrecipient, if the applicant has site control and the application is later approved; (b) the date the Subrecipient approves the applicable site, if the applicant does not have site control at the time of the application; or (c) if the Subrecipient, Lead Agency or HUD determine that displacement resulted directly from the acquisition, rehabilitation or demolition of the

project. Further definitions of displaced persons, permanent and temporary, may be found in the Act and at § 92.353(c)(2).

- D. Labor. Every contract for new construction or rehabilitation of housing that includes 12 or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 USC 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 USC 327-332). HOME funds includes any project costs in § 92.206 including construction or non-construction costs, of housing with 12 or more HOME-assisted units.
- E. Lead-based Paint. Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), 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, J, K, M and R of this title.
- F. Conflict of Interest. In the procurement of property and services by the Subrecipient, the conflict of interest provisions in 2 CFR 200.317-200.326 apply; in all cases not governed by 2 CFR 200.317-200.326, the provisions of 24 CFR 92.356(b) through § 92.356(f) apply.
- G. Consultant Services. No person providing consultant services in an employer-employee type relationship shall receive more than a reasonable rate of compensation for personal services paid with HOME funds. In no event, however, shall such compensation exceed the limits in effect under the provisions of any applicable statute (i.e.: annual HUD appropriations acts which have set the limit at the equivalent of the daily rate paid for Level IV of the Executive Schedule, see the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Acts, 1997, Pub. L. 104-204 (09/26/1996)). Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation. Consultant services provided under an independent contractor relationship are not subject to the compensation limitation of Level IV of the Executive Schedule.
- H. Procurement. The Subrecipient will establish procurement procedures to ensure that materials and services are obtained in a cost-effective manner. When procuring for services to be provided under this agreement, the Subrecipient shall comply at a minimum with the procurement standards at 2 CFR 200.317-200.326.

- I. Uniform Administrative Requirements. The requirements of 2 CFR 200 apply to this agreement.
- J. Non-discrimination. The subrecipient Agrees that they will utilize and make available the HOME funds in conformity with the non-discrimination and equal opportunity requirements set forth in the National Housing Affordability Act. These regulations include:
1. The requirements of the Fair Housing Act, 42 U.S.C. 3601-20, and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) as amended by Executive Order 12259 and implementing regulations at 24 CFR 107; and Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and implementing regulations at 24 CFR Part 1 (Nondiscrimination in Federally Assisted Programs);
 2. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and the regulations at 24 CFR 146;
 3. The prohibitions against discrimination on the basis of handicap under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR, Part 8;
 4. The requirements of the Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;
 5. The requirements of Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1702u (Employment Opportunities for Business and Lower Income Persons in Connection with Assisted Projects);
 6. The requirements of Executive Orders 11625 and 12432 regarding Minority Business Enterprise, and 12138 regarding Women's Business Enterprise, and regulations S.85.36(e) of Section 281 of the National Housing Affordability Act; and
 7. The requirements of Washington State Law as found at RCW 49.60.

Minority/Women-Owned businesses. Subrecipient will document and provide data on the outreach steps taken to assure that minority business (MBE) and women's business enterprises (WBE) have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction, and services. Subrecipient will report to the Lead Agency the contracts or subcontracts awarded to MBE and WBE businesses for the project.

- K. Debarment. The Subrecipient may not award or permit an award of a contract to any party which is debarred, suspended or ineligible to participate in a Federal program. The Subrecipient certifies that it is not debarred, suspended or ineligible to participate in a Federal program. The Subrecipient will, prior to signing any contracts, ensure compliance with 24 CFR Part 24, "Debarment and Suspension" for any contractor, subcontractor or vendor. The Subrecipient will also assure that language pertaining to debarred, suspended or ineligibility to participate is inserted in all contract agreements. If during the time of this agreement the Subrecipient is debarred, suspended or ineligible to participate in a Federal program, the Consortium may terminate this agreement for cause.

- L. Program Income. All program income will be deposited into the Lead Agency's HOME Investment Trust Fund local account. Program income derived from Consortium HOME activities undertaken by the Subrecipient will continue to be program income of the Consortium should the Subrecipient terminate its participation in the Consortium. Subrecipient understands that it will use any available HOME Program Income prior to requesting grant funding from the Lead Agency. Program Income funds will be used for additional eligible affordable housing activities; up to ten percent (10%) of program income may be used for administration costs in the program year received.

