

**AGREEMENT BETWEEN CITY OF TACOMA  
AND  
METROPOLITAN DEVELOPMENT COUNCIL  
FOR  
2015-2016 COMMUNITY DEVELOPMENT BLOCK GRANT**

**I. SPECIFIC CONDITIONS**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the **CITY OF TACOMA**, a municipal corporation of the State of Washington (hereinafter referred to as the "CITY") and Metropolitan Development Council, a Washington nonprofit corporation, hereinafter referred to as "SUB-RECIPIENT";

WITNESSETH:

**WHEREAS** pursuant to the CITY authorized execution of a grant agreement with the U.S. Department of Housing and Urban Development for the 2015-2016, 41st Year Community Development Block Grant as amended, (hereinafter referred to as "Grant Agreement"), said grant funds are to be utilized for implementation of approved programs and projects as proposed in the CITY's Consolidated Plan for Housing and Community Development Annual Action Plan 2015-2016 by which programs and projects are being administered by the CITY's Community and Economic Development Department, and

**WHEREAS** one of the proposed programs approved is a project known as the Home Repair program, hereinafter referred to as the "Project," and

**WHEREAS** the SUB-RECIPIENT, utilizing Community Development Block Grant (CDBG) funds to be paid pursuant to this Agreement and utilizing funds from other sources, is willing to undertake and complete the Project in the manner hereinafter more specifically set forth;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

**1. AGREEMENT DOCUMENTS:** This Agreement consists of the following documents:

- (a) This signed Agreement
- (b) Exhibit "A", Scope of Work
- (c) Exhibit B, Project Budget
- (d) Exhibit C, Beneficiary Demographic Form
- (e) Exhibit D, Self-Certification of Gross Annual Household Income
- (f) Exhibit E, Project Reimbursement Request
- (g) Exhibit F, Lincoln Revitalization Area Map

**2. NATIONAL OBJECTIVE:** All activities funded with CDGB funds must meet one of the CDBG program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

**3. SCHEDULE OF WORK:** All services of the SUB-RECIPIENT shall commence on **July 1, 2015** and be satisfactorily completed on or before **June 30, 2016** unless mutually extended in writing by the Parties. The term of this Agreement and the provisions herein shall be extended to cover any additional time period during which the SUB-RECIPIENT remains in control of CDBG funds or other CDBG assets, including program income. This Agreement shall expire on said date unless mutually extended in writing by the Parties. *Should this Agreement be signed after the date of July 1, 2015, this Agreement shall operate retroactively to that date and SUB-RECIPIENT will be expected to have commenced services on July 1, 2016.*

**4. COMPENSATION AND PAYMENT:** It is expressly agreed and understood that the CITY shall reimburse the SUB-RECIPIENT for its expenditures incurred in performing services fully described in Exhibit "A", Scope of Work attached hereto and incorporated herein. It is expressly agreed and understood that the total amount to be paid by the CITY under this Agreement shall not exceed **\$250,000 (Two hundred fifty thousand dollars and zero cents)** from the CITY Community Development Block Grant fund.

**A.** Payment shall be made through the City's ordinary payment process, immediately upon receipt of a properly completed invoice, including appropriate supporting documentation, as determined by the City.

**B.** Payments may be contingent upon certification of the SUB-RECIPIENT's financial management system in accordance with the standards specified in 24 CFR 200.

**C.** In the event the SUB-RECIPIENT incurs costs in excess of the sum authorized for service under this Agreement, the SUB-RECIPIENT shall pay such excess from its own funds, and the CITY shall not be required to pay any part of such excess, and the SUB-RECIPIENT shall have no claim against the CITY on account thereof.

**5. USE OF FUNDS:** All funds disbursed hereunder to the SUB-RECIPIENT shall be used by it only and solely for the purposes of performing services required hereunder. Such funds shall not be used to advance funds to any individuals or organizations, nor shall said funds be diverted by the SUB-RECIPIENT for any other activity, program or service, other than as required hereunder.

**A.** It is understood and agreed by and between both parties hereto that the general policy is for the CITY to make funds available to the SUB-RECIPIENT on a reimbursable basis only.

**B.** All items of personal property which are purchased by the SUB-RECIPIENT with funds made available under this Agreement and not consumed in the ordinary course of carrying out the Project shall belong to the CITY, be maintained in good condition, and turned over to the CITY upon termination of this Agreement, unless by written amendment to this Agreement the CITY and the SUB-RECIPIENT agree that such property may be used by the SUB-RECIPIENT for the continuation of the program herein funded in accordance with such terms and provisions as may be mutually agreed upon between the parties.

**6. CONTRACT ADMINISTRATOR:** The representative of the CITY for the purposes of the administration of this Agreement shall be the Director of the Community and Economic Development Department or the Director's designee.

**7. NOTICES:** Notices required by this Agreement shall be in writing and delivered via mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

CITY	SUB-RECIPIENT
Ricardo Noguera Director, Community & Economic Development 747 Market St., Room 900 Tacoma, WA 98402	Mark Pereboom Executive Director 945 Fawcett Tacoma, WA 98402
Phone: 253-591-5139	Phone: 253-591-0113
E-mail: rnoguera@cityoftacoma.org	E-mail: mpereboom@mdc-hope.org

**II. GENERAL CONDITIONS**

**8. GENERAL COMPLIANCE:** The SUB-RECIPIENT agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the U.S. Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)) including subpart K of these regulations, except that (1) the SUB-RECIPIENT does not assume the grant recipient's environmental responsibilities described in 24 CFR 570.604 and (2) the SUB-RECIPIENT does not assume the grant recipient's responsibility for initiating the review process under the provisions of 24 CFR Part 52. The SUB-RECIPIENT also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract. The SUB-RECIPIENT further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

**9. LEGAL BASE:** The SUB-RECIPIENT in carrying on and conducting the activities required hereunder and furnishing the services necessary will at all times operate this

project, carry on such services, and perform such activities in accordance with and pursuant to any and all laws of the United States of America, the State of Washington, and ordinances of the CITY of Tacoma, and any rules, regulation, or instruction of any agency or department thereof having or asserting authority or jurisdiction with reference to any service or activity carried on under and pursuant to this Agreement, or relating to the administration of the Community and Economic Development Department.

**10. TAXES, LICENSES AND PERMITS:**

**A.** The SUB-RECIPIENT acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Contract, and the SUB-RECIPIENT agrees to comply with all applicable laws regarding the reporting of income, maintenance of records, and all other requirements and obligations imposed pursuant to applicable law. If the CITY is assessed, made liable, or responsible in any manner for such charges or taxes, the SUB-RECIPIENT agrees to hold the CITY harmless from such costs, including attorney's fees.

**B.** In the event the SUB-RECIPIENT fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then the SUB-RECIPIENT authorizes the CITY to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the SUB-RECIPIENT's total compensation.

**C.** The SUB-RECIPIENT, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The SUB-RECIPIENT shall obtain a business license as required by Tacoma Municipal Code Subtitle 6B.20 and shall pay business and occupation taxes as required by Tacoma Municipal Code Subtitle 6A.30.

**11. INDEPENDENT SUB-RECIPIENT STATUS:** Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. It is understood and agreed that the SUB-RECIPIENT is acting solely as an independent contractor in the rendition of services to the qualified citizens of the CITY and as such has no authority to bind the CITY to any commitments whatsoever, or to otherwise impose upon said CITY any binding legal obligations.

The SUB-RECIPIENT shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The CITY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the SUB-RECIPIENT is an independent contractor.

**12. HOLD HARMLESS:** The SUB-RECIPIENT hereby agrees to indemnify and hold harmless the CITY, its officials, officers, agents, employees, and volunteers, from any and all claims, causes of action, judgments or liens occasioned by or arising out of the performance by the SUB-RECIPIENT of any activity covered hereunder, and to defend for and on behalf of the CITY, at its own expense, any such claim or cause of action, and in the event of recovery thereon, to pay any judgment or lien arising there from, including any and all costs as a part thereof.

**13. WORKERS' COMPENSATION:** The SUB-RECIPIENT shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

**14. INSURANCE:** The SUB-RECIPIENT shall obtain and keep in force during the term of this Agreement a Comprehensive General Liability policy of \$1,000,000 combined insurance with insurance firms and in a form to be approved by the CITY. The insurance policy will provide full protection to the SUB-RECIPIENT and the CITY. Appropriate to the purposes of this Agreement, the CITY, per se, shall be named as an Additional Insured under the policy insofar as the work and obligations provided in the contract are concerned.

**A.** The insurance policy shall protect against claims for damages by inclusion of the following coverage generally known within the insurance industry as: Premises/Operations Liability, Products and Completed Operations, Personal Injury, and Automobile Liability, including coverage for vehicles owned, non-owned, leased or hired.

**B.** The insurance provided hereunder shall be primary over any insurance, which may be carried by the CITY of Tacoma and will include a "Cross Liability" (Severability of Interests) clause. This policy will also provide that the CITY will be given not less than thirty (30) days advance written notice of any termination or material change. A certified copy of the policy shall be provided to the CITY prior to the time which the SUB-RECIPIENT commences work or services under this Agreement.

**15. BONDING:** Prior to receiving any funds hereunder, the SUB-RECIPIENT shall transmit to the CITY a statement from its chief fiscal officer or its insurer, assuring that all persons handling funds received or making disbursements under the terms and provisions of this agreement are covered by a faithful performance or fidelity bond in a manner and amount consistent with the general coverage deemed necessary by the CITY and required to other employees of the CITY of Tacoma. The CITY shall not be required to make any further disbursements to the SUB-RECIPIENT until it procures the required coverage.

**16. LIABILITY:** It is expressly understood and agreed that any obligation or liability arising out of and/or incurred by the CITY by reason of this Agreement, or the carrying out of any activity in connection therewith, shall be satisfied exclusively from funds received

from the federal government, pursuant to the Housing and Community Development Act of 1974, as amended, and made available for such purpose, and neither the SUB-RECIPIENT nor any other person or entity shall have any recourse to any of the assets or funds belonging to or held by the CITY on account of any debts, obligations, or liabilities created or arising by reason of this Agreement or the carrying out of any activity in connection therewith.

**17. AMENDMENTS:** Amendments to this Agreement, including Exhibit "A", Scope of Work and Exhibit B, Project Budget may be made during the course of the Agreement but require the SUB-RECIPIENT to submit a written request detailing the requested amendment and the need for the amendment. An amendment will be made only with prior written CITY approval, which may call for addendum agreements executed by and between the parties hereto in accordance with the requirements set forth in all applicable Department of Housing and Urban Development regulations

The CITY may, in its discretion, amend this Agreement to conform with federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both CITY and SUB-RECIPIENT.

**18. CLOSE-OUTS:** The SUB-RECIPIENT's obligation to the CITY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the CITY), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the SUB-RECIPIENT has control over CDBG funds, including program income.

**19. TERMINATION FOR CAUSE:** If, through any cause, the SUB-RECIPIENT shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if the SUB-RECIPIENT violates any of the covenants, agreements or stipulations of this agreement; or in the event, for any reason, the commencement, prosecution or completion by the SUB-RECIPIENT of any of the project activities for the project contemplated to be undertaken pursuant to this Agreement is rendered improbable, impossible or illegal, then and in that event the CITY may immediately by forwarding written notice to the SUB-RECIPIENT suspend any or all of the activities hereunder; and upon the giving of such notice by the CITY, any and all of the CITY's obligations arising under and pursuant to this Agreement shall cease and terminate. PROVIDED, HOWEVER, that the SUB-RECIPIENT shall be granted a reasonable period of time, not to exceed thirty (30) days, to remedy or correct any condition, circumstance or situation rendering impossible the performance hereof and, upon the correction thereof, the terms provisions and conditions of this Agreement shall be reinstated; PROVIDED, FURTHER, that the rights to compensation for any activity carried on within said period. The SUB-RECIPIENT shall

not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of the Agreement by the SUB-RECIPIENT, and the CITY may withhold any payments to the SUB-RECIPIENT for the purpose of set off until such time as the exact amount of damages due the CITY from the SUB-RECIPIENT is determined.

**20. TERMINATION FOR CONVENIENCE:** The CITY may terminate this Agreement at any time by giving written notice to the SUB-RECIPIENT of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. If this Agreement is terminated due to the fault of the SUB-RECIPIENT or for the reasons set forth in the above paragraph hereof, then the provisions of said paragraph relating to termination shall apply.

This Agreement may be terminated in whole or in part by the SUB-RECIPIENT at any time upon written notification to the CITY, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated by giving written notice to the CITY of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. However, if, in the case of a partial termination, the CITY determines that the remaining portion of the award will not accomplish the purposes for which the Agreement was made, the CITY may terminate the Agreement in its entirety.

### **III. ADMINISTRATIVE REQUIREMENTS**

**21. ACCOUNTING STANDARDS:** The SUB-RECIPIENT agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

**22. COST PRINCIPLES:** The SUB-RECIPIENT shall administer its project in conformance with 2 CFR 200.402 through 2 CFR 200.405 and 2 CFR 200.420 through 2 CFR 200.475. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

**23. IRS COMPLIANCE:** All of the SUB-RECIPIENT's audited financial statements and IRS 990 forms shall be filed (as required by the IRS) within nine months of the end of the SUB-RECIPIENT's fiscal year.

**24. REPORTING REQUIREMENTS:** The SUB-RECIPIENT shall have an ongoing obligation for the term of this Agreement to disclose to the CITY its basic organizational structure and financial data, including its most recent fiscal year's audited financial statements (with any management letters) together with its IRS 990 tax return (if required by the IRS to file a form 990), its current year's budget, current Articles of Incorporation and By-Laws, and a list of current officers and agency directors.

**25. RECORDS TO BE MAINTAINED:** The SUB-RECIPIENT shall establish and maintain all records required by the federal regulations specified in 24 CFR 570.506 and

set forth in accordance with 2 CFR 200.333- 2 CFR 200.337. Such records shall include but not be limited to:

- A. This Agreement, amendments, and requests for payment.
- B. Records providing a full description of the project and each activity undertaken;
- C. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- D. Records required to determine the eligibility of the program and activities for CDBG funds;
- E. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- F. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
- G. Financial records as required by 24 CFR 570.502, and 24 CFR 84.21-28; and
- H. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

**26. RECORD RETENTION:** Except where otherwise specifically provided, all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement shall be kept on file and accessible for six (6) years after the Agreement completion date and be available for inspection by city, state, or federal officials, auditors, or other authorized agents. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the six-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the six-year period, whichever occurs later. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

**27. BACKGROUND CHECKS AND EMPLOYMENT ELIGIBILITY VERIFICATION:** in accordance with RCW 43.43.830 through 43.43.834 as applicable, and Washington Administrative Code provisions implementing said statutes, the SUB-RECIPIENT will conduct a criminal background check on all SUB-RECIPIENT or contractor employees, interns, or volunteers providing services on behalf of the project. The background check will be performed prior to an individual's contact with the homeowner benefitting from the project. Background checks will be completed once upon procurement and as needed as new employees and volunteers are hired or solicited to conduct activities on behalf of the project. Individuals who have been convicted of a crime shall not have



contact with the homeowner or visit the homeowner's property without the City's prior approval. Background checks can be performed at <https://fortress.wa.gov/wsp/watch/>. The SUB-RECIPIENT shall, in such forms as the CITY may require, document identity and employment eligibility (i.e., Form I-9). The SUB-RECIPIENT agrees that this language will be incorporated in writing into every subcontract.