Failure to comply with any provision in this Section may cause an immediate cancellation of this Agreement and forfeiture of the HOME funds.

V. Subrecipient covenants.

In addition to the other requirements of this document, through the term of this Agreement, the Subrecipient agrees to all of the following:

- A. Reversion of Assets. Upon expiration of the Consortium, the Subrecipient must transfer to the Lead Agency any HOME funds on hand at the time of expiration and any accounts receivable attributable to the use of HOME funds.

- B. Financial Responsibility. The Subrecipient agrees that it is financially responsible (liable) for any audit exception which occurs due to its negligence or failure to comply with the terms of this Agreement.

- C. Indemnification. The Subrecipient agrees to hold TCRA, the Lead Agency and the Consortium harmless and to indemnify TCRA, the Lead Agency and the Consortium and its individual representative members against any and all liability, claims and costs of whatsoever kind and nature for injury to or death of any person or persons and for loss or damage to any property occurring in connection with or in any way incident to or arising out of activities undertaken under this Agreement.

- D. Insurance and Bonds. The Subrecipient and its employees, volunteers, contractors or consultants shall carry throughout the life of this Agreement, General Liability Insurance, Comprehensive Automobile Liability Insurance and other such coverage as

may be appropriate or required by State or Federal law, for the services to be performed. This insurance shall include the following:

1. Professional Legal Liability: Subrecipient shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the Subrecipient's profession and shall be written subject to limits of not less than \$1 million per claim and \$1 million policy aggregate limit. The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the work for this agreement. Coverage shall not exclude bodily injury, hazards, or property damage related to the work in this agreement, including design, testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the agreement. If Subrecipient will contract such work, Subrecipient will require above described coverage of that contractor.
2. Worker's Compensation (Industrial Insurance): Workers' compensation insurance as required by Title 51 RCW shall be maintained and Subrecipient shall provide evidence of coverage if so required.
3. Commercial General Liability: Commercial General Liability coverage shall be written on ISO occurrence form CG 00 01 or the equivalent and shall cover liability arising from premises, operations, independent contractors, personal injury and advertising injury. The insurance shall include the City of Tacoma, Tacoma Community Redevelopment Authority, the Consortium, and each entity's members, officers, officials, employees and agents with respect to performance of services, and shall contain no special limitations on the scope of protection afforded as an additional insured for both ongoing and completed operations using ISO forms CG2026 and CG 2037 or the equivalent. The insurance shall contain a Waiver of Subrogation Clause in favor of the City of Tacoma, the Consortium and Tacoma Community Redevelopment Coverage shall include limits of not less than \$1 million per occurrence, and \$2 million aggregate.
4. Employer's Liability with limits not less than \$1,000,000 each person and \$1,000,000 aggregate.
5. Automobile Liability: Commercial Automobile Liability insurance with a minimum combined limit no less than \$1 million per accident for bodily injury and property damage shall be maintained. Coverage shall include all owned, hired, leased, and non-owned automobiles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If deemed necessary, the policy shall be endorsed to provide contractual liability coverage.

Insurance is to be placed with insurers with a current A.M. best rating of not less than A(-):VII. Subrecipient shall furnish the Lead Agency with original certificates and a

copy of the amendatory endorsements, including, but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements prior to the commencement of the work. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability, and Commercial General Liability insurance:

The insurance coverage shall be primary as respect to any insurance or self-insurance covering the Lead Agency, its members, elected and appointed officers, officials, employees and agents and primary as respect to any insurance or self-insurance covering Tacoma Redevelopment Authority. Any insurance, self-insurance, or insurance pool coverage maintained by the Lead Agency, Tacoma Community Redevelopment Authority Consortium and its members shall be excess of the Subrecipient's insurance and shall not contribute with it. The insurance shall not be cancelled by either party, except after 30 days prior written notice by certified mail, return receipt requested, has been given to the Consortium.