**28. BENEFICIARY DATA:** The SUB-RECIPIENT shall maintain project beneficiary data demonstrating eligibility for services provided. Such data shall include, but not be limited to, beneficiary's name, address, gender, race, ethnicity, income level, and scope of work for services provided. Such information shall be made available to CITY monitors or their designees for review upon request.

**29. DISCLOSURE OF BENEFICIARY DATA:** The SUB-RECIPIENT understands that beneficiary information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the CITY's or SUB-RECIPIENT's responsibilities with respect to services provided under this Agreement, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

**30. AUDITS & INSPECTIONS:** Representatives of the Department of Housing and Urban Development, the Comptroller General of the United States and the CITY shall be and they are hereby authorized to perform periodic audits of the project described in this Agreement at such reasonable times as they may deem necessary and proper, and all in accordance with applicable rules and regulations of the Department of Housing and Urban Development, or at the discretion of the CITY.

**A.** The SUB-RECIPIENT, as a recipient of federal funds, will ensure that an annual audit, by an independent auditor, is conducted of its financial records, policies and procedures. The intent of the audit will be to demonstrate compliance with federal guidelines for the use and disbursement of funds and may be included within the scope of the SUB-RECIPIENT's normal annual audit, if any. If the SUB-RECIPIENT does not within 60 days after execution of this Agreement submit satisfactory evidence to the CITY that it has obtained a binding commitment from an independent auditor to perform the required audit(s), the amount to be paid the SUB-RECIPIENT under this Agreement will be reduced by an amount sufficient to pay for the services of the Washington State Auditor's offices to perform the required audit, and the amount of such audit cost shall be withheld from the SUB-RECIPIENT and paid to the Washington State Examiners office upon performance of the audit. If the SUB-RECIPIENT does not submit the required audit within four months after the end of the SUB-RECIPIENT's fiscal year, the CITY may secure the services of the Washington State Examiner's office to perform the required audit and the cost thereof shall be the responsibility of the SUB-RECIPIENT to be paid from funds otherwise owing to the SUB-RECIPIENT by CITY or such cost will be billed to and paid by the SUB-RECIPIENT. Any disallowable costs discovered during the audit will be deducted from the final payment under this Agreement, the first payment under a renewed agreement or be refunded by the

SUB-RECIPIENT. No future grant payments will be made until all audit findings and disallowable costs are resolved to the satisfaction of the CITY.

**B.** The SUB-RECIPIENT shall furnish and cause each of its own contractors or sub-contractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the CITY, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

**C.** The CITY shall have the authority to monitor all activities and information sources in the operational and fiscal systems of the SUB-RECIPIENT and any sub-contractors or fourth parties connected with said SUB-RECIPIENT in the performance of its duties and obligations under this Agreement in order to assure that the Sub-Recipient is maintaining adequate and acceptable progress and systems, and to ensure that funds provided under this program by the CITY to the SUB-RECIPIENT are being used effectively and efficiently to accomplish the purposes for which the funds were made available.

**31. PROGRAM INCOME:** In the event that any program income as defined in 24 CFR Part 570.500(a) is directly generated from the use of CDBG funds, then any and all such income shall be identified and accounted for. Program income is to be retained by the SUB-RECIPIENT and shall be used for additional cases or units of the same activities for which this Agreement originally provides and under all the same terms and conditions of this Agreement. Program income in the form of repayments to or interest earned on a revolving fund as defined in 24 CFR Part 570.500(b) shall be substantially disbursed from the fund before additional cash withdrawals are made from the U.S. Treasury for the same activity. Upon expiration of this Agreement, the SUB-RECIPIENT shall transfer to the CITY any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property acquired or improved with CDBG funds in excess of \$25,000 will be used for the purposes for which it was acquired for a minimum of five (5) years after the termination of this Agreement. If the use of said property changes, the SUB-RECIPIENT will comply with the provisions of 24 CFR Part 570.503(b)(8).

**32. INDIRECT COSTS:** Indirect costs shall only be charged if the costs are outlined in the Project Budget (Exhibit B) of this Agreement and if the SUB-RECIPIENT has developed and provides documentation to the City of a federally approved indirect cost allocation plan. The City may choose, at its discretion, to exclude indirect costs from the Project Budget.

**33. REQUESTS FOR PAYMENT:** Requests for Payment must be accompanied by an itemized list of cost expenditures with references to a line item(s) in the Project Budget (Exhibit B).

**A.** SUB-RECIPIENT shall request reimbursement for services completed and/or deliverables furnished during the previous month by submitting a signed

invoice using Exhibit E, Project Reimbursement Request Form and submitting appropriate supporting documentation, as determined by the CITY, for all invoiced services and deliverables. Such documentation, as applicable, will include but is not limited to, the following:

- i. Payroll Verification Form, if applicable and as supplied by CITY upon contract execution.
- ii. An itemized list of eligible expenditures with references to a line item(s) in the Project Budget (Exhibit B) for which the SUB-RECIPIENT is requesting reimbursement.
- iii. Exhibit C Beneficiary Demographic Form

**B.** Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Exhibit B, Project Budget and in accordance with performance.

**C.** The value of donated or volunteer services furnished to SUB-RECIPIENT by professional and technical personnel, consultants, and other skilled and unskilled labor is not reimbursable either as a direct or indirect cost.

**D.** All payments shall be subject to adjustment by the CITY for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

**E.** Final payment will not be made until all services and work have been completed to the full satisfaction of and accepted by the CITY.

**34. WITHHOLDING PAYMENTS:** The City may withhold periodic payments due hereunder in the event that the SUB-RECIPIENT shall have made any material misrepresentations to the City, or in the event there is then pending any litigation with respect to the performance by the SUB-RECIPIENT of any of its duties or obligations hereunder, or in the event the SUB-RECIPIENT shall refuse to accept any additional material conditions which may be imposed by the Department of Housing and Urban Development of the United States of America, or if the grant agreement to the City under provisions of the Housing and Community Development Act of 1974 is suspended, terminated, or amended in such a fashion as to render performance hereunder impossible.

**A.** The CITY may withhold payment to the SUB-RECIPIENT for any services or deliverables not performed as required hereunder until such time as the SUB-RECIPIENT modifies such services or deliverables to the satisfaction of the CITY. Payments due hereunder may be withheld in the event the SUB-RECIPIENT makes any material misrepresentations to the CITY, or in the event of any pending litigation with respect to the performance by the SUB-RECIPIENT of any of its duties or obligations hereunder, or in the event the SUB-RECIPIENT shall refuse to accept any additional material conditions which may be imposed by the Department of Housing and Urban Development of the United States of

America or the CITY of Tacoma, or if the Grant Agreement to the CITY under provisions of the Housing and Community Development Act of 1974 is suspended, terminated or amended in such a fashion as to make performance hereunder impossible.

**35. MONTHLY PROGRESS REPORTS:** The SUB-RECIPIENT shall submit regular progress reports to the CITY in the form, content, and frequency as required by the CITY. Progress reports will include Exhibit C, Beneficiary Demographic Form.

**36. OMB STANDARDS:** Unless specified otherwise within this agreement, the SUB-RECIPIENT shall procure all materials, property, or services in accordance with the requirements of 24 CFR 84.40–48.

**37. TRAVEL:** The SUB-RECIPIENT shall obtain written approval from the CITY for any travel outside the SUB-RECIPIENT'S service area with funds provided under this Agreement. Travel costs are the actual expenses for standard commercial transportation and lodging incurred by employees who are in travel status on official business of the SUB-RECIPIENT. All travel costs submitted for reimbursement must be accompanied by the SUB-RECIPIENT'S policy regarding employee travel.

**38. USE AND REVERSION OF ASSETS :** The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

**A.** The SUB-RECIPIENT shall transfer to the CITY any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.

**B.** Real property under the SUB-RECIPIENT'S control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Agreement. If the SUB-RECIPIENT fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the SUB-RECIPIENT shall pay the CITY an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the CITY. The SUB-RECIPIENT may retain real property acquired or improved under this Agreement after the expiration of the five-year period.

**C.** In all cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income (prorated to reflect the extent to that funds received under this Agreement were used to acquire the equipment). Equipment not needed by the SUB-RECIPIENT for

activities under this Agreement shall be (a) transferred to the CITY for the CDBG program or (b) retained after compensating the CITY an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

#### **IV. PERSONNEL & PARTICIPANT CONDITIONS**

**39. CIVIL RIGHTS COMPLIANCE:** The SUB-RECIPIENT agrees to comply with Title 1, Chapter 1.29 of the City of Tacoma municipal code, RCW 49.60.030 and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

**40. NONDISCRIMINATION:** Each participant in this Agreement will comply with all requirements imposed by or pursuant to regulations of HUD Title VI of the Civil Rights Act of 1964 and any subsequent acts as well as Title 1, Chapter 1.29 of the City of Tacoma municipal code. The SUB-RECIPIENT agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act are still applicable.

The SUB-RECIPIENT agrees to comply with:

**A.** All Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against individuals with disabilities or handicaps in any Federally assisted program.

**B.** The provisions of the Age Discrimination Act of 1975 and implementing regulations at 24 CFR 146 prohibiting discrimination based on age, and Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Part 8 prohibiting discrimination against handicapped persons.

**41. AFFIRMATIVE ACTION:** In all hiring or employment made possible by or resulting from this Agreement: (i) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry, gender identity, sexual orientation, age, marital status, familial status, honorably discharged or military status or disability and (ii) affirmative action will be taken to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin or ancestry, gender identity, sexual orientation, age, marital status, familial status, honorably discharged or military status or disability.

**A.** This requirement shall apply to, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**B.** The SUB-RECIPIENT shall post in conspicuous places available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or ancestry, gender identity, sexual orientation, age, marital status, familial status, honorably discharged or military status or disability

**42. WOMEN AND MINORITY-OWNED BUSINESSES:** The SUB-RECIPIENT shall comply with Executive Orders 11625, 12432, and 12138 24 CFR 85.36(e) regarding the use of minority and women's business enterprises. The SUB-RECIPIENT will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The CITY may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

**43. PROHIBITED ACTIVITY:** The SUB-RECIPIENT is prohibited from using funds provided herein or personnel employed in the administration of the project for: political activities; inherently religious activities; lobbying; political patronage; personal gain; and nepotism activities.

**44. FUNDS FOR POLITICAL ACTIVITY:** No funds, materials, property, or services provided directly or indirectly through this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Tacoma City Council, the Washington State Legislature, the U.S. Congress, or any other legislative body.

**45. LABOR STANDARDS:** The SUB-RECIPIENT agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended (updated prevailing wage rates can be provided by the Community and Economic Development Department), the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable federal, state and local

laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement.

- A. The SUB-RECIPIENT agrees to pay prevailing wages on all public works projects. Public works includes construction, alteration, and repair of new and existing structures.
- B. The SUB-RECIPIENT agrees to pay the higher of federal prevailing wage (Davis Bacon) rates or State prevailing wage rates for all public works projects costing \$2,000 or more.
- C. For all public works projects, the SUB-RECIPIENT agrees to file intents to pay prevailing wages and affidavits documenting that prevailing wages were paid. This language will be included in all contracts with contractors and sub-contractors performing public works on behalf of the sub-recipient.
- D. For all public works projects costing \$2,000 or more the SUB-RECIPIENT agrees to submit certified payrolls for all individuals, including owner/operators, who worked on the project. This language will be included in all contracts with contractors and sub-contractors performing public works on behalf of the sub-recipient.
- E. The SUB-RECIPIENT agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The SUB-RECIPIENT shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the CITY for review upon request.
- F. The SUB-RECIPIENT agrees that debarred, suspended or ineligible contractors or sub-contractors listed in the System for Award Management will not be employed or awarded contracts or otherwise monetarily benefit from federal funding while under ineligible status.
- G. The SUB-RECIPIENT agrees that it and its sub-contractors engaged under contracts for construction, renovation, rehabilitation, or repair work financed in whole or in part with assistance provided through this Agreement, shall comply with federal and state prevailing wage requirements including the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers. For all such projects the greater of state or federal prevailing wage will be paid. The SUB-RECIPIENT shall cause or require to be inserted in full, in all contracts with contractors and sub-contractors, provisions meeting the requirements of this paragraph.
- H. For more information about prevailing wage regulations and to determine how they specifically apply to the SUB-RECIPIENT project and for guidance on prevailing

wage rates as they apply to the project funded through this Agreement, refer to Exhibit A, Scope of Work.

**46. COMPLIANCE WITH SECTION 3:** Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the CITY, the SUB-RECIPIENT and any of the SUB-RECIPIENT's sub-contractors.

**A.** Failure to fulfill these requirements shall subject the CITY, the SUB-RECIPIENT and any of the SUB-RECIPIENT's contractors or sub-contractors, their successors and assigns, to those sanctions specified by the agreement through which federal assistance is provided. The SUB-RECIPIENT certifies and agrees that no contractual or other disability exists that would prevent compliance with these requirements.

**B.** The SUB-RECIPIENT further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."

**C.** The SUB-RECIPIENT will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the contractor is in violation of regulations issued by the grantor agency. The SUB-RECIPIENT will not contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135. The SUB-RECIPIENT will not let any contractor sub-contract unless the entity has first provided the SUB-RECIPIENT with a preliminary statement of ability to comply with the requirements of these regulations.

**D.** The SUB-RECIPIENT agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.



**E.** The SUB-RECIPIENT further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

The SUB-RECIPIENT certifies and agrees that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

**47. SUB-RECIPIENT CONDUCT:**

**A.** The SUB-RECIPIENT may enter into contracts with one or more parties to carry out its obligations under this Agreement insofar as it may deem the same proper, necessary, or efficient; PROVIDED, HOWEVER, that all such agreements shall be in writing. Such agreements, together with all activities by or caused by the SUB-RECIPIENT shall not require compensation in excess of the maximum amount of compensation as set forth. An executed copy of every such fourth party agreement shall be on file with the SUB-RECIPIENT for review by the CITY.