- E. Financial Management. The Subrecipient agrees to adhere to the generally accepted accounting principles and procedures, and utilize adequate internal controls and maintain necessary source documentation for all costs incurred.
- F. Audit. The Subrecipient will also comply with auditing standards issued by the Comptroller General of the United States. All Subrecipients that expend \$750,000.00 or more in a year in Federal awards shall have a single audit conducted for that year in accordance with the provision of 2 CFR 200, Subpart F. When a Subrecipient expends Federal awards under only one Federal program, and the program's laws, regulations, or grant agreements do not require a financial statement audit, the Subrecipient may elect to have a program-specific audit conducted in accordance with 2 CFR 200.507. The audit must be conducted within 90 days of completion of this agreement.
- G. Additional Audits. Non-Federal entities that expend less than \$750,000.00 a year in Federal awards are exempt from Federal audit requirements for that year, except this does not limit the authority of Federal agencies, including HUD, Inspectors General, or General Accounting Office to conduct or arrange for additional audits. All records will be made available for review or audit by appropriate local, state and federal entities.
- H. Corrective and Remedial Action. Subrecipient will immediately correct or cause to be immediately corrected, any and all actions or performance deficiencies in the project as may be determined by the TCRA, the Lead Agency, or HUD. Failure to correct such actions or performance deficiencies within 30 days from written notification may result in suspending HOME funds for this Agreement, the cancellation of this Agreement, and the reprogramming of HOME funds to other eligible Consortium activities, or the repayment of the HOME funds.

VI. Records and Monitoring

- A. Records. Records must be kept by the Subrecipient and TCRA and be made available to the Lead Agency and HUD that demonstrate compliance with this Agreement. At a minimum the following records must be kept:
1. Subsidy layering guidelines adopted in accordance with 24 CFR § 92.250;
 2. Procedures used for establishing the 95 percent of the median purchase price for the area in accordance with 24 CFR § 92.254(a)(2) for homeownership projects;
 3. Recapture guidelines established in accordance with 24 CFR § 92.254(a)(5) for acquisition of homeownership housing;
 4. Written Rehabilitation Standards;
 5. A full description of each project assisted with HOME funds, including the location, form of HOME assistance, and the units or tenants assisted with HOME funds;
 6. The source and application of funds for each project, including supporting documentation in accordance with 2 CFR 200.302;
 7. Records demonstrating that each rental housing or homeownership project meets the minimum per-unit subsidy of 24 CFR § 92.205(c), the maximum per-unit subsidy amount of 24 CFR § 92.250(a) and the subsidy layering guidelines adopted in accordance with 24 CFR § 92.250(b);
 8. Records demonstrating that each project meets the property standards of 24 CFR § 92.251 and the lead-based paint requirements of 24 CFR § 92.355;
 9. Records demonstrating that each family is income eligible in accordance with 24 CFR § 92.203;
 10. Records demonstrating that each rental housing project meets the affordability and income targeting requirements of 24 CFR § 92.252 for the required period. Records must be kept for each family assisted;
 11. Records demonstrating that the purchase price or estimated value after rehabilitation for each homeownership housing project does not exceed ninety-five percent (95%) of the median purchase price for the area in accordance with 24 CFR § 92.254(a)(2). The records must demonstrate how the estimated value was determined;

12. Records demonstrating that each homeownership project meets the affordability requirements of 24 CFR § 92.254 for the required period;
13. Records demonstrating that a site and neighborhood standards review was conducted for each project which includes new construction of rental housing assisted to determine that the site meets the requirements of 24 CFR 983.6(b), in accordance with 24 CFR § 92.202;
14. Records demonstrating compliance with the written agreements required by 24 CFR § 92.504;
15. Records demonstrating compliance with the applicable uniform administrative requirements required by 24 CFR § 92.505;
16. Records documenting required inspections, monitoring review and audits, and the resolution of any findings or concerns;
17. Data on the extent to which racial and ethnic group and single-headed households (by gender of household head) have applied for, participated in, or benefited from, any program or activity funded in whole or in part with HOME funds;
18. Documentation of actions undertaken to meet the requirements of 24 CFR Part 135 which implements section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u);
19. Documentation of the actions the Subrecipient has taken to affirmatively further fair housing;
20. Records demonstrating compliance with the affirmative marketing procedures and requirements of 24 CFR § 92.351;
21. Documents and data on the steps taken to implement the Subrecipient's outreach programs to minority-owned (MBE) and female-owned (WBE) businesses including data indicating the racial/ethnic or gender character of each business entity receiving a contract or subcontract of \$25,000.00 or more paid, or to be paid, with HOME funds; the amount of the contract or subcontract, and documentation of participating jurisdiction's affirmative steps to assure that minority business and women's business enterprises have an equal opportunity to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services;
22. Records demonstrating compliance with the environmental review requirements of 24 CFR § 92.352 and 24 CFR part 58, including flood insurance requirements;