**B.** The SUB-RECIPIENT shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the CITY prior to the execution of such agreement.

**C.** The SUB-RECIPIENT will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

**D.** The SUB-RECIPIENT shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

**E.** The SUB-RECIPIENT shall undertake to insure that all subcontracts let in the performance of this Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all subcontracts shall be forwarded to the CITY along with documentation concerning the selection process.

**48. HATCH ACT:** The SUB-RECIPIENT agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

**49. CONFLICT OF INTEREST:** No member, officer, or employee of the CITY, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under the Agreement, either for themselves or those with whom they have family or business ties. The SUB-RECIPIENT agrees to abide by the provisions of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

**A.** The SUB-RECIPIENT shall comply with all federal, state, City Charter and city ordinance conflict of interest laws, statutes, and regulations as they shall apply to all parties and beneficiaries under this Agreement, as well as to officers, employees or agents of the CITY. The SUB-RECIPIENT represents that it presently has no interest and shall not acquire any interest, direct or indirect, in the project to which this Agreement pertains which would conflict in any manner or degree with the performance of the SUB-RECIPIENT's services and obligations hereunder. The SUB-RECIPIENT further covenants that, in performance of this Agreement, no person having any such interest shall be employed. The SUB-RECIPIENT also agrees that its violation of the CITY's Code of Ethics contained in Chapter 1.46 of the Tacoma Municipal Code shall constitute a breach of this Agreement subjecting the Agreement to termination.

**B.** Except for the use of CDBG funds to pay salaries and other related administration or personnel costs, no officer, employee, agent, or consultant of the SUB-RECIPIENT who exercises or has exercised any function or responsibility with respect to the project funded with CDBG funds under this Agreement, or who are in a position to participate in a decision-making process or gain inside information with regard to such activity, may obtain a financial interest or benefit from such CDBG assistance activity either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Any such beneficial or financial interest of any of the persons herein mentioned shall be immediately disclosed to the CITY. The SUB-RECIPIENT, its officers, employees, agents, and consultants shall be obligated to comply with all federal, state, and

CITY of Tacoma conflict of interest laws and regulations, and they shall apply to all parties and beneficiaries under this contract.

**C.** The SUB-RECIPIENT shall maintain a written code, standards of conduct and/or standard operating procedures that shall govern the operation of its project and performance of its officers, employees or agents engaged in the award and administration of the project and the award of contracts supported by federal funds.

**D.** No employee, officer or agent of the SUB-RECIPIENT shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

**E.** No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the CITY, the SUB-RECIPIENT, or any designated public agency.

**50. INVENTIONS/COPYRIGHTS:** If this Agreement results in copyrightable material, the author is free to copyright the work, but the CITY and HUD reserve a royalty free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material which can be copyrighted for governmental purposes. Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to HUD for determination by HUD as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereof, shall be disposed of and administered, in order to protect the public interest.

**51. LOBBYING:** The SUB-RECIPIENT hereby certifies that:

**A.** No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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 the awarding of any Federal contract, the making of any Federal grant, the making of 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;

**B.** 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, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

**C.** It will require that the language of paragraph (d) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all SUB-RECIPIENTS shall certify and disclose accordingly:

**52. LOBBYING CERTIFICATION:** 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.C. 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.

**53. RESTRICTIONS ON IDENTIFICATIONS, ACTIVITY, OR DISCRIMINATION:** The SUB-RECIPIENT agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

The SUB-RECIPIENT expressly agrees that:

**A.** It will not discriminate against any employee or applicant for employment on the basis of religion and will not limit employment or give preference in employment to persons on the basis of religion.

**B.** It will not discriminate against any person applying for public services on the basis of religion and will not limit such services or give preference to persons on the basis of religion.

**C.** It will provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of public services.

**D.** The funds received under this Agreement shall not be used to construct, rehabilitate, or restore any facility which is owned by a primarily religious entity unless the conditions of 24 CFR 570.200(j)(2) and (4) are met.

## **V. ENVIRONMENTAL CONDITIONS**

**54. COMPLIANCE WITH AIR AND WATER ACTS:** The SUB-RECIPIENT agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857(c)-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

The SUB-RECIPIENT stipulates that any facility to be utilized in the performance of this Agreement, unless such agreement is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Publ. L. 91-604) Executive Order 11738, and regulations in implementation thereof (40 CFR, Par. 15), is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) list of Violating Facilities Pursuant to 40 CFR, 15.20.

**55. FLOOD DISASTER PROTECTION:** In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the SUB-RECIPIENT shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

**56. LEAD-BASED PAINT:** The SUB-RECIPIENT agrees that any construction or rehabilitation of residential structures conducted with direct assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B and Subpart J. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may feature lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

The SUB-RECIPIENT shall comply with Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) and other regulations issued pursuant thereto, prohibiting the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance, and requires notification of potential hazards and elimination of hazards from lead based paint. The SUB-RECIPIENT further covenants to ensure all individuals performing work that disturbs lead-based paint above de minimis on pre 1978 homes (and child occupied facilities) do so using Safe Work Practices. For more information about lead-based paint regulations, to determine how

they specifically apply to the SUB-RECIPIENT project and for guidance on lead-based paint as it applies to the project funded through this Agreement, refer to Exhibit A, Scope of Work.

**57. HISTORIC PRESERVATION:** The SUB-RECIPIENT agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.

## **VI. UNIFORM ADMINISTRATIVE REQUIREMENTS**

**A.** If the SUB-RECIPIENT is a governmental entity it shall comply with the requirements and standards of 2 CFR 200.418 and 2 CFR 200.419; and with the following sections of 24 CFR part 85 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments: or the related CDBG provisions, as specified in this paragraph:

- (1) Section 85.3, "Definitions";
- (2) Section 85.6, "Exceptions";
- (3) Section 85.12, "Special grant or subgrant conditions for 'high risk' grantees";
- (4) Section 85.20, "Standards for financial management systems," except paragraph (a);
- (5) Section 85.21, "Payment," except as modified by § 570.513;
- (6) Section 85.22, "Allowable costs";
- (7) Section 85.26, "Nonfederal audits";
- (8) Section 85.32, "Equipment," except in all cases in which the equipment is sold, proceeds shall be program income;
- (9) Section 85.33, "Supplies";
- (10) Section 85.34, "Copyrights";
- (11) Section 85.35, "Subawards to debarred and suspended parties";
- (12) Section 85.36, "Procurement," except paragraph (a);
- (13) Section 85.37, "Subgrants";
- (14) Section 85.40, "Monitoring and reporting program performance," except paragraphs (b) through (d) and paragraph (f);
- (15) Section 85.41, "Financial reporting," except paragraphs (a), (b), and (e);
- (16) Section 85.42, "Retention and access requirements for records," except that the period shall be four years;
- (17) Section 85.43, "Enforcement";
- (18) Section 85.44, "Termination for convenience";

- (19) Section 85.51, "Later disallowances and adjustments"; and
- (20) Section 85.52, "Collection of amounts due."

- B.** If the SUB-RECIPIENT is not a governmental entity, it shall comply with the requirements and standards of 2 CFR 200, Subpart E, "Basic Considerations" and "Direct and Indirect (F&A) Costs" or 2 CFR 200, Subpart E, "Special Considerations for Institutions of Higher Education" as applicable, and 2 CFR 200, Subpart F, "Audit Requirements" (as set forth in 24 CFR part 45). Audits shall be conducted annually.
- C.** The SUB-RECIPIENT shall also comply with the following provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, found at 2 CFR 200 and as specified in this paragraph:
- (1) Subpart A--"General";
  - (2) Subpart B--"Pre-Award Requirements," except for Section 84.12, "Forms for Applying for Federal Assistance";
  - (3) Subpart C--"Post-Award Requirements," except for:
    - (i) Section 84.22, "Payment Requirements." The CITY shall follow the standards of Section 85.20(b)(7) and 85.21 in making payments to the SUB-RECIPIENT;
    - (ii) Section 84.23, "Cost Sharing and Matching";
    - (iii) Section 84.24, "Program Income." In lieu of Section 84.24, the SUB-RECIPIENT shall follow Section 570.504.
    - (iv) Section 84.25, "Revision of Budget and Program Plans";
    - (v) Section 84.32, "Real Property." In lieu of Section 84.32, the SUB-RECIPIENT shall follow Section 570.505;
    - (vi) Section 84.34(g), "Equipment." In lieu of the disposition provisions of Section 84.34(g), the following applies:
      - (A) In all Cases in which equipment is sold, the proceeds shall be program income (prorated to reflect the extent to which CDBG funds were used to acquire the equipment; and
      - (B) Equipment not needed by the SUB-RECIPIENT for CDBG activities shall be transferred to the CITY for the CDBG program or shall be retained after compensating the CITY;
    - (vii) Section 84.51(b), (c), (d), (e), (f), (g), and (h), "Monitoring and Reporting Program Performance";
    - (viii) Section 84.52, "Financial Reporting";
    - (ix) Section 84.53(b), "Retention and access requirements for records." Section 84.53(b) applies with the following exceptions:
      - (A) The retention period referenced in Section 84.53(b) pertaining to individual CDBG activities shall be four years; and
      - (B) The retention period starts from the date of submission of the annual performance and evaluation report, as prescribed in 24 CFR 91.520, in which the specific activity is reported on for

- the final time rather than from the date of submission of the final expenditure report for the award;
- (x) Section 84.61, Termination." In lieu of the provision of Section 84.61, the SUB-RECIPIENT shall comply with Section 570.503(b)(7); and
  - (4) Subpart D--"After-the-Award Requirements," except for Section 84.71, Closeout Procedures."

Note: Copies of applicable laws and regulations are available upon request from the Community and Economic Development Department. All of the above are applicable to each contract, sub-contract and consultant agreement issued by the SUB-RECIPIENT.

**[THIS PART INTENTIONALLY LEFT BLANK. NEXT PAGE IS SIGNATURE PAGE.]**  
IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.



CITY OF TACOMA

METROPOLITAN DEVELOPMENT COUNCIL

*for* Mark Langner, Acting  
T.C. Broadnax  
City Manager

[Signature]  
Mark Pereboom  
Executive Director

[Signature]  
Ricardo Noguera  
Community & Economic Development  
Director

Print Name: Mark Pereboom  
Title: CEO

*PH* [Signature]  
Andrew Cherullo  
Finance Director

945 Fawcett  
Tacoma, WA 98402

[Signature]  
Saada Gegoux  
Risk Manager

Tax Identification Number: 91-0780533  
DUNS Number: 07-666-5389  
CFDA #: 14.218

Approved as to form and legality:

[Signature]  
Debra Casparian  
Deputy City Attorney

Attest:

[Signature] 10-19-2015  
Doris Sorum  
City Clerk

**EXHIBIT A  
2015-16 CDBG  
SCOPE OF WORK**

**CITY GOAL:** Provide decent affordable housing

**NATIONAL OBJECTIVE:** Benefit low and moderate income persons

**PROJECT CATEGORY:** Housing Rehabilitation

**PROJECT TITLE:** Home Repair

**OPERATING AGENCY:** Metropolitan Development Council

**PROJECT OBJECTIVE**

It's the objective of the City to increase the availability of safe, healthy and affordable permanent housing to low-income residents, including senior citizens and disabled individuals.

The Home Repair program is a new program to Metropolitan Development Council. It combines and replaces MDC's long-standing Emergency Minor Home Repair program, in which homeowners were allowed multiple minor home repairs amounting to an aggregate of \$500 annually, and its Moderate Home Repair program, in which homeowners were provided one-time home rehabilitation and repair services ranging from \$501 to \$4,999.

**PROJECT DESCRIPTION**

The Home Repair program serves low-income elderly and disabled homeowners earning 50% or less of the area median income by providing home rehabilitation activities to these single-family homeowner occupied households. The Home Repair program will offer health and safety related primarily small emergency minor home maintenance activities that would be somewhat inexpensive at their fair market value. It will also offer more complex, non-emergency, home rehabilitation activities that most often will include repairs that would be moderately priced in the market. All work will be provided free of cost to the homeowner.

Each program beneficiary is eligible to receive emergency minor home maintenance activities amounting to a fair market aggregate value of up to \$500 annually. This work does not have to be completed in a single work order. Work orders will be based on the market price rate to perform the home repairs. MDC staff and contractors who perform the activities will discuss with the homeowner whether there is a need for more complex and non-emergency moderate home rehabilitation.

In addition to emergency minor home maintenance, the Home Repair program will also offer one-time moderate home repair services with a market value ranging from \$501 to \$4,999, including labor. Moderate home rehabilitation activities must be completed as one work order which is based on the market price rate to perform the home repairs. Single-

family homeowner occupied households with active City of Tacoma code compliance violations resulting from police interaction with the household's members will not be eligible for home repair services. City staff will research code compliance violations using MyTacoma upon submittal of the project for an environmental review or upon the request of MDC staff.

If repair activities cost more than \$4,999, MDC will refer households to the City of Tacoma's Single Family Homeowner Occupied Rehabilitation Loan program. Shannon Johnson manages this program and can be reached at 253-591-5230 or [sjohnson3@cityoftacoma.org](mailto:sjohnson3@cityoftacoma.org).

## **PROJECT OPERATION**

MDC staff will administer the Home Repair program. They will accept, review and approve client applications. It's anticipated that the majority of emergency minor home maintenance activities will be performed by MDC staff. It's anticipated that the majority of moderate home repair services will be conducted by licensed and bonded contractors procured through MDC via a competitive bidding process. MDC staff will approve the contractors' work order and each completed project.

MDC shall maintain a staffed housing rehabilitation phone line between the hours of 8 a.m. to 4:30 p.m. Monday through Friday.

## **CONTRACTING PRACTICES**

The Home Repair program will abide by all applicable state and federal requirements and will communicate these requirements in all agreements with contractors. Some of the federal provisions that apply to the Home Program are as follows:

### *System for Award Management*

MDC will ensure that all contractors with whom they work are registered in the System for Award Management (SAM), [www.sam.gov](http://www.sam.gov). Furthermore, MDC, will, immediately prior to the commencement of each project, ensure that contractors working on that project are registered in SAM and are not debarred or suspended from receiving federal funds. MDC staff will check this by performing an advanced search in the SAM system. The project may proceed as planned if the contractor is found to have "no record" or "no active exclusions." MDC staff will document that the contractor is not debarred or suspended from receiving federal funds by taking a print screen of the search. This will be submitted on a monthly basis with the Request for Reimbursement form; it will also be kept in the client's file. The City will not reimburse MDC for any costs incurred by contractors who are debarred or suspended from benefitting from federal funds.