23. Records demonstrating compliance with the requirements of 24 CFR § 92.353 regarding displacement, relocation, and real property acquisition, including project occupancy lists identifying the name and address of all persons occupying the real property on the date described in 24 CFR § 92.353(c)(2)(i)(A), moving into the property on or after the date described in 24 CFR § 92.353(c)(2)(i)(A), and occupying the property upon completion of the project.
24. Records demonstrating compliance with the labor requirements of 24 CFR § 92.354, including contract provisions and payroll records;
25. Records demonstrating compliance with the lead-based paint requirements of 24 Part 35, Subparts A, B, J, K, M and R of this title;
26. Records supporting exceptions to the conflict of interest prohibition pursuant to 24 CFR § 92.356; and
27. Debarment and suspension certification required by 24 CFR Parts 24 and 91.

B. Period of Record Retention. All records pertaining to each project year of HOME funds must be maintained for the most recent five years period, except as provided below:

1. For rental housing projects, records must be retained for five years after the project completion date; except for the records of individual tenant income verifications, project rents and project inspections must be retained for the most recent five year period, until five years after the affordability period terminates.
2. For homeownership housing projects, records may be retained for five years after the project completion date, except for documents imposing the recapture restrictions which must be retained for five years after the affordability period terminates.
3. Written agreements must be retained for five years after the agreement terminates.
4. Records covering displacement and acquisition must be retained for five years after the date by which all persons displace from the property and all persons whose property is acquired for the project have received the final payment to which they are entitled in accordance with 24 CFR § 92.353.
5. If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the required period, whichever is later.

The Subrecipient agrees to provide any and all information as may be requested by the Lead Agency, TCRA or HUD to document compliance with the HOME Program and related laws, rules, regulations and policies.

- C. Monitoring. At least annually, or more often if deemed necessary, the Lead Agency will monitor the performance of the Subrecipient to assure compliance with the requirements of this Agreement. The review may include on-site inspections and review of all records to determine compliance with this Agreement through the contract period. The Subrecipient agrees to provide any and all information to the Consortium to assist in meeting administrative and monitoring requirements.

Any duly authorized representative of the U.S. Department of Housing and Urban Development, authorized federal or state agent, or the Consortium shall at all reasonable times have access to and the right to inspect, copy, audit, and examine all books, records and other documents relating directly to the Subrecipient's receipt and disbursement of the HOME Funds, as well as access to the project site(s) and all project records.

VII. Miscellaneous

- A. Relationship. The relationship of the Subrecipient to the Lead Agency and TCRA shall be that of an independent agency. Nothing herein shall be deemed to create the relationship of employer/employee or principal/agent between the parties.
- B. Modification and Amendments. This agreement can only be amended in writing signed by the Lead Agency, TCRA and the Subrecipient. All modifications and amendments shall not take effect until specifically approved by the Lead Agency in writing.
- C. Waivers. No conditions or provisions of this agreement can be waived unless approved by the Lead Agency in writing.
- D. Assignment. The Subrecipient shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement to any party (whether by assignment or novation) without prior written consent of the Lead Agency.
- E. Severability. If any provision of this Agreement or portion thereof is held invalid by any court of rightful jurisdiction, the remainder of this Agreement shall not be affected providing the remainder continues to conform to applicable Federal and State law(s) and regulations and can be given effect without the invalid provision.
- F. Attorney Fees and Costs. In the event of a lawsuit between the parties to this agreement, the prevailing party shall be entitled to recover judgment against the other party for reasonable attorney's fees and other costs either at trial or on appeal. If either party exercises any non-judicial right or remedy to enforce such party's rights hereunder, it shall be a condition for the cure of the default that the defaulting party will pay the non-defaulting party's reasonable attorney's fees incurred and all reasonable

costs. Failure to pay such costs and reasonable attorney's fees shall constitute an event of default under this agreement.

- G. Dispute Resolution. The Consortium, participating jurisdiction and the Subrecipient agree to negotiate in good faith for a period of 30 days from the date of notice of all disputes between them prior to exercising their rights under this agreement or under law. All disputes not resolved by negotiation between the parties may be arbitrated only by mutual agreement of the parties. If not mutually agreed to resolve the claim by arbitration, the claim will be resolved by legal action. Arbitration of all claims will be in accordance with the RCW 7.04A and the mandatory rules of arbitration with venue being placed in Pierce County, Washington. Arbitration shall include an award to the prevailing party of its reasonable attorney fees and costs against the other.
- H. Venue and Law. Venue for any action under this contract shall be in Pierce County, Washington. This agreement shall be governed by the laws of the State of Washington.