### *Background Checks*

MDC shall conduct criminal background checks on all contractor employees who will have contact with MDC's Home Repair beneficiaries. A background check for each employee must be provided to the City as part of the July reimbursement request. Background checks shall be completed once upon procurement of new contractors and as needed as contractors hire new employees to conduct activities on behalf of MDC. Contractor employees who have been convicted of a crime will not have contact with homeowners provided Home Repair services, nor will they visit the homeowner's property. Background checks can be done at <https://fortress.wa.gov/wsp/watch/>.

### *Prevailing Wages*

MDC and its contractors will comply with all applicable state and federal prevailing wage requirements, including the Davis Bacon Act provisions and the Equal Employment Opportunity Act provisions. These requirements will be upheld and communicated in all agreements with contractors.

MDC will ensure that all of its staff members who are performing rehabilitations and repairs are being paid prevailing wages and that its contractors are paying prevailing wages to all employees working on any Home Repair project. The prevailing wage rate paid will correspond with an employee's job classification. For all projects with a cost less than \$2,000 state prevailing wages will be paid. For all projects with costs at or exceeding \$2,000 the greater of state and federal prevailing wages will apply.

Washington state wage determinations can be found at <http://www.lni.wa.gov/tradeslicensing/prevwage/wagerates/>. Federal wage determinations can be found at <http://www.wdol.gov/dba.aspx>. Because MDC's CDBG award will be used, in part, to pay for labor or materials necessary to conduct home rehabilitation and repair, the City requires a copy of filed Intent to Pay and Affidavit of Payment forms and Certified Payroll documenting that prevailing wages were paid. Prevailing wage documentation must accompany all Reimbursement Requests. MDC will also maintain a copy in the homeowner's file.

### *Competitive Bidding*

Bi-annually, MDC conducts a competitive process by which it selects contractors to work on behalf of the Home Repair and other MDC programs. Contractors are called upon as needed depending on the type of home rehabilitation or repair required.

### *Documentation of Beneficiary's Income*

Federal regulations require sub-recipients such as MDC to serve low and moderate income individuals with CDBG funds. The U.S. Department of Housing and Urban Development defines low and moderate income individuals as individuals who earn 80% or less of area median income. It's understood that the Home Repair Program will serve individuals who are low income, described as earning 50% or less of area median income. The program will use the 1040 income tax documentation method to verify the income of its program participants. The program will verify annual household income by

reviewing documents such as tax returns, public assistance checks, etc. Copies of these documents will be kept in each homeowner's file as documentation that the Home Repair program is meeting the Community Development Block Grant national objective of benefitting low and moderate income individuals.

### *Lead-Based Paint*

The Residential Lead-Based Paint Hazard Reduction Act of 1992 is intended to protect families and children from the dangers of lead, which is often found in and around pre 1978 homes in paint, dust and soil. MDC and its contractors participating in the Home Repair program must comply with the Act and the Lead Renovation, Repair and Painting (RRP) Rule. As such, MDC and its contractors must be lead-safe firm certified.

Additionally, all individuals who will conduct repairs and rehabilitation in conjunction with the Home Repair program must hold Renovation, Repair and Painting Program renovator certifications. MDC and its contractors will not be reimbursed for any work done on 1978 or prior built homes until these certifications are provided to the City.

### Paint testing

In accordance with [24 CFR Part 35.930](#), in all instances where the rehabilitation or repair will disturb paint in homes built in 1978 or prior: MDC and/or its contractors will either 1) presume that lead-based paint is present or 2) conduct a paint test which is performed by a certified renovator. If the test method is used, a test must be performed on each component (window sill, door, individual rooms) in which paint will be disturbed. HUD does not recognize 3M LeadCheck test kits as an acceptable form of testing.

### Notification and lead-safe work practices

If a lead-based paint assessment reveals lead-based paint is present or if the presence of lead-based paint is presumed, MDC and/or its contractors will comply with disclosure notification regulations. In all homes where MDC or its contractors conclude through testing or presumption that lead is present in a component (ex. Window sill, door, flooring, wall) that will be repaired or rehabilitated the homeowner will be provided a Protect Your Family from Lead in Your Home pamphlet. The homeowner must sign a Lead Warning Statement found within the pamphlet stating that he or she received the pamphlet. The homeowner will also be provided notice of the testing or presumption of lead based paint. The notice shall include: the nature, dates, scope and results of the testing and a contact name, address and telephone number of someone that can provide more information or answer questions about the testing.

Additionally, lead-paint hazard reduction safe work practices will be taken when rehabilitation or repairs disturb 20 or more square inches of exterior surface found to contain lead or 2 square feet of interior surface found to contain lead or 10 percent or more of an interior or exterior component (ex. door, window sill, baseboards or trim) with a small surface area. Safe work practices are outlined in [24 CFR 35.1350](#).

## Training and Certifications

MDC and its contractors must be lead-safe firm certified and renovator certified. A list of Renovation, Repair and Painting contractors and training providers can be found at <http://www2.epa.gov/lead/renovation-repair-and-painting-program>.

## *Environmental Review Records*

The Home Repair program will conduct home rehabilitation that includes maintenance activities and repair activities. For all activities conducted an environmental review record must be completed prior to the commencement of the project.

## Necessary Environmental Review Reporting on Maintenance Activities

MDC staff shall complete, at the start of the project, a Determination of Exemption Environmental Review Record for each home rehabilitation project in which *maintenance* only activities are completed. In general, this will apply to all activities that would have formerly been conducted under the Emergency Minor Home Repair program. All environmental review records will be submitted to the City of Tacoma monthly with the Reimbursement Request.

***Maintenance*** activities are defined as: 1) Preventative or protective activities intended to keep a home, its systems and its grounds in working order, 2) repair of objects that **are not** physically attached to the home and **can** be removed without damaging the home. Maintenance activities include, but are not limited to:

1. Repairing faucets (kitchen, bathroom, bathtub, laundry)
2. Repairing or replacing exterior hose bibs
3. Repairing leaking sink, tub and toilet drain lines
4. Routing sewer lines with a power snake and repairing sewer lines when necessary
5. Repairing water heaters, including replacing defective elements
6. Repairing damaged and/or deteriorated wood steps and wheelchair ramps (only considered maintenance if there is no ground disturbance)
7. Repairing or replacing bathroom floors when rotted and/or deteriorated
8. Repairing gutters and downspouts or repairing or patching roofs
9. Repairing or replacing broken windows or doors
10. Repairing non-functioning heating units (only considered maintenance if there is no disturbance to dry wall, floors or mechanical systems)
11. Repairing dangerous or non-functioning electrical components
12. Repairing or installing sump pumps (only considered maintenance if there is no disturbance to dry wall, floors or mechanical systems)
13. Servicing mechanical systems.
14. Adding dead bolts
15. Installing Co2, smoke or security alarm systems or security lighting or motion detectors.

16. Replacing light bulbs
17. Caulking, weather stripping, glazing
18. Mending cracked plaster

Activities that involve the removal of a fixture such as a toilet or sink or ground or sheetrock disturbance are **not** considered maintenance activities.

### Necessary Environmental Review Reporting on Repair Activities

MDC staff shall alert City of Tacoma staff of the need for a Determination of Categorical Exclusion Environmental Review Record **prior to** the start of each project comprised solely of or consisting of repair activities. In general, this will apply to all activities that would have formerly been conducted under the Moderate Home Repair program. MDC staff **will not** begin services until City staff has completed an environmental review record and instructed MDC staff to proceed with the project. This process may take up to 30 days and may be dependent on the State Historic Preservation Office and local Indian tribes, among other things. The City will not reimburse for any repair activities conducted prior to or without City staff's approval.

**Repair** activities are defined as: 1) replacement of fixtures (i.e. electrical or mechanical systems, toilets, plumbing, kitchen cabinets, light fixtures, staircases, sinks and bathtubs); 2) removal and/or replacement of objects that **are** physically attached to the home and **cannot** be removed without damaging the home; 3) activities that disturb dry wall or flooring. Repair activities include, but are not limited to:

1. Removal and replacement of toilets, sinks, and bathtubs.
2. Removal and replacement of hot water heaters (when alterations to drywall or replacement of parts of electrical or plumbing systems are necessary)
3. Installation, removal and replacement of light or other fixtures.
4. Any repairs or replacements to plumbing or electrical systems that include alterations to dry wall.

### PROJECT ELIGIBILITY

Program beneficiaries who have received emergency minor home maintenance services may also receive moderate home repair services within the same contract year. Program beneficiaries who have received moderate home repair services (one-time services costing between \$501 and \$4,999) may not access the City's Single Family Homeowner Occupied Rehabilitation program within 60 months of receiving moderate home repairs through MDC's Home Repair program. Similarly, homeowners who have taken advantage of the City's Single-Family Homeowner Occupied Rehabilitation program are not eligible to receive moderate home repairs through MDC's Home Repair program for a duration of 60 months. MDC will screen its Home Repair applicants and consult City staff to determine whether a homeowner holds a home rehabilitation loan with the City. MDC will also make beneficiaries seeking moderate home repairs aware that they are not eligible for both MDC's program and the City's program. These eligibility restrictions may be

waived on a case-by-case basis subject to approval from the City of Tacoma Housing Manager.

### **USE OF FUNDS**

CDBG funding will be used for MDC staff salaries related to the direct and indirect administration of the program, located at 721 Fawcett Ave, Suite 201, Tacoma. It will also be used for contracted labor, materials, supplies and other costs associated with performing home rehabilitation maintenance and repairs.

### **OUTPUTS**

- 1) Emergency minor home maintenance services to **140 unduplicated Tacoma homeowners**
- 2) Moderate home repair services to **14 unduplicated Tacoma homeowners.**

### **REPORTING**

The program will use Exhibit C, Beneficiary Demographic Form, to track the number and demographics of Tacoma households served by the Home Repair program. This report will be submitted to City staff on a *monthly basis* by the 15<sup>th</sup> of the month following the month in which services were offered (e.g. a report covering the month of September is due Oct. 15).

### **EVALUATION AND MONITORING**

MDC agrees to comply with all requirements established by the Tacoma Community and Economic Development Department and U.S. Housing and Urban Development Department. Such requirements may include, but are not limited to, on-site monitoring inspections and evaluation of the program's operation, as outlined in this scope of work.

### **LINCOLN REVITALIZATION AREA**

The City of Tacoma has identified the Lincoln neighborhood and business district as a priority for revitalization efforts to take place 2015 and forward. Metropolitan Development Council staff will actively market the Home Repair program in the Lincoln Revitalization Area in an effort to make homeowners in this neighborhood aware that they may qualify for the programs' services. A map of the Lincoln Revitalization Area is provided as Exhibit E.

### **EXHIBITS**

- B: Project Budget
- C: Beneficiary Demographic Form
- D: Project Reimbursement Request
- E: Lincoln Revitalization Area Map



**EXHIBIT B  
2015-16 CDBG  
PROJECT BUDGET**

PROJECT TITLE: Home Repair

AGENCY NAME AND ADDRESS: Metropolitan Development Council  
945 Fawcett St.

Cost Category	2015-16 CDBG Funds
<b>Personnel</b>	
<b>Salary &amp; Benefits</b>	<b>\$98,700.00</b>
Repair Technician (100% of 1 FTE)	
Program Manager (10% of 1 FTE)	
Operations Support (100% of 1 FTE)	
Program Director (3% of 1 FTE)	
<b>Non-Personnel</b>	
Travel/ Mileage	\$2,000.00
Repair Supplies	\$25,000.00
Office Supplies	\$500.00
Telecommunications	\$1,800.00
Printing/ Advertising/ Marketing	\$500.00
Mail/ Postage	\$50.00
Subcontracted Services (labor and materials)	\$82,055.00
Space/ Utilities	\$2,400.00
Insurance	\$2,520.00
Indirect Costs @ 16%	\$34,475.00
<b>TOTAL</b>	<b>\$250,000.00</b>



**EXHIBIT D  
2015-16 CDBG  
PROJECT REIMBURSEMENT REQUEST**

<b>2015-2016 COMMUNITY DEVELOPMENT BLOCK GRANT</b>					
<b>Project : <u>Home Repair</u></b> <b>Operating Agency: <u>Metropolitan Development Council</u></b> <b>Project Term: <u>July 1, 2015 – June 30, 2016</u></b> <b>City Umbrella Dept.: <u>Comm. &amp; Econ. Development</u></b>		<b>Reimbursable Costs</b>			
<b>Payment Number {xx} _____</b> <b>Payment to: <u>Metropolitan Development Council</u></b> <b>Reimbursable Costs through {month} _____</b>		<b>-3 Reimbursement Request (detail attached)</b>	<b>-4 Previous Payments Billed</b>	<b>-5 Total Funds Billed by Agency (Including this request) (3+4)</b>	<b>-6 Budget Remaining  (2-5)</b>
-1 Item Budget	-2 Budget				
<b>Personnel</b>					
Salary & Benefits	<b>\$98,700.00</b>			<b>\$0.00</b>	<b>\$98,700.00</b>
Repair Technician (100% of 1 FTE)					
Program Manager (10% of 1 FTE)					
Operations Support (100% of 1 FTE)					
Program Director (3% of 1 FTE)					
<b>Non-personnel</b>					
Travel/ Mileage	<b>\$2,000.00</b>				<b>\$2,000.00</b>
Repair Supplies & Materials	<b>\$25,000.00</b>				<b>\$25,000.00</b>
Office Supplies	<b>\$500.00</b>				<b>\$500.00</b>
Telecommunications	<b>\$1,800.00</b>				<b>\$1,800.00</b>
Printing/ Advertising/ Marketing	<b>\$500.00</b>				<b>\$500.00</b>
Mail/ Postage	<b>\$50.00</b>				<b>\$50.00</b>
Subcontracted Services (labor and materials)	<b>\$82,055.00</b>				<b>\$82,055.00</b>
Space/ Utilities	<b>\$2,400.00</b>				<b>\$2,400.00</b>
Insurance	<b>\$2,520.00</b>				<b>\$2,520.00</b>
Indirect Costs @ 16%	<b>\$34,475.00</b>			<b>\$0.00</b>	<b>\$34,475.00</b>
<b>TOTAL</b>	<b>\$250,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$250,000.00</b>
AGENCY: I certify that the materials have been furnished, the services rendered or the labor performed as described, and that the claim is a just, due and unpaid obligation against the City of Tacoma.					
Prepared by: _____		City of Tacoma Contract & Program Auditor: _____			
Date Prepared: _____		City of Tacoma Accountant: _____			
Director's Signature: _____		CEDD Management: _____			

**EXHIBIT E  
LINCOLN REVITALIZATION AREA MAP**