XIII. Duration of Agreement

- A. Suspension or Termination. This agreement may be cancelled "for cause" or "not for cause" by providing written 30 days notice by certified mail, return receipt requested, to the other signatory members of this agreement. There are three (3) separate methods of suspension or termination of this Agreement:
- i. By fulfillment. The Agreement will be considered to be terminated upon fulfillment of its terms and conditions, including all affordability periods for project received HOME funds under this agreement.
 - ii. By mutual consent. The Agreement may be terminated or suspended in whole or in part, at any time, if both parties consent to such termination or suspension. The conditions of the suspension or termination shall be documented by giving a minimum of 30 days written notice.
 - iii. For cause. The Lead Agency may suspend or terminate this Agreement in whole or in part, for cause, when the Subrecipient has failed in whole or in part to meet its commitments and obligations as outlined and when the Lead Agency deems continuation to be detrimental to its interest. Failure to carry out the project as described in the approved application and in compliance with HOME Program regulations found at 24 CFR 92 will be deemed a failure to perform and cause the immediate repayment of HOME funds. "For cause" includes:
 - aa. failure to comply with the terms and conditions of this Agreement, or to substantiate compliance;
 - bb. improper or illegal use of project funds or resources;

- cc. any illegal act by the Subrecipient and its representatives.
- dd. Failure to submit required reports on or before due date or failure to document compliance with the terms and conditions contained herein.

In the event of suspension, the Lead Agency will notify the Subrecipient in writing of the corrective action required. Further payment may be withheld until the Subrecipient takes corrective action or the Agreement is terminated. In the event of termination, the Lead Agency will notify the Subrecipient in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Payments made to the Subrecipient or recoveries by the Lead Agency will be in accordance with the legal rights and liabilities of the parties.

Actions by either party under this article shall not constitute a waiver of any claim by either party arising from conditions or situations leading to such suspension or termination.

HOME funds not committed to specific projects as of the cancellation date will be relinquished to the Consortium for redistribution to other qualified projects.

Exhibit A

Additional subaward requirements pursuant to 2 CFR 200.331(a)(1) are included as follows:

1) Federal Award Identification.

- (i) Subrecipient name: City of Lakewood;
- (ii) Subrecipient's unique identifiers: EIN: 91-1698185 DUNS: 949462758;
- (iii) Federal Award Identification Number (FAIN): M16-DC530206;
- (iv) The Federal Award Date (as defined in 2 CFR 200.39): September 1, 2016;
- (v) The amount of Federal Funds Obligated by this action by the City of Tacoma to the Subrecipient is \$244,344.00;
- (vi) The total amount of Federal Funds Obligated to the Subrecipient by the City of Tacoma including the current obligation is \$244,344.00;
- (vii) The total amount of the Federal Award committed to the Subrecipient by the City of Tacoma is \$244,344.00
- (viii) The Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): The Tacoma Community Redevelopment Authority (TCRA) will be the administrator of the City of Lakewood's HOME funds with the intent to promote affordable housing for low-income households through the acquisition, construction, or rehabilitation of non-luxury housing, and by providing loans and technical assistance to income qualified homeowners, homebuyers, and to organizations that develop, own and/or sponsor affordability housing. In certain instances where the need and/or opportunity is identified, the Subrecipient may reserve the right to directly acquire and/or develop projects to meet the intent of this Agreement.
- (ix) The name of:
 - Federal awarding agency: United States Department of Housing and Urban Development
 - Pass-through entity: City of Tacoma
- (x) Contact information for awarding official of the pass-through entity: Ricardo Noguera, Director of community & Economic Development; 747 Market St, Room 900, Tacoma, WA 98402; (253) 591-5139; rnoquera@cityoftacoma.org
- (xi) CFDA Number: 14.239; Name: HOME Investment Partnerships Program (HOME); Dollar amount made available under each Federal award: \$244,344.00
- (xii) This award to the Subrecipient is a non-Research and Development award; and
- (xiii) The Subrecipient shall not charge an indirect cost rate to the Federal award under this Subrecipient Agreement.